

Senators Marty and Frederickson introduced—

S.F. No. 2973: Referred to the Committee on Environment and Natural Resources.

A bill for an act

1.2 relating to natural resources; modifying contractual and grant agreement
 1.3 provisions; excepting the electronic licensing system commission from certain
 1.4 standing appropriations; modifying invasive species provisions; modifying
 1.5 certain state trail descriptions; modifying certain definitions; modifying water
 1.6 use surcharge provisions; modifying water aeration safety provisions; amending
 1.7 Minnesota Statutes 2004, sections 84.026; 84.0911, as amended; 84D.01,
 1.8 subdivisions 9a, 13, 15, 16; 84D.02, subdivision 2; 85.015, subdivisions 7, 8,
 1.9 11; 97A.015, subdivision 18; 103G.611, by adding a subdivision; Minnesota
 1.10 Statutes 2005 Supplement, sections 84.8205, subdivision 1; 85.015, subdivision
 1.11 5; 88.17, subdivision 5; 103G.271, subdivision 6; repealing Minnesota Statutes
 1.12 2004, section 103G.611, subdivision 6.

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

1.14 Section 1. Minnesota Statutes 2004, section 84.026, is amended to read:

1.15 **84.026 CONTRACTS AND GRANTS FOR PROVISION OF NATURAL**
 1.16 **RESOURCES SERVICES.**

1.17 Subdivision 1. Contracts. The commissioner of natural resources is authorized
 1.18 to enter into contractual ~~or grant~~ agreements with any public or private entity for the
 1.19 provision of statutorily prescribed natural resources services by ~~or for~~ the department.
 1.20 The contracts ~~or grants~~ shall specify the services to be provided and, ~~where services are~~
 1.21 ~~being provided for the department, the amount and method of payment after services~~
 1.22 ~~are rendered.~~ Funds generated in a contractual agreement made pursuant to this section
 1.23 shall be deposited in the special revenue fund and are appropriated to the department for
 1.24 purposes of providing the services specified in the contracts. ~~All contractual and grant~~
 1.26 ~~agreements shall be processed in accordance with the provisions of section 16C.05.~~ The
 commissioner shall report revenues collected and expenditures made under this section

2.1 subdivision to the chairs of the Committees on Ways and Means in the house and Finance
2.2 in the senate by January 1 of each odd-numbered year.

2.3 Subd. 2. Grants. The commissioner is authorized to enter into grant agreements for
2.4 the provision of statutorily prescribed natural resources services with any public or private
2.5 entity. The grant agreements shall specify the services to be provided to the department
2.6 and the amount and method of payment after services are rendered.

2.7 Subd. 3. Procurement law. All contractual and grant agreements under this section
2.8 shall be processed according to section 16C.05.

2.9 Sec. 2. Minnesota Statutes 2004, section 84.0911, as amended by Laws 2005, is
2.10 amended to read:

2.11 **84.0911 WILD RICE MANAGEMENT ACCOUNT.**

2.12 Subdivision 1. **Account established.** The wild rice management account is
2.13 established as an account in the game and fish fund.

2.14 Subd. 2. **Receipts.** Money received from the sale of wild rice licenses issued by the
2.15 commissioner under section 84.091, subdivision 3, paragraph (a), clauses (1), (3), and (4),
2.16 and subdivision 3, paragraph (b), ~~except for the electronic licensing system commission~~
2.17 ~~established by the commissioner under section 84.027, subdivision 15,~~ shall be credited to
2.18 the wild rice management account.

2.19 Subd. 3. **Use of money in account.** Except for the electronic licensing system
2.20 commission established by the commissioner under section 84.027, subdivision 15,
2.21 money in the wild rice management account is annually appropriated to the commissioner
2.22 and shall be used for management of designated public waters to improve natural wild
2.23 rice production.

2.24 Sec. 3. Minnesota Statutes 2005 Supplement, section 84.8205, subdivision 1, is
2.25 amended to read:

2.26 Subdivision 1. **Sticker required; fee.** A person may not operate a snowmobile on
2.27 a state or grant-in-aid snowmobile trail unless a snowmobile state trail sticker is affixed
2.28 to the snowmobile. The commissioner of natural resources shall issue a sticker upon
2.29 application and payment of a \$15 fee. The fee for a three-year snowmobile state trail
2.30 sticker that is purchased at the time of snowmobile registration is \$30. In addition to other
2.31 penalties prescribed by law, a person in violation of this subdivision must purchase an
2.32 annual state trail sticker for a fee of \$30. The sticker is valid from November 1 through
2.33 April 30. Fees collected under this section, except for the issuing fee for licensing agents
2.34 ~~under this section and for the electronic licensing system commission established by~~

3.1 ~~the commissioner under section 84.027, subdivision 15~~, shall be deposited in the state
 3.2 treasury and credited to the snowmobile trails and enforcement account in the natural
 3.3 resources fund and, except for the electronic licensing system commission established by
 3.4 the commissioner under section 84.027, subdivision 15, must be used for grants-in-aid,
 3.5 trail maintenance, grooming, and easement acquisition.

3.6 Sec. 4. Minnesota Statutes 2004, section 84D.01, subdivision 9a, is amended to read:

3.7 Subd. 9a. **Invasive species.** "Invasive species" means a nonnative species that
 3.8 ~~can naturalize and:~~

3.9 (1) causes or may cause economic or environmental harm or harm to human health;

3.10 or

3.11 (2) threatens or may threaten natural resources or the use of natural resources in
 3.12 the state.

3.13 Sec. 5. Minnesota Statutes 2004, section 84D.01, subdivision 13, is amended to read:

3.14 Subd. 13. **Prohibited invasive species.** "Prohibited invasive species" means ~~an~~
 3.15 ~~invasive~~ a nonnative species that has been designated as a prohibited invasive species in a
 3.16 rule adopted by the commissioner under section 84D.12.

3.17 Sec. 6. Minnesota Statutes 2004, section 84D.01, subdivision 15, is amended to read:

3.18 Subd. 15. **Regulated invasive species.** "Regulated invasive species" means ~~an~~
 3.19 ~~invasive~~ a nonnative species that has been designated as a regulated invasive species in a
 3.20 rule adopted by the commissioner under section 84D.12.

3.21 Sec. 7. Minnesota Statutes 2004, section 84D.01, subdivision 16, is amended to read:

3.22 Subd. 16. **Transport.** "Transport" means to cause or attempt to cause a species to be
 3.23 carried or moved into or within the state, and includes accepting or receiving the species
 3.24 for transportation or shipment. Transport does not include the ~~unintentional~~ transport
 3.25 of infested water or a species within a water of the state or to a connected water of the
 3.26 state where the species being transported is already present.

3.27 Sec. 8. Minnesota Statutes 2004, section 84D.02, subdivision 2, is amended to read:

3.28 Subd. 2. **Purple loosestrife, curly-leaf pondweed, and Eurasian water milfoil**
 3.29 **programs.** (a) The program required in subdivision 1 must include specific programs to
 3.30 curb the spread and manage the growth of purple loosestrife, curly-leaf pondweed, and
 3.31 Eurasian water milfoil. These programs must include:

- 4.1 (1) compiling inventories and monitoring the growth of purple loosestrife and
- 4.2 Eurasian water milfoil in the state, for which the commissioner may use volunteers;
- 4.3 (2) publication and distribution of informational materials to boaters and lakeshore
- 4.4 owners;
- 4.5 (3) cooperative research with the University of Minnesota and other public and
- 4.6 private research facilities to study the use of nonchemical control methods, including
- 4.7 biological control methods; and
- 4.8 (4) managing the growth of Eurasian water milfoil, curly-leaf pondweed, and purple
- 4.9 loosestrife in coordination with appropriate local units of government, special purpose
- 4.10 districts, and lakeshore associations, to include providing requested technical assistance.
- 4.11 (b) The commissioners of agriculture and transportation shall cooperate with the
- 4.12 commissioner to establish, implement, and enforce the purple loosestrife program.

4.13 Sec. 9. Minnesota Statutes 2005 Supplement, section 85.015, subdivision 5, is
 4.14 amended to read:

4.15 Subd. 5. **Glacial Lakes Trail, Kandiyohi, Pope, Stearns, and Douglas Counties.**

4.16 (a) The trail shall originate at Kandiyohi County Park on the north shore of Green Lake
 4.17 in Kandiyohi County and thence extend northwesterly to Sibley State Park, thence
 4.18 northwesterly to Glacial Lakes State Park in Pope County, thence northeasterly to Lake
 4.19 Carlos State Park in Douglas County, and there terminate.

4.20 (b) ~~Trails may be established that extend the Glacial Lakes Trail system from New~~
 4.21 ~~London to Cold Spring.~~ A segment shall be established beginning in the city of Willmar,
 4.22 Kandiyohi County, and extending northeasterly into Stearns County.

4.23 (c) The trail shall be developed primarily for riding and hiking.

4.24 Sec. 10. Minnesota Statutes 2004, section 85.015, subdivision 7, is amended to read:

4.25 Subd. 7. **Blufflands Trail system, Fillmore, Olmsted, Winona, and Houston**

4.26 **Counties.** (a) The Root River Trail shall originate at Chatfield in Fillmore County, and
 4.27 thence extend easterly in the Root River Valley to the intersection of the river with
 4.28 Minnesota Trunk Highway No. 26 in Houston County, and extend to the Mississippi River.

4.29 (b) Additional trails may be established that extend the Blufflands Trail system to
 4.30 include La Crescent, Hokah, Caledonia, and Spring Grove in Houston County; Preston,
 4.31 Harmony, Fountain, Wykoff, Spring Valley, Mabel, Canton, and Ostrander in Fillmore
 4.32 County; Rochester, Dover, Eyota, Stewartville, Byron, and Chester Woods County Park in
 4.33 Olmsted County; and Winona, Minnesota City, Rollingstone, Altura, Lewiston, Utica,

5.1 St. Charles, and Elba in Winona County. In addition to the criteria in section 86A.05,
5.2 subdivision 4, these trails must utilize abandoned railroad rights-of-way where possible.

5.3 (c) The trails shall be developed primarily for nonmotorized riding and hiking.

5.4 Sec. 11. Minnesota Statutes 2004, section 85.015, subdivision 8, is amended to read:

5.5 Subd. 8. **Sakatah Singing Hills trail, Blue Earth, Le Sueur, and Rice Counties.**

5.6 (a) The trail shall originate ~~at mile post 4.1 of the Chicago and Northwestern Railway~~
5.7 ~~Company right-of-way in the junction of Benning in Mankato~~, Blue Earth County, and
5.8 shall extend in a northeasterly direction on or along the railroad right-of-way ~~to mile post~~
5.9 ~~46.01 of the Chicago and Northwestern Railway at a point commonly known as Faribault~~
5.10 ~~Junction in into~~ Rice County, ~~a distance of approximately 42 miles, and there terminate.~~

5.11 (b) The trail shall be developed primarily for riding and hiking. Motorized vehicles,
5.12 except snowmobiles, are prohibited from the trail.

5.13 Sec. 12. Minnesota Statutes 2004, section 85.015, subdivision 11, is amended to read:

5.14 Subd. 11. **Willard Munger Trail, ~~Ramsey, Anoka, Washington, Chisago, Pine,~~**
5.15 **St. Louis, and Carlton Counties.** (a) The trail shall ~~originate in the vicinity of Arden~~
5.16 ~~Hills, Ramsey County, and thence extend northeasterly, traversing Anoka and Washington~~
5.17 ~~Counties to the vicinity of Taylors Falls in Chisago County; thence northwesterly and~~
5.18 ~~northerly to St. Croix State Park in Pine County; thence northerly to Jay Cooke State Park~~
5.19 ~~in Carlton County, and there terminate.~~ consist of three segments. One segment shall
5.20 originate in Chisago County and extend into Duluth in St. Louis County. One segment
5.21 shall originate at Hinckley in Pine County and extend through Moose Lake in Carlton
5.22 County to Duluth in St. Louis County. One segment shall originate in Carlton County at
5.23 Carlton and extend through Wrenshall to the Minnesota-Wisconsin border.

5.24 (b) The trail shall be developed primarily for riding and hiking.

5.25 (c) Additional trails segments shall be established that extend the Willard Munger
5.26 Trail to include Proctor, Duluth, and Hermantown in St. Louis County.

5.27 Sec. 13. Minnesota Statutes 2005 Supplement, section 88.17, subdivision 5, is
5.28 amended to read:

5.29 Subd. 5. **Permit fees.** (a) The annual fees for an electronic burning permit are:

5.30 (1) \$5 for a noncommercial burning permit; and

5.31 (2) for commercial enterprises that obtain multiple permits, \$5 per permit for each
5.32 burning site, up to a maximum of \$50 per individual business enterprise per year.

6.1 (b) Except for the issuing fee under paragraph (c), ~~and for the electronic licensing~~
 6.2 ~~system commission established by the commissioner under section 84.027, subdivision~~
 6.3 ~~15~~, money received from permits issued under this section shall be deposited in the state
 6.4 treasury and credited to the burning permit account and, except for the electronic licensing
 6.5 system commission established by the commissioner under section 84.027, subdivision
 6.6 15, is annually appropriated to the commissioner of natural resources for the costs of
 6.7 operating the burning permit system.

6.8 (c) Of the fee amount collected under paragraph (a), \$1 shall be retained by the
 6.9 permit agent as a commission for issuing electronic permits.

6.10 (d) Fire wardens who issue written permits may charge a fee of up to \$1 for each
 6.11 permit issued, to be retained by the fire warden as a commission for issuing the permit.
 6.12 This paragraph does not limit a local government unit from charging an administrative fee
 6.13 for issuing open burning permits within its jurisdiction.

6.14 Sec. 14. Minnesota Statutes 2004, section 97A.015, subdivision 18, is amended to read:

6.15 Subd. 18. **Enforcement officer.** "Enforcement officer" means the commissioner, the
 6.16 director of the Enforcement Division, or a conservation officer, ~~or a game refuge manager~~.

6.17 Sec. 15. Minnesota Statutes 2005 Supplement, section 103G.271, subdivision 6,
 6.18 is amended to read:

6.19 Subd. 6. **Water use permit processing fee.** (a) Except as described in paragraphs
 6.20 (b) to (f), a water use permit processing fee must be prescribed by the commissioner in
 6.21 accordance with the schedule of fees in this subdivision for each water use permit in force
 6.22 at any time during the year. The schedule is as follows, with the stated fee in each clause
 6.23 applied to the total amount appropriated:

6.24 (1) \$101 for amounts not exceeding 50,000,000 gallons per year;

6.25 (2) \$3 per 1,000,000 gallons for amounts greater than 50,000,000 gallons but less
 6.26 than 100,000,000 gallons per year;

6.27 (3) \$3.50 per 1,000,000 gallons for amounts greater than 100,000,000 gallons but
 6.28 less than 150,000,000 gallons per year;

6.29 (4) \$4 per 1,000,000 gallons for amounts greater than 150,000,000 gallons but less
 6.30 than 200,000,000 gallons per year;

6.31 (5) \$4.50 per 1,000,000 gallons for amounts greater than 200,000,000 gallons but
 6.32 less than 250,000,000 gallons per year;

6.33 (6) \$5 per 1,000,000 gallons for amounts greater than 250,000,000 gallons but less
 6.34 than 300,000,000 gallons per year;

7.1 (7) \$5.50 per 1,000,000 gallons for amounts greater than 300,000,000 gallons but
7.2 less than 350,000,000 gallons per year;

7.3 (8) \$6 per 1,000,000 gallons for amounts greater than 350,000,000 gallons but less
7.4 than 400,000,000 gallons per year;

7.5 (9) \$6.50 per 1,000,000 gallons for amounts greater than 400,000,000 gallons but
7.6 less than 450,000,000 gallons per year;

7.7 (10) \$7 per 1,000,000 gallons for amounts greater than 450,000,000 gallons but
7.8 less than 500,000,000 gallons per year; and

7.9 (11) \$7.50 per 1,000,000 gallons for amounts greater than 500,000,000 gallons
7.10 per year.

7.11 (b) For once-through cooling systems, a water use processing fee must be prescribed
7.12 by the commissioner in accordance with the following schedule of fees for each water use
7.13 permit in force at any time during the year:

7.14 (1) for nonprofit corporations and school districts, \$150 per 1,000,000 gallons; and

7.15 (2) for all other users, \$300 per 1,000,000 gallons.

7.16 (c) The fee is payable based on the amount of water appropriated during the year
7.17 and, except as provided in paragraph (f), the minimum fee is \$100.

7.18 (d) For water use processing fees other than once-through cooling systems:

7.19 (1) the fee for a city of the first class may not exceed \$250,000 per year;

7.20 (2) the fee for other entities for any permitted use may not exceed:

7.21 (i) \$50,000 per year for an entity holding three or fewer permits;

7.22 (ii) \$75,000 per year for an entity holding four or five permits;

7.23 (iii) \$250,000 per year for an entity holding more than five permits;

7.24 (3) the fee for agricultural irrigation may not exceed \$750 per year;

7.25 (4) the fee for a municipality that furnishes electric service and cogenerates steam
7.26 for home heating may not exceed \$10,000 for its permit for water use related to the
7.27 cogeneration of electricity and steam; and

7.28 (5) no fee is required for a project involving the appropriation of surface water to
7.29 prevent flood damage or to remove flood waters during a period of flooding, as determined
7.30 by the commissioner.

7.31 (e) Failure to pay the fee is sufficient cause for revoking a permit. A penalty of two
7.32 percent per month calculated from the original due date must be imposed on the unpaid
7.33 balance of fees remaining 30 days after the sending of a second notice of fees due. A fee
7.34 may not be imposed on an agency, as defined in section 16B.01, subdivision 2, or federal
7.35 governmental agency holding a water appropriation permit.

8.1 (f) The minimum water use processing fee for a permit issued for irrigation of
8.2 agricultural land is \$20 for years in which:

8.3 (1) there is no appropriation of water under the permit; or

8.4 (2) the permit is suspended for more than seven consecutive days between May 1
8.5 and October 1.

8.6 (g) A surcharge of \$20 per million gallons in addition to the fee prescribed in
8.7 paragraph (a) shall be applied to the volume of water used in each of the months of June,
8.8 July, and August that exceeds the volume of water used in January for municipal water
8.9 use, irrigation of golf courses, and landscape irrigation. The surcharge for municipalities
8.10 with more than one permit shall be determined based on the total appropriations from all
8.11 permits that supply a common distribution system.

8.12 Sec. 16. Minnesota Statutes 2004, section 103G.611, is amended by adding a
8.13 subdivision to read:

8.14 Subd. 7. Public waters without access. A person who receives a permit to operate
8.15 an aeration system on a public water without a public access and who owns all of the
8.16 riparian land or all of the possessory rights to the riparian land around that water is not
8.17 subject to the provisions of subdivisions 2, paragraph (b), and 3.

8.18 Sec. 17. REPEALER.

8.19 Minnesota Statutes 2004, section 103G.611, subdivision 6, is repealed.

APPENDIX
Repealed Minnesota Statutes: 06-5018

103G.611 WATER AERATION SAFETY.

Subd. 6. **Public waters without access.** (a) A riparian landowner may aerate public waters with a permit under this subdivision if the public waters do not have a public access and the person aerating the public waters owns all of the riparian land or all of the possessory rights to the riparian lands.

(b) The provisions of this section do not apply to the aeration under this subdivision except the public waters must be posted as provided under subdivision 2, paragraphs (a) and (c).

Senators Ranum, Anderson and Lourey introduced-

S.F. No. 2757: Referred to the Committee on Crime Prevention and Public Safety.

A bill for an act relating to public safety; providing for prevention, preparedness, and response to unauthorized releases of extraordinarily hazardous substances; proposing coding for new law in Minnesota Statutes, chapter 115E.

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

Section 1. [115E.20] DEFINITIONS.

Subdivision 1. Scope. The definitions in this section apply to sections 115E.20 to 115E.22.

Subd. 2. Extraordinarily hazardous substance. "Extraordinarily hazardous substance" means any substance or chemical compound used, manufactured, stored, or capable of being produced from on-site components in this state in sufficient quantities at a single site such that its release into the environment would produce a significant likelihood that persons exposed will suffer acute health effects resulting in death or permanent disability.

Subd. 3. Extraordinarily hazardous substance list. "Extraordinarily hazardous substance list" means the substances or chemical compounds identified in section 115E.21, subdivision 1, and identified by rule according to section 115E.21, subdivision 3.

Subd. 4. Facility. "Facility" means a building, equipment, and contiguous area. Facility includes a research and development laboratory, which means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which extraordinarily hazardous substances are used by or under the supervision of a technically qualified person.

2.1 Subd. 5. Security measure. "Security measure" means an action carried out to
2.2 increase the security of a facility, including employee training and background checks,
2.3 limitation and prevention of access to controls of the facility, protection of the perimeter
2.4 of the facility, installation and operation of an intrusion detection sensor, or a measure to
2.5 increase computer or computer network security.

2.6 Subd. 6. Unauthorized release. "Unauthorized release" means a release from a
2.7 facility into the environment of an extraordinarily hazardous substance that is caused, in
2.8 whole or in part, by a criminal act, a release into the environment of an extraordinarily
2.9 hazardous substance that has been removed from a facility, in whole or in part, by a
2.10 criminal act, or a release or removal from a facility of an extraordinarily hazardous
2.11 substance that is unauthorized by the owner or operator of the facility.

2.12 Subd. 7. Use of inherently safer technology. "Use of inherently safer technology"
2.13 means the use of a technology, product, raw material, or practice that, as compared
2.14 with the technologies, products, raw materials, or practices currently in use, reduces or
2.15 eliminates the possibility of a release of an extraordinarily hazardous substance prior to
2.16 secondary containment, control, or mitigation and reduces or eliminates the threats to
2.17 public health and the environment associated with an unauthorized release or potential
2.18 unauthorized release of an extraordinarily hazardous substance.

2.19 **Sec. 2. [115E.21] EXTRAORDINARILY HAZARDOUS SUBSTANCE LIST;**
2.20 **REGISTRATION.**

2.21 Subdivision 1. Initial list. The following chemicals or chemical compounds, in the
2.22 quantities indicated, constitute the initial extraordinarily hazardous substance list:

2.23 (1) hydrogen chloride (HCl) and allyl chloride in quantities of 2,000 pounds or more;

2.24 (2) hydrogen cyanide (HCN), hydrogen fluoride (HF), chlorine (Cl₂), phosphorus
2.25 trichloride, and hydrogen sulfide (H₂S) in quantities of 500 pounds or more; and

2.26 (3) phosgene, bromine, methyl isocyanate (MIC), and toluene-2, 4-diisocyanate
2.27 (TDS) in quantities of 100 pounds or more.

2.28 Subd. 2. Registration. Within 60 days of the effective date of this act, the
2.29 commissioner of public safety shall develop and issue a registration form to be completed
2.30 within 120 days of the effective date of this act by the owner or operator of each facility in
2.31 the state that at any time generates, stores, or handles any of the extraordinarily hazardous
2.32 substances in the threshold amounts on the initial extraordinarily hazardous substance
2.33 list under subdivision 1. The registration form shall provide, in addition to any other
2.34 information that may be required by the commissioner, the following:

3.1 (1) an inventory of the extraordinarily hazardous substance or substances generated,
3.2 stored, or handled at the facility and the quantity or quantities of the substances. The
3.3 inventory must identify whether the substances are end products, intermediate products,
3.4 byproducts, or waste products;

3.5 (2) a general description of the processes and principal equipment involved in the
3.6 management of the substance or substances;

3.7 (3) a profile of the area in which the facility is situated, including its proximity to
3.8 population and water supplies;

3.9 (4) the extent to which the risks and hazards of the processes, equipment, and
3.10 operations have been identified, evaluated, and abated and the expertise and affiliation
3.11 of the evaluators and any direct or indirect relationship between the evaluators and the
3.12 owner or operator of the facility; and

3.13 (5) the name or names of all insurance carriers underwriting the facility's
3.14 environmental liability and workers' compensation insurance policies and the scope of the
3.15 policies, including any limitations and exclusions.

3.16 Subd. 3. Additions to list by rule. Within 18 months of the effective date of
3.17 this act, the commissioner of the Pollution Control Agency, in consultation with the
3.18 commissioner of health, shall develop and adopt as a rule an extraordinarily hazardous
3.19 substance list. The list shall correlate the substances or compounds with the quantities
3.20 required to produce the potentially catastrophic circumstance. The commissioner may
3.21 amend, by rule, the extraordinarily hazardous substance list to accommodate new chemical
3.22 compounds that may be developed or reflect new information or scientific data that may
3.23 become available to the commissioner.

3.24 Subd. 4. Subsequent registration. Within 90 days of the adoption of an
3.25 extraordinarily hazardous substance list under subdivision 3, the owner or operator of each
3.26 facility in the state that generates, stores, or handles any of the extraordinarily hazardous
3.27 substances in the threshold amounts on the extraordinarily hazardous substance list, not
3.28 registered according to subdivision 2, shall complete the registration form developed
3.29 and issued by the commissioner.

3.30 **Sec. 3. [115E.22] UNAUTHORIZED RELEASES; PREVENTION,**
3.31 **PREPAREDNESS, AND RESPONSE.**

3.32 Subdivision 1. Risk assessment. Within one year of the effective date of this act,
3.33 the owner or operator of each facility in the state that at any time generates, stores, or
3.34 handles any of the extraordinarily hazardous substances in the threshold amounts on the
3.35 extraordinarily hazardous substance list adopted under section 115E.21 must:

4.1 (1) conduct an assessment of the vulnerability of the facility to a terrorist attack or
4.2 other unauthorized release;

4.3 (2) identify and assess hazards, using appropriate hazard assessment techniques, that
4.4 may result from an unauthorized release of any extraordinarily hazardous substance; and

4.5 (3) assess the use of inherently safer technology in reducing or eliminating the
4.6 possibility of an unauthorized release.

4.7 **Subd. 2. Prevention, preparedness, and response plan required.** Within 18
4.8 months of the effective date of this act, the owner or operator of each facility in the state
4.9 that is required to complete the assessments under subdivision 1 must prepare, and submit
4.10 to the commissioner of public safety for review and approval, a prevention, preparedness,
4.11 and response plan that incorporates the results of the vulnerability and hazard assessments
4.12 conducted under subdivision 1.

4.13 **Subd. 3. Plan requirements.** The prevention, preparedness, and response plan
4.14 under this section must include actions and procedures, including safer design and
4.15 maintenance of the facility, use of inherently safer technology, and all appropriate security
4.16 measures, undertaken to eliminate or significantly lessen the potential consequences of an
4.17 unauthorized release of any extraordinarily hazardous substance.

4.18 **Subd. 4. Required consultation.** The requirements of subdivisions 1 to 3 must be
4.19 completed in consultation with local law enforcement, first responders, and employees
4.20 of the facility.

4.21 **Subd. 5. Data privacy.** The assessments and plan required by this section are
4.22 not public data and are not subject to any state or federal freedom of information law,
4.23 including but not limited to, chapter 13.

Senators Marty, Lourey and Hottinger introduced—

S.F. No. 2816: Referred to the Committee on Environment and Natural Resources.

A bill for an act
relating to the environment; requiring adoption of California standards regarding
low emission vehicles; providing for updates to the standards as necessary
to comply with the federal Clean Air Act; amending Minnesota Statutes 2005
Supplement, section 116.07, subdivision 2.

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

Section 1. Minnesota Statutes 2005 Supplement, section 116.07, subdivision 2, is
amended to read:

Subd. 2. **Adoption of standards.** (a) The Pollution Control Agency shall improve
air quality by promoting, in the most practicable way possible, the use of energy sources
and waste disposal methods which produce or emit the least air contaminants consistent
with the agency's overall goal of reducing all forms of pollution. The agency shall also
adopt standards of air quality, including maximum allowable standards of emission of air
contaminants from motor vehicles, recognizing that due to variable factors, no single
standard of purity of air is applicable to all areas of the state. In adopting standards the
Pollution Control Agency shall give due recognition to the fact that the quantity or
characteristics of air contaminants or the duration of their presence in the atmosphere,
which may cause air pollution in one area of the state, may cause less or not cause any air
pollution in another area of the state, and it shall take into consideration in this connection
such factors, including others which it may deem proper, as existing physical conditions,
zoning classifications, topography, prevailing wind directions and velocities, and the fact
that a standard of air quality which may be proper as to an essentially residential area of
the state, may not be proper as to a highly developed industrial area of the state. Such
standards of air quality shall be premised upon scientific knowledge of causes as well as
effects based on technically substantiated criteria and commonly accepted practices. No

2.1 local government unit shall set standards of air quality which are more stringent than
2.2 those set by the Pollution Control Agency.

2.3 (b) As part of the state implementation plan under the federal Clean Air Act, by
2.4 January 2, 2007, the Pollution Control Agency shall adopt rules to require the sale,
2.5 purchase, and use of motor vehicles that implement a low emission vehicle program
2.6 identical to the California low emission vehicle program being implemented by California
2.7 pursuant to the federal Clean Air Act. The rules shall be effective for motor vehicles with
2.8 a model year of 2010 and later. The rules may incorporate by reference the California
2.9 motor vehicle emission standards under the final regulations adopted by the California Air
2.10 Resources Board, pursuant to Title 13 of the California Code of Regulations and adopted
2.11 under Division 26 of the California Health and Safety Code, as may be amended from
2.12 time to time. The agency shall update the motor vehicle emission rules as necessary for
2.13 compliance with the federal Clean Air Act requirements under United States Code, title
2.14 42, section 7401, et seq., as amended. For the purposes of this paragraph, "motor vehicle"
2.15 means a passenger vehicle, light-duty truck, or any other vehicle determined by the agency
2.16 to be a vehicle whose primary use is noncommercial personal transportation.

2.17 (c) The Pollution Control Agency shall promote solid waste disposal control
2.18 by encouraging the updating of collection systems, elimination of open dumps, and
2.19 improvements in incinerator practices. The agency shall also adopt standards for the
2.20 control of the collection, transportation, storage, processing, and disposal of solid waste
2.21 and sewage sludge for the prevention and abatement of water, air, and land pollution,
2.22 recognizing that due to variable factors, no single standard of control is applicable to
2.23 all areas of the state. In adopting standards, the Pollution Control Agency shall give
2.24 due recognition to the fact that elements of control which may be reasonable and proper
2.25 in densely populated areas of the state may be unreasonable and improper in sparsely
2.26 populated or remote areas of the state, and it shall take into consideration in this connection
2.27 such factors, including others which it may deem proper, as existing physical conditions,
2.28 topography, soils and geology, climate, transportation, and land use. Such standards of
2.29 control shall be premised on technical criteria and commonly accepted practices.

2.30 (d) The Pollution Control Agency shall also adopt standards describing the
2.31 maximum levels of noise in terms of sound pressure level which may occur in the outdoor
2.32 atmosphere, recognizing that due to variable factors no single standard of sound pressure
2.33 is applicable to all areas of the state. Such standards shall give due consideration to
2.34 such factors as the intensity of noises, the types of noises, the frequency with which
2.35 noises recur, the time period for which noises continue, the times of day during which
2.36 noises occur, and such other factors as could affect the extent to which noises may be

3.1 injurious to human health or welfare, animal or plant life, or property, or could interfere
3.2 unreasonably with the enjoyment of life or property. In adopting standards, the Pollution
3.3 Control Agency shall give due recognition to the fact that the quantity or characteristics
3.4 of noise or the duration of its presence in the outdoor atmosphere, which may cause
3.5 noise pollution in one area of the state, may cause less or not cause any noise pollution
3.6 in another area of the state, and it shall take into consideration in this connection such
3.7 factors, including others which it may deem proper, as existing physical conditions,
3.8 zoning classifications, topography, meteorological conditions and the fact that a standard
3.9 which may be proper in an essentially residential area of the state, may not be proper as to
3.10 a highly developed industrial area of the state. Such noise standards shall be premised
3.11 upon scientific knowledge as well as effects based on technically substantiated criteria
3.12 and commonly accepted practices. No local governing unit shall set standards describing
3.13 the maximum levels of sound pressure which are more stringent than those set by the
3.14 Pollution Control Agency.

3.15 (e) The Pollution Control Agency shall adopt standards for the identification of
3.16 hazardous waste and for the management, identification, labeling, classification, storage,
3.17 collection, transportation, processing, and disposal of hazardous waste, recognizing
3.18 that due to variable factors, a single standard of hazardous waste control may not be
3.19 applicable to all areas of the state. In adopting standards, the Pollution Control Agency
3.20 shall recognize that elements of control which may be reasonable and proper in densely
3.21 populated areas of the state may be unreasonable and improper in sparsely populated
3.22 or remote areas of the state. The agency shall consider existing physical conditions,
3.23 topography, soils, and geology, climate, transportation and land use. Standards of
3 hazardous waste control shall be premised on technical knowledge, and commonly
3.25 accepted practices. Hazardous waste generator licenses may be issued for a term not to
3.26 exceed five years. No local government unit shall set standards of hazardous waste control
3.27 which are in conflict or inconsistent with those set by the Pollution Control Agency.

3.28 A person who generates less than 100 kilograms of hazardous waste per month is
3.29 exempt from the following agency hazardous waste rules:

3.30 (1) rules relating to transportation, manifesting, storage, and labeling for
3.31 photographic fixer and X-ray negative wastes that are hazardous solely because of silver
3.32 content; and

3.33 (2) any rule requiring the generator to send to the agency or commissioner a copy
3 of each manifest for the transportation of hazardous waste for off-site treatment, storage,
3.35 or disposal, except that counties within the metropolitan area may require generators to
3.36 provide manifests.

- 4.1 Nothing in this paragraph exempts the generator from the agency's rules relating to on-site
- 4.2 accumulation or outdoor storage. A political subdivision or other local unit of government
- 4.3 may not adopt management requirements that are more restrictive than this paragraph.

Senators Marty, Ruud, Hottinger, Jungbauer and Saxhaug introduced—
 S.F. No. 3293: Referred to the Committee on Environment and Natural Resources.

A bill for an act

1.2 relating to natural resources; proposing an amendment to the Minnesota
 1.3 Constitution, article XI, section 14, to allow the environment and natural
 1.4 resources trust fund to be invested in land resources within the state;
 1.5 appropriating money; amending Minnesota Statutes 2004, section 116P.04,
 1.6 subdivision 1; Minnesota Statutes 2005 Supplement, section 10A.01, subdivision
 1.7 35; proposing coding for new law in Minnesota Statutes, chapter 116P.

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

1.9 Section 1. CONSTITUTIONAL AMENDMENT PROPOSED; ACQUISITION
 1.10 OF LAND BY THE ENVIRONMENT AND NATURAL RESOURCES TRUST
 1.11 FUND.

1.12 An amendment to the Minnesota Constitution, article XI, section 14, is proposed to
 1.13 the people. If the amendment is adopted, the section will read as follows:

1.14 Sec. 14. A permanent environment and natural resources trust fund is established
 1.15 in the state treasury. Loans may be made of up to five percent of the principal of the
 1.16 fund for water system improvements as provided by law. The assets of the fund shall be
 1.17 appropriated by law for the public purpose of protection, conservation, preservation, and
 1.18 enhancement of the state’s air, water, land, fish, wildlife, and other natural resources.
 1.19 The amount appropriated each year of a biennium, commencing on July 1 in each
 1.20 odd-numbered year and ending on and including June 30 in the next odd-numbered year,
 1.21 may be up to 5-1/2 percent of the market value of the fund on June 30 one year before the
 1.22 start of the biennium. Not less than 40 percent of the net proceeds from any state-operated
 3 lottery must be credited to the fund until the year 2025.

1.24 For the purpose of increasing the value of the trust fund, up to 75 percent of the
 1.25 balance in the environment and natural resources trust fund may be invested in land,

2.1 including all costs associated with improving and managing the land, within the state that
 2.2 is useful for the protection, conservation, preservation, and enhancement of air, water,
 2.3 land, fish, wildlife, and other natural resources. The estimated market value of any land
 2.4 acquired under this paragraph shall be included in determining the market value of the
 2.5 fund. Interests in land acquired under this paragraph may be: (1) sold to a governmental
 2.6 organization or a nonprofit land preservation entity. The sale must require the land to be
 2.7 retained for conservation or public use, with a reversionary interest held by the fund to
 2.8 exercise if the land is not used for conservation or public use; or (2) sold at public sale for
 2.9 not less than the appraised value. The sale terms may include conservation easements on
 2.10 the land.

2.11 **Sec. 2. SUBMISSION TO VOTERS.**

2.12 The proposed amendment shall be submitted to the people at the 2006 general
 2.13 election. The question submitted shall be:

2.14 "Shall the Minnesota Constitution be amended to allow for the investment of the
 2.15 environment and natural resources trust fund not only in stocks and bonds, but also in land
 2.16 within Minnesota for the purpose of increasing the value of the trust fund and for the
 2.17 protection, conservation, preservation, and enhancement of air, water, land, fish, wildlife,
 2.18 and other natural resources?"

2.19 Yes

2.20 No"

2.21 **Sec. 3. Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 35, is**
 2.22 **amended to read:**

2.23 **Subd. 35. Public official.** "Public official" means any:

2.24 (1) member of the legislature;

2.25 (2) individual employed by the legislature as secretary of the senate, legislative
 2.26 auditor, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or
 2.27 attorney in the Office of Senate Counsel and Research or House Research;

2.28 (3) constitutional officer in the executive branch and the officer's chief administrative
 2.29 deputy;

2.30 (4) solicitor general or deputy, assistant, or special assistant attorney general;

2.31 (5) commissioner, deputy commissioner, or assistant commissioner of any state
 2.32 department or agency as listed in section 15.01 or 15.06, or the state chief information
 2.33 officer;

3.1 (6) member, chief administrative officer, or deputy chief administrative officer of a
 3.2 state board or commission that has either the power to adopt, amend, or repeal rules under
 3.3 chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;

3.4 (7) individual employed in the executive branch who is authorized to adopt, amend,
 3.5 or repeal rules under chapter 14 or adjudicate contested cases under chapter 14;

3.6 (8) executive director of the State Board of Investment;

3.7 (9) deputy of any official listed in clauses (7) and (8);

3.8 (10) judge of the Workers' Compensation Court of Appeals;

3.9 (11) administrative law judge or compensation judge in the State Office of
 3.10 Administrative Hearings or referee in the Department of Employment and Economic
 3.11 Development;

3.12 (12) member, regional administrator, division director, general counsel, or operations
 3.13 manager of the Metropolitan Council;

3.14 (13) member or chief administrator of a metropolitan agency;

3.15 (14) director of the Division of Alcohol and Gambling Enforcement in the
 3.16 Department of Public Safety;

3.17 (15) member or executive director of the Higher Education Facilities Authority;

3.18 (16) member of the board of directors or president of Minnesota Technology, Inc.; or

3.19 (17) member of the board of directors or executive director of the Minnesota State
 3.20 High School League; or

3.21 (18) member of the Land Acquisition Advisory Council.

3.22 **EFFECTIVE DATE.** This section is effective the day following adoption by the
 3.23 voters of the constitutional amendment proposed in section 1.

3.24 Sec. 4. Minnesota Statutes 2004, section 116P.04, subdivision 1, is amended to read:

3.25 **Subdivision 1. Establishment of account and investment.** A Minnesota
 3.26 environment and natural resources trust fund, under article XI, section 14, of the Minnesota
 3.27 Constitution, is established as an account in the state treasury. The commissioner of
 3.28 finance shall credit to the trust fund the amounts authorized under this section and section
 3.29 116P.10. The State Board of Investment shall ensure that trust fund money is invested
 3.30 under section 11A.24 or 116P.045. All money earned by the trust fund must be credited
 3.31 to the trust fund. The principal of the trust fund and any unexpended earnings must be
 3.32 invested and reinvested by the State Board of Investment.

3.33 **EFFECTIVE DATE.** This section is effective the day following adoption by the
 3.34 voters of the constitutional amendment proposed in section 1.

4.1 **Sec. 5. [116P.045] TRUST FUND INVESTMENTS IN LAND RESOURCES.**

4.2 **Subdivision 1. Authorized investments in land resources; goal.** As authorized
4.3 by the Minnesota Constitution, article XI, section 14, the State Board of Investment may
4.4 invest the trust fund in interests in land, including fee interests or conservation easements.
4.5 The investment goal for the trust fund is that at least 50 percent of the trust fund will
4.6 be invested in interests in land.

4.7 **Subd. 2. Criteria.** The State Board of Investment shall make decisions on
4.8 acquisition of land with money from the trust fund with the expectation that the land
4.9 will increase the value of the trust fund's assets, and in addition should consider the
4.10 following criteria:

4.11 (1) protection of natural areas that are vulnerable to development;

4.12 (2) the significance of the land or water as existing or potential habitat for fish and
4.13 wildlife and for providing fish- and wildlife-oriented recreation;

4.14 (3) the significance of the land, water, or habitat improvement to maintain or
4.15 enhance native plant, fish, or wildlife species designated as endangered or threatened
4.16 under section 84.0895;

4.17 (4) the presence of native ecological communities that are uncommon or diminishing
4.18 at the time of the decision-making; or

4.19 (5) the significance of the land, water, or habitat improvement to protect or enhance
4.20 natural features within or contiguous to natural areas, including fish spawning areas,
4.21 wildlife management areas, scientific and natural areas, riparian habitat, and fish and
4.22 wildlife management projects.

4.23 **Subd. 3. Land Acquisition Advisory Council.** A Land Acquisition Advisory
4.24 Council is created to advise the State Board of Investment on the acquisition of interests in
4.25 land under this section. The council consists of:

4.26 (1) the commissioner of natural resources;

4.27 (2) the commissioner of the Pollution Control Agency;

4.28 (3) the chair of the Board of Water and Soil Resources;

4.29 (4) three public members with knowledge of natural resource and environmental
4.30 protection issues and natural resource values, appointed by the State Board of Investment
4.31 according to section 15.0597; and

4.32 (5) three public members with knowledge of investment options, appointed by the
4.33 State Board of Investment according to section 15.0597.

4.34 **Subd. 4. Investment requirements.** The trust fund investments in land must be
4.35 used for:

4.36 (1) land acquisition, including the costs of acquisition;

5.1 (2) management and improvement of the land to achieve the criteria for acquisition
5.2 under subdivision 2; and

5.3 (3) making payments to counties under subdivision 8.

5.4 Subd. 5. Sales of land acquired by trust fund. (a) Within 30 years of acquisition,
5.5 land acquired by the trust fund must be sold by the State Board of Investment, unless the
5.6 board finds that holding the land for a longer term would be in the best interest of the trust
5.7 fund or that the sale of the land would be detrimental to the natural resource value of the
5.8 land, based on the criteria for acquisition under subdivision 2.

5.9 (b) Land acquired by the trust fund may be sold to governmental organizations or
5.10 nonprofit land preservation entities subject to a reversionary interest held by the fund to
5.11 exercise if the land is not used for conservation or public use, as required in the Minnesota
5.12 Constitution, article XI, section 14. The land may be sold for the lesser of:

5.13 (1) 90 percent of the estimated market value of the land; or

5.14 (2) the present value of the purchase price adjusted using the rate of return on overall
5.15 financial investments of the trust fund for the same time period.

5.16 (c) If there is no willing buyer under paragraph (b), land acquired by the trust fund
5.17 may be sold at public auction for not less than the appraised value of the land and may
5.18 include a permanent conservation easement in favor of the trust fund.

5.19 Subd. 6. Management of land acquired by trust fund. Land acquired by the
5.20 trust fund shall be managed by the commissioner of natural resources or a nonprofit land
5.21 preservation entity, as determined by the State Board of Investment. Land acquired
5.22 by the trust fund may be managed for forest resources. The commissioner of natural
5.23 resources and any nonprofit land preservation entity who manages land acquired by the
5.24 trust fund must submit annual reports to the State Board of Investment on the status of
5.25 the land acquired under this section. The report shall include information on revenue
5.26 and expenditures attributable to the management of land acquired by the trust fund, as
5.27 well as the ecological status of the land.

5.28 Subd. 7. Trust fund land management account. (a) A trust fund land management
5.29 account is created in the state treasury in the natural resources fund. The following shall
5.30 be deposited in the state treasury and credited to the trust fund management account:

5.31 (1) money received by the Department of Natural Resources from the management
5.32 of land acquired by the trust fund; and

5.33 (2) interest accrued on the account.

5.34 (b) Money in the trust fund land management account is annually appropriated to the
5.35 commissioner of natural resources for certified management costs of land acquired by the

6.1 trust fund and for making determinations of the estimated market value of the land, as
6.2 required under the Minnesota Constitution, article XI, section 14.

6.3 Subd. 8. Payments in lieu of taxes. The State Board of Investment shall annually
6.4 make a payment to each county having land acquired by the trust fund under this section.
6.5 Money to make the payments is annually appropriated for that purpose from the trust
6.6 fund. The payment shall be the dollar amount adjusted for inflation as determined under
6.7 section 477A.12, subdivision 1, paragraph (a), clause (1), multiplied by the number of
6.8 acres of land in the county that are owned by the trust fund. The distribution and use of the
6.9 payments under this subdivision shall be as provided in section 477A.14.

6.10 EFFECTIVE DATE. This section is effective the day following adoption by the
6.11 voters of the constitutional amendment proposed in section 1.

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S.F. No. 3293 - Environment and Natural Resources Trust Fund Investments in Land Resources

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Senate File No. 3293 proposes a constitutional amendment that would shift the investment strategy for a portion of the Environment and Natural Resources Trust Fund from stocks and bonds to making investments in land resources conservation and protection purposes. Under the bill, the State Board of Investment (Governor, State Auditor, Secretary of State, and Attorney General) would be allowed to invest up to 75 percent of the balance in the Trust Fund in land resources. While held as part of the Trust Fund, the land would be available for public access as appropriate (e.g., hunting, fishing, hiking, sustainable resource extraction). The bill requires the State Board of Investment to provide for management costs and PILT payments from the Trust Fund. These costs would be considered part of the cost of investment in the land. Revenue could also be earned for the fund during this time, whether it's from user fees, sustainable logging, or some other activity. The land could be managed either by the Department of Natural Resources or a nonprofit land preservation entity.

Thirty years after the property was purchased, it would be sold to the state, a local government, or a nonprofit conservation group, to be preserved, unless the State Board of Investment determines that the continued ownerships would be beneficial to the Trust Fund or that the sale would be detrimental to the natural resource. The land would be offered to these conservation groups or local governments at a discount -- they could purchase the land for 90 percent of its market value or less if the land investment exceeds what the fund would have earned had it been invested in stocks and bonds. If no government or conservation group was available to purchase the land, it could be sold at

a public auction, and made subject to a conservation easement. All proceeds from the sale would be deposited back into the Trust Fund.

Section 1 [Constitutional Amendment] provides the language of the constitutional amendment to allow the State Board of Investment to invest up to 75 percent of the Environment and Natural Resources Trust Fund in land resources for the protection, conservation, and enhancement of natural resources. The land may be sold to a public entity or to a nonprofit land preservation entity with a reversionary interest, sold by public sale for not less than the appraised value.

Section 2 [Submission to the Voters] provides the language that would be on the ballot at the 2006 general election.

Section 3 [Public Official Definition] provides that a member of the Land Acquisition Advisory Council, established in section 5, subdivision 3, is a "Public Official" for the purpose of the economic interest declaration and prohibitions on accepting gifts.

Section 4 [Technical] is a technical change.

Section 5 [Trust Fund Investments in Land Resources]

Subdivision 1 [Authorized Investments; Goal] references the constitutional language in section 1 and provides a goal of investing at least 50 percent of the trust fund in land resources.

Subdivision 2 [Criteria] provides that any investments in land resources must have the expectation of increasing the value of the assets in the Trust Fund and provides additional criteria for investing the Trust Fund in land resources.

Subdivision 3 [Land Acquisition Advisory Council] creates the nine-member Land Acquisition Advisory Council to advise the State Board of Investment on land resources acquisition. The Council consists of the Commissioners of Natural Resources and the Pollution Control Agency, the chair of the Board of Water and Soil Resources, and six public members appointed by the State Board of Investment. Three of the public members must have knowledge of environment and natural resources protection issues and natural resources values; and three of the public members must have knowledge in investment options.

Subdivision 4 [Investment Requirements] provides that Trust Fund investments may be used for acquisition, management, improvements, and payments in lieu of taxes.

Subdivision 5 [Sales of Land Acquired by the Trust Fund] directs the State Board of Investment to sell any lands acquired within 30 years of purchase, unless

the Board finds that the continued ownership would be beneficial to the Trust Fund or that the sale would be detrimental to the natural resource. This subdivision also provides for sales of land at less than appraised value, subject to a reversionary interest, to state agencies and nonprofit land preservation entities under certain conditions.

Subdivision 6 [Management of Land] authorizes the Department of Natural Resources or a nonprofit land preservation entity, as determined by the State Board of Investment, to manage land and require reports on the management.

Subdivision 7 [Trust Fund Land Management Account] establishes the Trust Fund Land Management Account for receipts from management activities on the land acquired by the Trust Fund. Money in the account is annually appropriated for certified costs of management of the lands.

Subdivision 8 [Payments in Lieu of Taxes] provides for payments in lieu of taxes at the rate provided for other acquired state lands to be paid from the Trust Fund.

Effective Dates: The constitutional provisions in sections 1 and 2 are effective on August 1, 2006, for placement on the ballot at the 2006 general election. The remaining sections are effective the day following adoption of the constitutional amendment by the voters.

GK:dv

Senators Frederickson, Vickerman and Kubly introduced—

S.F. No. 2775: Referred to the Committee on Environment and Natural Resources.

A bill for an act
relating to natural resources; extending the Casey Jones State Trail; amending
Minnesota Statutes 2004, section 85.015, subdivision 2.

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

Section 1. Minnesota Statutes 2004, section 85.015, subdivision 2, is amended to read:

Subd. 2. **Casey Jones Trail, Murray, Redwood, and Pipestone Counties.** (a) The trail shall originate in Lake Shetek State Park in Murray County and include the six-mile loop between Currie in Murray County and Lake Shetek State Park. From there, the first half of the trail shall trail southwesterly to Slayton in Murray County; thence westerly to the point of intersection with the most easterly terminus of the state-owned abandoned railroad right-of-way, commonly known as the Casey Jones unit; thence westerly along said Casey Jones unit to Pipestone in Pipestone County; thence southwesterly to Split Rock Creek State Park in Pipestone County, and there terminate. The second half of the trail shall commence in Lake Shetek State Park in Murray County and trail northeasterly to Walnut Grove in Redwood County ~~and there terminate~~; thence northeasterly to Redwood Falls in Redwood County to join with the Minnesota River State Trail.

(b) The trail shall be developed as a multiuse, multiseasonal, dual treadway trail. Nothing herein shall abrogate the purpose for which the Casey Jones unit was originally established, and the use thereof shall be concurrent.

1.1 Senator moves to amend S.F. No. 2973 as follows:

1.2 Page 5, after line 26, insert:

1.3 "Sec. 13. Minnesota Statutes 2004, section 85.015, is amended by adding a
1.4 subdivision to read:

1.5 Subd. 25. Great River Ridge Trail, Wabasha and Olmsted Counties. The trail
1.6 shall originate in the city of Plainview in Wabasha County and extend southwesterly
1.7 through the city of Elgin in Wabasha County and the town of Viola in Olmsted County to
1.8 the Chester Woods Trail in Olmsted County."

1.9 Page 8, after line 17, insert:

1.10 "Sec. 18. AGREEMENT; WABASHA COUNTY REGIONAL RAIL
1.11 AUTHORITY.

1.12 The commissioner of natural resources shall enter an agreement with the Wabasha
1.13 County Regional Rail Authority to maintain and develop the Great River Ridge Trail
1.14 as a state trail."

1.15 Page 8, after line 19, insert:

1.16 "Sec. 20. EFFECTIVE DATE.

1.17 Sections 13 and 18 are effective the day after the governing body of the Wabasha
1.18 County Regional Rail Authority and its chief clerical officer timely complete their
1.19 compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

1.20 Renumber the sections in sequence and correct the internal references

1.21 Amend the title accordingly

1.1 Senator moves to amend S.F. No. 2973 as follows:

1.2 Page 2, delete section 3 and insert:

1.3 "Sec. 3. Minnesota Statutes 2005 Supplement, section 84.8205, subdivision 1,
1.4 is amended to read:

1.5 Subdivision 1. **Sticker required; fee.** (a) Except as provided in paragraph (b), a
1.6 person may not operate a snowmobile on a state or grant-in-aid snowmobile trail unless a
1.7 snowmobile state trail sticker is affixed to the snowmobile. The commissioner of natural
1.8 resources shall issue a sticker upon application and payment of a \$15 fee. The fee for a
1.9 three-year snowmobile state trail sticker that is purchased at the time of snowmobile
1.10 registration is \$30. In addition to other penalties prescribed by law, a person in violation of
1.11 this subdivision must purchase an annual state trail sticker for a fee of \$30. The sticker is
1.12 valid from November 1 through April 30. Fees collected under this section, except for the
1.13 issuing fee for licensing agents ~~under this section and for the electronic licensing system~~
1.14 ~~commission established by the commissioner under section 84.027, subdivision 15,~~ shall
1.15 be deposited in the state treasury and credited to the snowmobile trails and enforcement
1.16 account in the natural resources fund and, except for the electronic licensing system
1.17 commission established by the commissioner under section 84.027, subdivision 15, must
1.18 be used for grants-in-aid, trail maintenance, grooming, and easement acquisition.

1.19 (b) A state trail sticker is not required under this section for:

1.20 (1) a snowmobile owned by the state or a political subdivision of the state that is
1.21 registered under section 84.82, subdivision 5;

1.22 (2) a snowmobile that is owned and used by the United States, another state, or
1.23 a political subdivision thereof that is exempt from registration under section 84.82,
1.24 subdivision 6;

1.25 (3) a collector snowmobile that is operated as provided in a special permit issued for
1.26 the collector snowmobile under section 84.82, subdivision 7a; or

2.1 (4) a person operating a snowmobile only on the portion of a trail that is owned by
2.2 the person or the person's spouse, child, or parent.

2.3 Sec. 4. Minnesota Statutes 2004, section 84.8205, subdivision 2, is amended to read:

2.4 Subd. 2. **Placement of sticker.** The state trail sticker shall be permanently affixed
2.5 to either:

2.6 (1) the forward half of the snowmobile directly above or below the headlight of
2.7 the snowmobile;

2.8 (2) above the expiration year on the top portion of the snowmobile registration
2.9 validation decal; or

2.10 (3) the lower right corner of a registration plate issued to a dealer or manufacturer
2.11 under section 84.82, subdivision 3."

2.12 Renumber the sections in sequence and correct the internal references

2.13 Amend the title accordingly

1.1 Senator moves to amend S.F. No. 2973 as follows:

1.2 Page 5, after line 26, insert:

1.3 "Sec. 13. Minnesota Statutes 2004, section 85.32, subdivision 1, is amended to read:

1.4 Subdivision 1. **Areas marked.** The commissioner of natural resources is authorized

1.5 in cooperation with local units of government and private individuals and groups when

1.6 feasible to mark canoe and boating routes on the Little Fork, Big Fork, Minnesota,

1.7 St. Croix, Snake, Mississippi, Red Lake, Cannon, Straight, Des Moines, Crow Wing,

1.8 St. Louis, Pine, Rum, Kettle, Cloquet, Root, Zumbro, Pomme de Terre within Swift

1.9 County, Watonwan, Cottonwood, Whitewater, Chippewa from Benson in Swift County

1.10 to Montevideo in Chippewa County, Long Prairie, Red River of the North, Sauk, and

1.11 Crow Rivers which have historic and scenic values and to mark appropriately points of

1.12 interest, portages, camp sites, and all dams, rapids, waterfalls, whirlpools, and other

1.13 serious hazards which are dangerous to canoe and watercraft travelers."

1.14 Renumber the sections in sequence and correct the internal references

1.15 Amend the title accordingly

1.1 Senator moves to amend S.F. No. 2973 as follows:

1.2 Page 6, after line 13, insert:

1.3 "Sec. 14. Minnesota Statutes 2004, section 89.01, subdivision 1, is amended to read:

1.4 Subdivision 1. **Best methods.** The commissioner shall ascertain and observe the
1.5 best methods of reforesting cutover and denuded lands, foresting waste ~~and prairie~~ lands,
1.6 preventing destruction of forests and lands by fire, administering forests on forestry
1.7 principles, encouraging private owners to preserve and grow timber for commercial
1.8 purposes, and conserving the forests around the head waters of streams and on the
1.9 watersheds of the state."

1.10 Renumber the sections in sequence and correct the internal references

1.11 Amend the title accordingly

1.1 Senator moves to amend S.F. No. 2973 as follows:

1.2 Page 5, after line 26, insert:

1.3 "Sec. 13. Minnesota Statutes 2004, section 85.015, subdivision 12, is amended to
1.4 read:

1.5 Subd. 12. **Heartland Trail, Clay, Becker, Hubbard, and Cass Counties.** (a)

1.6 The trail shall originate at Moorhead in Clay County and extend in an easterly direction
1.7 through Detroit Lakes in Becker County to mile post 90.92 at Park Rapids in Hubbard
1.8 County and shall extend; thence in an easterly direction along the Burlington Northern
1.9 Railroad right-of-way through Walker in Cass County. ~~The trail shall then continue;~~
1.10 thence in a northerly direction along the Burlington Northern Railroad right-of-way to
1.11 Cass Lake in Cass County, and there terminate.

1.12 (b) The trail shall be developed primarily for riding and hiking.

1.13 ~~(c) In addition to the authority granted in subdivision 1, lands and interests in lands~~
1.14 ~~for the Heartland Trail may be acquired by eminent domain. Before acquiring any land~~
1.15 ~~or interest in land by eminent domain the commissioner of administration shall obtain~~
1.16 ~~the approval of the governor. The governor shall consult with the Legislative Advisory~~
1.17 ~~Commission before granting approval. Recommendations of the Legislative Advisory~~
1.18 ~~Commission shall be advisory only. Failure or refusal of the commission to make a~~
1.19 ~~recommendation shall be deemed a negative recommendation."~~

1.20 Renumber the sections in sequence and correct the internal references

1.21 Amend the title accordingly

1.1 A bill for an act
1.2 relating to public safety; providing for prevention, preparedness, and response
1.3 to unauthorized releases of extraordinarily hazardous substances; amending
1.4 Minnesota Statutes 2004, section 13.6905, by adding a subdivision; proposing
1.5 coding for new law in Minnesota Statutes, chapter 115E.

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

1.7 Section 1. Minnesota Statutes 2004, section 13.6905, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 1a. Extraordinarily hazardous substance assessments and plans.

1.10 Extraordinarily hazardous substance assessments and plans are classified under section
1.11 115E.22, subdivision 5.

1.12 Sec. 2. [115E.20] DEFINITIONS.

1.13 Subdivision 1. Scope. The definitions in this section apply to sections 115E.20 to
1.14 115E.22.

1.15 Subd. 2. Extraordinarily hazardous substance. "Extraordinarily hazardous
1.16 substance" means any substance or chemical compound used, manufactured, stored, or
1.17 capable of being produced from on-site components in this state in sufficient quantities
1.18 at a single site such that its release into the environment would produce a significant
1.19 likelihood that persons exposed will suffer acute health effects resulting in death or
1.20 permanent disability.

1.21 Subd. 3. Extraordinarily hazardous substance list. "Extraordinarily hazardous
1.22 substance list" means the substances or chemical compounds identified in section 115E.21,
1.23 subdivision 1, and identified by rule according to section 115E.21, subdivision 3.

2.1 Subd. 4. Facility. "Facility" means a building, equipment, and contiguous area.

2.2 Facility includes a research and development laboratory, which means a specially
2.3 designated area used primarily for research, development, and testing activity, and
2.4 not primarily involved in the production of goods for commercial sale, in which
2.5 extraordinarily hazardous substances are used by or under the supervision of a technically
2.6 qualified person.

2.7 Subd. 5. Security measure. "Security measure" means an action carried out to
2.8 increase the security of a facility, including employee training and background checks,
2.9 limitation and prevention of access to controls of the facility, protection of the perimeter
2.10 of the facility, installation and operation of an intrusion detection sensor, or a measure to
2.11 increase computer or computer network security.

2.12 Subd. 6. Unauthorized release. "Unauthorized release" means a release from a
2.13 facility into the environment of an extraordinarily hazardous substance that is caused, in
2.14 whole or in part, by a criminal act, a release into the environment of an extraordinarily
2.15 hazardous substance that has been removed from a facility, in whole or in part, by a
2.16 criminal act, or a release or removal from a facility of an extraordinarily hazardous
2.17 substance that is unauthorized by the owner or operator of the facility.

2.18 Subd. 7. Use of inherently safer technology. "Use of inherently safer technology"
2.19 means the use of a technology, product, raw material, or practice that, as compared
2.20 with the technologies, products, raw materials, or practices currently in use, reduces or
2.21 eliminates the possibility of a release of an extraordinarily hazardous substance prior to
2.22 secondary containment, control, or mitigation and reduces or eliminates the threats to
2.23 public health and the environment associated with an unauthorized release or potential
2.24 unauthorized release of an extraordinarily hazardous substance.

2.25 **Sec. 3. [115E.21] EXTRAORDINARILY HAZARDOUS SUBSTANCE LIST;**
2.26 **REGISTRATION.**

2.27 Subdivision 1. Initial list. The following chemicals or chemical compounds, in the
2.28 quantities indicated, constitute the initial extraordinarily hazardous substance list:

2.29 (1) hydrogen chloride (HCl) and allyl chloride in quantities of 2,000 pounds or more;

2.30 (2) hydrogen cyanide (HCN), hydrogen fluoride (HF), chlorine (Cl₂), phosphorus
2.31 trichloride, and hydrogen sulfide (H₂S) in quantities of 500 pounds or more; and

2.32 (3) phosgene, bromine, methyl isocyanate (MIC), and toluene-2, 4-diisocyanate
2.33 (TDS) in quantities of 100 pounds or more.

2.34 Subd. 2. Registration. Within 60 days of the effective date of this act, the
2.35 commissioner of public safety shall develop and issue a registration form to be completed

3.1 within 120 days of the effective date of this act by the owner or operator of each facility in
3.2 the state that at any time generates, stores, or handles any of the extraordinarily hazardous
3.3 substances in the threshold amounts on the initial extraordinarily hazardous substance
3.4 list under subdivision 1. The registration form shall provide, in addition to any other
3.5 information that may be required by the commissioner, the following:

3.6 (1) an inventory of the extraordinarily hazardous substance or substances generated,
3.7 stored, or handled at the facility and the quantity or quantities of the substances. The
3.8 inventory must identify whether the substances are end products, intermediate products,
3.9 byproducts, or waste products;

3.10 (2) a general description of the processes and principal equipment involved in the
3.11 management of the substance or substances;

3.12 (3) a profile of the area in which the facility is situated, including its proximity to
3.13 population and water supplies;

3.14 (4) the extent to which the risks and hazards of the processes, equipment, and
3.15 operations have been identified, evaluated, and abated and the expertise and affiliation
3.16 of the evaluators and any direct or indirect relationship between the evaluators and the
3.17 owner or operator of the facility; and

3.18 (5) the name or names of all insurance carriers underwriting the facility's
3.19 environmental liability and workers' compensation insurance policies and the scope of the
3.20 policies, including any limitations and exclusions.

3.21 Subd. 3. Additions to list by rule. Within 18 months of the effective date of
3.22 this act, the commissioner of the Pollution Control Agency, in consultation with the
3.23 commissioner of health, shall develop and adopt as a rule an extraordinarily hazardous
3.24 substance list. The list shall correlate the substances or compounds with the quantities
3.25 required to produce the potentially catastrophic circumstance. The commissioner may
3.26 amend, by rule, the extraordinarily hazardous substance list to accommodate new chemical
3.27 compounds that may be developed or reflect new information or scientific data that may
3.28 become available to the commissioner.

3.29 Subd. 4. Subsequent registration. Within 90 days of the adoption of an
3.30 extraordinarily hazardous substance list under subdivision 3, the owner or operator of each
3.31 facility in the state that generates, stores, or handles any of the extraordinarily hazardous
3.32 substances in the threshold amounts on the extraordinarily hazardous substance list, not
3.33 registered according to subdivision 2, shall complete the registration form developed
3.34 and issued by the commissioner.

1 Sec. 4. [115E.22] UNAUTHORIZED RELEASES; PREVENTION,
2 PREPAREDNESS, AND RESPONSE.

3 Subdivision 1. Risk assessment. Within one year of the effective date of this act,
4 the owner or operator of each facility in the state that at any time generates, stores, or
5 handles any of the extraordinarily hazardous substances in the threshold amounts on the
6 extraordinarily hazardous substance list adopted under section 115E.21 must:

7 (1) conduct an assessment of the vulnerability of the facility to a terrorist attack or
8 other unauthorized release;

9 (2) identify and assess hazards, using appropriate hazard assessment techniques, that
10 may result from an unauthorized release of any extraordinarily hazardous substance; and

11 (3) assess the use of inherently safer technology in reducing or eliminating the
12 possibility of an unauthorized release.

13 Subd. 2. Prevention, preparedness, and response plan required. Within 18
14 months of the effective date of this act, the owner or operator of each facility in the state
15 that is required to complete the assessments under subdivision 1 must prepare, and submit
16 to the commissioner of public safety for review and approval, a prevention, preparedness,
17 and response plan that incorporates the results of the vulnerability and hazard assessments
18 conducted under subdivision 1.

19 Subd. 3. Plan requirements. The prevention, preparedness, and response plan
20 under this section must include actions and procedures, including safer design and
21 maintenance of the facility, use of inherently safer technology, and all appropriate security
22 measures, undertaken to eliminate or significantly lessen the potential consequences of an
23 unauthorized release of any extraordinarily hazardous substance.

24 Subd. 4. Required consultation. The requirements of subdivisions 1 to 3 must be
25 completed in consultation with local law enforcement, first responders, and employees
26 of the facility.

27 Subd. 5. Data. Assessments and plans prepared under this section are nonpublic
28 data as defined in section 13.02 except that the data may be provided to law enforcement,
29 firefighters, members of the National Guard, or other representatives of a government
30 entity responding to a request for services at a facility that is the subject of the assessment
31 and plan.

1.1 Senator moves to amend S.F. No. 2757 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2004, section 13.6905, is amended by adding a
1.4 subdivision to read:

1.5 Subd. 1a. ~~Extraordinarily hazardous substance assessments and plans.~~

1.6 ~~Extraordinarily hazardous substance assessments and plans~~ are classified ~~under section~~
1.7 ~~115E.22, subdivision 5.~~ *Facility Security Plans* *nor public data*

1.8 Sec. 2. Minnesota Statutes 2004, section 115E.01, subdivision 5, is amended to read:

1.9 Subd. 5. **Facility.** "Facility" means a structure, group of structures, equipment,
1.10 or device, other than a vessel, that is used for one or more of the following purposes:
1.11 exploring for, drilling for, producing, storing, handling, transferring, processing, or
1.12 transporting oil or a hazardous substance. Facility includes a motor vehicle, rolling stock,
1.13 or pipeline used for one or more of these purposes. Facility also includes a research and
1.14 development laboratory, which means a specially designated area used primarily for
1.15 research, development, and testing activity and not primarily involved in the production of
1.16 goods for commercial sale. A facility may be in, on, or under land, or in, on, or under
1.17 waters of the state as defined in section 115.01, subdivision 22.

1.18 Sec. 3. Minnesota Statutes 2004, section 115E.01, subdivision 6, is amended to read:

1.19 Subd. 6. **Hazardous substance.** "Hazardous substance" has the meaning given in
1.20 section 115B.02, subdivision 8. In addition, hazardous substance includes the substances
1.21 listed under section 112r of the Clear Air Act, found in Code of Federal Regulations,
1.22 title 40, part 68.

1.23 Sec. 4. Minnesota Statutes 2004, section 115E.01, subdivision 7, is amended to read:

1.24 Subd. 7. **Lead agency.** "Lead agency" means:
1.25 (1) the Department of Agriculture, with respect to agricultural chemicals; ~~or~~
1.26 (2) the Pollution Control Agency, for other hazardous substances or oil; or
1.27 (3) the Department of Public Safety, with respect to the security planning and
1.28 security measures.

1.29 Sec. 5. Minnesota Statutes 2004, section 115E.01, is amended by adding a subdivision
1.30 to read:

1.31 Subd. 11d. **Security measure.** "Security measure" means an action carried out to
1.32 increase the security of a facility, including employee training and background checks,
1.33 limitation and prevention of access to controls of the facility, protection of the perimeter
1.34 of the facility, installation and operation of an intrusion detection sensor, or a measure to
1.35 increase computer or computer network security.

2.1 Sec. 6. Minnesota Statutes 2004, section 115E.01, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 11e. Use of inherently safer technology. "Use of inherently safer
2.4 technology" means the use of a technology, product, raw material, or practice that, as
2.5 compared with the technologies, products, raw materials, or practices currently in use,
2.6 reduces or eliminates the possibility of a release, and reduces or eliminates the threats to the
2.7 public health or safety and environment associated with the release or threatened release.

2.8 Sec. 7. Minnesota Statutes 2004, section 115E.01, subdivision 13, is amended to read:

2.9 Subd. 13. **Worst case discharge.** "Worst case discharge" means:

2.10 (1) in the case of a vessel, sudden loss of the entire contents of the vessel in weather
2.11 conditions that impede cleanup;

2.12 (2) for each tank of a storage tank facility, sudden loss of the entire contents of the
2.13 tank in weather conditions that impede cleanup;

2.14 (3) in the case of railroad rolling stock facilities, sudden loss of the contents of the
2.15 maximum expected number of the rail cars containing oil or hazardous substance of a train
2.16 onto land or into water in weather conditions that impede cleanup;

2.17 (4) in the case of truck and trailer rolling stock facilities, sudden loss of the entire
2.18 contents of the truck or trailer onto land or into water in weather conditions that impede
2.19 cleanup;

2.20 (5) in the case of a pipeline facility, sudden loss of the contents of the pipeline
2.21 which would be expected from complete failure of the pipeline onto land or into water in
2.22 weather conditions that impede cleanup;

2.23 (6) in the case of oil or hazardous substance transfer facilities, sudden loss of the
2.24 largest volume which could occur during transfer into or out of a facility; ~~or~~

2.25 (7) in the case of a facility with more than the threshold quantity of any substance
2.26 listed in Code of Federal Regulations, title 40, part 68, under section 112r of the Clean
2.27 Air Act, on the property at any point in the year, sudden loss of the maximum expected
2.28 inventory of the substances; or

2.29 (8) the worst case discharge for the facility as described by regulations under the
2.30 Oil Pollution Act of 1990 if the regulations, when adopted, describe a discharge worse
2.31 than one described in clauses (1) to ~~(6)~~ (7).

2.32 Sec. 8. **[115E.025] DUTY TO SECURE FACILITIES.**

2.33 Subdivision 1. General security. A person who owns or operates a vessel or
2.34 facility transporting, storing, or otherwise handling hazardous substances or oil, or who
2.35 is otherwise in control of hazardous substances or oil, shall take reasonable security

3.1 measures to prevent the unauthorized access of persons to the facilities or to the control
3.2 mechanisms of the facility.

3.3 Subd. 2. **Specific security measures.** The following persons shall comply with the
3.4 specific requirements of section 115E.04, subdivision 2:

3.5 (1) persons who own or operate facilities subject to Code of Federal Regulations,
3.6 title 40, part 68, under section 112r of the Clean Air Act, except for retail facilities at
3.7 which more than one-half of the income is obtained from direct sales of ammonia or
3.8 propane to end users; and

3.9 (2) persons who own or operate facilities containing 1,000,000 gallons or more of
3.10 oil or hazardous substance in tank storage at any time.

3.11 Sec. 9. Minnesota Statutes 2004, section 115E.04, is amended by adding a subdivision
3.12 to read:

3.13 Subd. 1a. **Security plan.** Persons required to show specific security measures
3.14 under section 115E.025, subdivision 2, shall prepare and maintain a facility security
3.15 plan. The security plan must be completed in consultation with local law enforcement
3.16 agencies. The security plan must:

3.17 (1) summarize the methods used and results of an assessment of vulnerability of
3.18 the facility to a terrorist attack or other unauthorized entry and release, the expertise
3.19 and affiliation of the evaluators, and any direct or indirect relationship between the
3.20 vulnerability evaluators and the owner or operator of the facility;

3.21 (2) provide an inventory of the hazardous substance or oil subject to the security
3.22 plan, with ranges of the quantity of each substance expected to be in the facility and
3.23 entering and leaving the facility during the course of a year;

3.24 (3) assess the use of inherently safe technology in reducing or eliminating the
3.25 vulnerability of the facility and the possibility of an unauthorized release;

3.26 (4) describe actions and procedures, including safer design and maintenance of
3.27 the facility, use of inherently safer technology, and all appropriate security measures
3.28 undertaken to eliminate or significantly lessen the vulnerability to an unauthorized entry to
3.29 the facility or an unauthorized release of oil or a hazardous substance; and

3.30 (5) the names of all insurance carriers underwriting the facility's environmental
3.31 liability and workers' compensation insurance policies and the scope of the policies,
3.32 including any limitations and exclusions.

3.33 A plan submitted to the federal government under the Oil Pollution Act of 1990 or
3.34 prepared under any other law may be used to satisfy the security plan requirement in this
3.35 subdivision, if the information required by this subdivision is included in the plan.

4.1 The security plan required by this subdivision and material specifically related to
4.2 preparation, review, or approval of the security plan are nonpublic data under chapter 13.

4.3 Sec. 10. Minnesota Statutes 2004, section 115E.04, subdivision 2, is amended to read:

4.4 Subd. 2. **Timing.** (a) A person required to be prepared under section 115E.03, other
4.5 than a person who owns or operates a motor vehicle, rolling stock, or a facility that stores
4.6 less than 250,000 gallons of oil or a hazardous substance, shall complete the response plan
4.7 required by this section by March 1, 1993, unless one of the commissioners orders the
4.8 person to demonstrate preparedness at an earlier date under section 115E.05.

4.9 (b) A person who owns or operates a motor vehicle, rolling stock, or a facility
4.10 that stores less than 250,000 gallons of oil or a hazardous substance shall complete the
4.11 response plan required by this section by January 1, 1994.

4.12 (c) A person required to prepare a security plan under section 115E.04, subdivision
4.13 2, shall complete the security plan within 90 days of the effective date of this act. The
4.14 security plan must be amended following significant change in the security measures,
4.15 vulnerability, or presence of hazardous substances on the facility.

4.16 (d) Plans required under section 115E.04 or 115E.045 must be updated every three
4.17 years. Plans must be updated before three years following a significant discharge, upon
4.18 significant change in vessel or facility operation or ownership, upon significant change in
4.19 the national or area contingency plans under the Oil Pollution Act of 1990, or upon change
4.20 in the capabilities or role of a person named in a plan who has an important response role.

4.21 Sec. 11. Minnesota Statutes 2004, section 115E.04, is amended by adding a subdivision
4.22 to read:

4.23 Subd. 4a. **Review of security plans.** (a) A person required to complete a security
4.24 plan under section 115E.025, subdivision 2, must submit a copy of the security plan to the
4.25 Department of Public Safety within five business days of its completion.

4.26 (b) Authorized staff of the Department of Public Safety must be granted access to
4.27 the facility for the purpose of inspecting security measures.

4.28 (c) Upon the request of authorized staff of the Department of Public Safety, a person
4.29 shall demonstrate the adequacy of the security plan and security measures by conducting
4.30 announced or unannounced drills, calling persons and organizations named in a security
4.31 plan and verifying roles and capabilities, locating and testing security measure procedures
4.32 or equipment, questioning facility personnel, or other means that in the judgment of the
4.33 commissioner or sheriff demonstrate security. Before requesting an unannounced security
4.34 drill, the commissioner of public safety or authorized person shall invite the county sheriff
4.35 to participate in or witness the drill. If an announced drill is conducted to the satisfaction

5.1 of the commissioner. the person conducting the security drill may not be required to
 5.2 conduct an additional unannounced security drill in the same calendar year.

5.3 Sec. 12. Minnesota Statutes 2004, section 115E.04, is amended by adding a subdivision
 5.4 to read:

5.5 Subd. 4b. **Data.** Assessments and plans prepared under this section are nonpublic
 5.6 data as defined in section 13.02, except that the data may be provided to law enforcement,
 5.7 firefighters, members of the National Guard, or other representatives of a government
 5.8 entity responding to a request for services at a facility that is the subject of the assessment
 5.9 and plan.

5.10 Sec. 13. Minnesota Statutes 2004, section 115E.05, subdivision 1, is amended to read:

5.11 Subdivision 1. **Amendment to plan.** If one or more of the commissioners finds
 5.12 the prevention and response plans or preparedness measures of a person do not meet the
 5.13 requirements of this chapter, or if the commissioner or public safety finds that the security
 5.14 plan does not meet the requirements of this chapter, the commissioner or commissioners
 5.15 making the finding may by order require that reasonable amendments to the plan or
 5.16 reasonable additional preventive ~~or~~ preparedness, or security measures be implemented
 5.17 in a timely fashion. If more than one commissioner makes the finding, the order must
 5.18 be a joint order.

5.19 Sec. 14. Minnesota Statutes 2004, section 115E.05, subdivision 2, is amended to read:

5.20 Subd. 2. **Compliance.** If oil or a hazardous substance is discharged while it is
 5.21 under the control of a person not identified in section 115E.03, subdivision 2, or in
 5.22 section 115E.025, any one of the commissioners with appropriate jurisdiction may by
 5.23 order require the person to comply with the prevention and response plan or security plan
 5.24 requirements of sections 115E.03 and 115E.04 in a timely manner if:

- 5.25 (1) land, water, or air of the state is polluted or threatened; or
- 5.26 (2) human life, safety, health, natural resources, or property is damaged or threatened.

5.27 Sec. 15. Minnesota Statutes 2004, section 115E.08, subdivision 3, is amended to read:

5.28 Subd. 3. **Jurisdiction.** Except as otherwise provided, the following agencies have
 5.29 primary responsibility for the specified areas in carrying out the duties and authorities
 5.30 of this chapter:

- 5.31 (1) the Department of Agriculture, for agricultural chemicals;
- 5.32 (2) the Department of Public Safety, for public safety ~~and~~ protection of property,
 5.33 and security measures;
- 5.34 (3) the Department of Natural Resources, for assessment and rehabilitation of water
 5.35 resources;

- 6.1 (4) the Pollution Control Agency, for all other matters subject to this chapter; and
- 6.2 (5) the Department of Transportation, with respect to requirements related to the
- 6.3 packaging, labeling, placarding, routing, and written reporting on releases of hazardous
- 6.4 materials that are being transported.

6.5 Sec. 16. **APPROPRIATION.**

6.6 \$..... is appropriated in fiscal year 2006 from the general fund to the commissioner

6.7 of public safety for purposes of this act."

6.8 Amend the title accordingly



Department of Natural Resources Fact Sheet



2006 TECHNICAL BILL SF 2973 / HF3200

Summary

Section 1

Clearly distinguishes between the authority for incoming federal grants including cooperative agreements and incoming procurement (including federal procurement) agreements because the nature of those agreements and the federal laws governing them are very different under federal law. Currently there appears to be duplication of authority to receive grants and make subgrants of that money in Minn. Stat. 84.085 and Minn. Stat. 84.026.

Clearly delineates authority and the requirements for incoming contractual agreements versus outgoing contractual and grant agreements in Minn. Stat. 84.026 and to limit the reporting requirements to incoming funds under that statute as per the original language.

Sections 2, 3, and 13

Clarifies that the Electronic Licensing System commission authorized in Minn. Stat. 84.027 subd. 15 and set by the commissioner is deposited into the appropriate fund but appropriated pursuant to Minn. Stat. 84.027 subd. 15.

- a. 84.8205 Snowmobile state trail sticker.
- b. 88.17 Burning Permits
- c. 84.0911 Wild rice permits

Sections 4-8

Clarifies several definitions of invasive species and adds curlyleaf pondweed to the list of invasive species for which the DNR is required to have management programs for.

Sections 9-12

Provides technical corrections to trails in Minn. Stat. 85.015, subd. 5, 7, 8, and 11.

- ◆ Glacial Lakes State Trail – adds the existing rail segment from Willmar through Cold Spring and provides connection into Stearns County as outlined in the Glacial Lakes Trail Plan.
- ◆ Blufflands Trail System – clarifies the connection of the city of Rochester to the Blufflands trail system.
- ◆ Sakatah Singing Hills Trail – reflects the extension into Mankato and provides technical language to better reflect actual alignment of trail as outlined in the state trail management plan.
- ◆ Willard Munger Trail – 1) reflects the language changes that help clarify the three trail segments of the Willard Munger Trail. 2) Clarifies language that describes the connection of the Northshore Trail to the Willard Munger Trail.

Section 14

Deletes an outdated reference to the definition of enforcement officer in Chapter 97A. The DNR no longer has this employee classification.

Section 15

Clarifies the way the summer water appropriation surcharge is calculated. It also changes the way the surcharge is calculated for municipalities with multiple permits that appropriate both ground water and surface water for their water supply.

Section 16

Clarifies the requirements for lake aeration permits.

It is needed because

Office of Management and Budget Services

Sections 1, 2, 3, and 13

These changes are technical in nature.

Division of Ecological Services

Sections 4-8. The DNR is required by statute to have programs for management of purple loosestrife and Eurasian watermilfoil, which are both invasive aquatic plants. There is growing concern that curlyleaf pondweed, another invasive aquatic plant, is increasing in some lakes. In response to this, the DNR is accelerating efforts to manage and control this species. The proposal is to add curlyleaf pondweed to the list of invasive species that the DNR is required to manage.

Division of Trails and Waterways

Sections 9-12. These changes are technical in nature and will clarify the authorization of existing state trails.

Division of Waters

Section 15. The Department proposed the summer water appropriation surcharge during the 2005 Legislative Session. During the session it was discovered that the initial language needed clarification. Revised language passed in the House but the revised language did not get incorporated into the final bill.

Some communities have permits to pump ground water during the summer to supplement surface water supplies. This ground water pumping is accomplished under a separate permit and is not conducted during the winter months. If the surcharge is applied separately to the ground water permit, all of the water appropriated will be subject to the surcharge. This change will allow the surcharge calculation to be based on the total appropriation under all permits and is a fairer application of the surcharge.

Section 16.

Landowners who control all of the riparian land around a public water are able to get a permit to aerate those waters and are exempted from other requirements under aeration permits except for posting of the aerated area. The current working is problematic because it obligates the DNR to give an aeration permit to someone who requests one if they have exclusive control of a water body and exempts the permits from any rule provisions. There are situations where aeration is detrimental, especially in

wetlands that are important for waterfowl and other wildlife. The proposal is to change the language so that the DNR has the ability to approve or deny aeration permit requests on waters where one person has exclusive control and to subject such permits to applicable fees and rule provisions.

Financial Implications (if appropriate)

Sections 15

These changes do not significantly affect the amount of money generated by the summer surcharge fee. It was originally estimated that the surcharge would generate about \$330,000. The surcharge is estimated to generate approximately this same amount even with the proposed changes.

For further information contact:

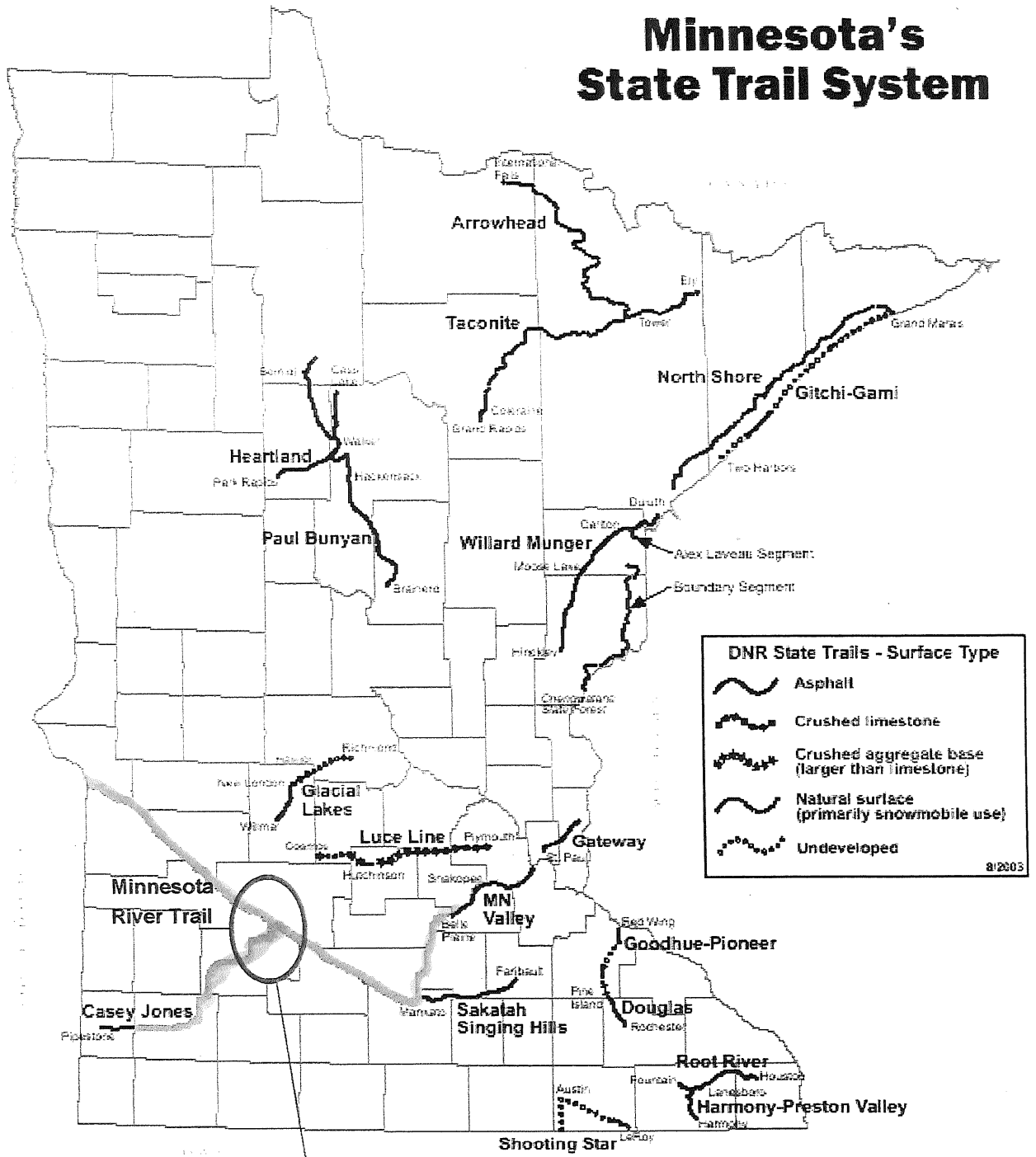
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Minnesota's State Trail System



Redwood Falls – Redwood County could potentially be the intersecting point to the Casey Jones Trail and the Minnesota River Trail

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N.J. officials tell chemical plants to assess security

Wednesday, November 30, 2005

**By ALEX NUSSBAUM and COLLEEN DISKIN
STAFF WRITERS**

New Jersey became the first state in the nation to require security assessments at chemical plants Tuesday and left the door open to tougher requirements to prevent terror attacks or accidents at 140 businesses around the state.

The announcement by acting Governor Codey capped four years of talks and squabbling among activists, the government and the state's \$27 billion chemical industry about how far to go to protect factories that often sit cheek by jowl with crowded residential neighborhoods.

"We must explore any measure ... to better protect us from uncertainty," said Codey, who promised to "ensure that this initiative improves security and emergency response plans at each chemical facility."

The new rules, approved by state officials last week, drew mixed reactions. One environmental and labor group called it a good beginning but said tighter regulations were still needed. Industry, on the other hand, complained that the state had abandoned an agreement to work with businesses on voluntary measures.

"For reasons not clear to us, it seems the cooperative approach between the state and our sector is being abandoned," read a statement from the Chemistry Council of New Jersey, which represents about 100 manufacturers. "The prescriptive order seems to penalize early, responsible actors, while adding requirements that have little to do with security."

The standards largely impose security requirements, or "best practices," proposed by industry groups, however.

Tightening plant security has been a rallying cry for U.S. Sen. Jon Corzine, New Jersey's governor-elect. The Democrat has pushed for tougher federal requirements since the Sept. 11 terror attacks, but the chemical industry and Republican lawmakers have blocked them.

Corzine applauded Codey's move Tuesday, but added that the measure was only a "first step."

"Unguarded chemical facilities are a ticking time bomb and represent a threat to our national security," Corzine said. "I look forward to continuing to work on this critical issue and to strengthening these regulations."

The measure would affect dozens of refineries, pharmaceutical plants, fragrance and flavor manufacturers, water and sewage treatment plants and other facilities that use corrosive or explosive materials, such as chlorine and hydrogen fluoride. New Jersey has seven plants where a chemical accident could threaten more than 1 million people, according to government records, and federal authorities have called one stretch near Newark the most vulnerable two miles in the country because of its lineup of chemical plants and critical infrastructure.

Under the new requirements, plants would have 120 days to do vulnerability assessments, reviewing their readiness to handle a terrorist attack or a major accident. They would also have to adopt industry "best practices" on such issues as security measures and transporting materials.

In addition, 43 plants that use "extraordinarily hazardous" materials will have to study whether they could

adopt "inherently safer technology" - new equipment or procedures that could reduce their dependence on such chemicals.

Voluntary reviews have already been done, but the quality of those assessments has been "uneven," said Bradley Campbell, the state's commissioner of environmental protection.

The current rules leave it to industry to decide whether to adopt new technologies, but the assessments will help the Corzine administration decide whether more regulation is needed, Campbell added. Two public hearings on chemical safety - the first scheduled for Thursday in Trenton - will also help the state gather information, he said.

"We need a better record in which to make regulatory decisions," Campbell said. "It will be up to the next administration to determine what other steps need to be taken."

The New Jersey Work Environment Council, which represents chemical workers and environmental groups, welcomed the requirements.

"It's really about looking at operations overall, not just relying on guns, gates and guards," said Rick Engler, the group's director. "It means looking at the many ways an operation could be run more safely."

Activists, however, still complained that some of the standards were lifted straight from industry guidelines and could have been stronger. The regulations amounted to mere "public relations," groused Jeff Tittel, executive director of the Sierra Club in New Jersey.

The Chemistry Council, however, said most of its members have upgraded their security since Sept. 11. New Jersey plants have spent more than \$100 million on those upgrades, said Elvin Montero, a council spokesman.

The new rules could increase costs for businesses that store chemicals but aren't terrorism targets, such as paint stores, Montero said. As for adopting "safer" technology, many companies would respond by having more materials stored off-site and then shipped to a plant when needed, he added. That wouldn't necessarily reduce the danger, he said.

"Instead of being stored at facilities where they know how to handle chemical X, this now puts chemical X in trucks and different transportation forms and creates a danger not in chemical facilities but for people driving down the [New Jersey] Turnpike," he said.

E-mail: nussbaum@northjersey.com

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THE REAL PROBLEM

IT'S DO-IT-YOURSELF SECURITY

By MARK THOMPSON and DOUGLAS WALLER

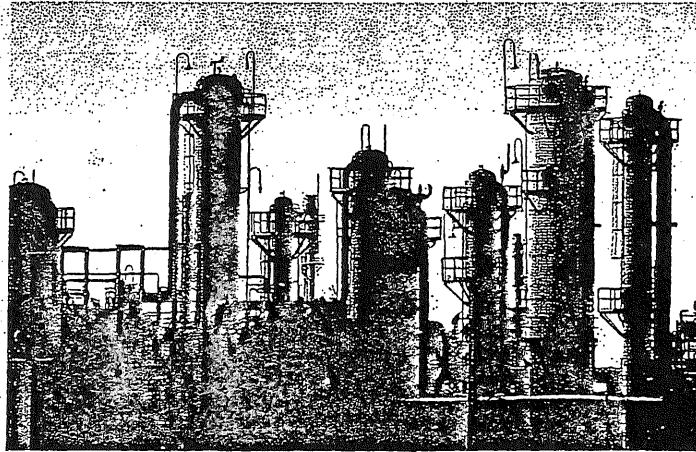
The furor over the now delayed deal to allow a United Arab Emirates company to operate six U.S. ports was tailor-made for talk radio. Arabs! At the ports! But the genuinely scary aspect of the deal was warnings from security experts that it doesn't much matter who operates America's maritime centers because none of them is totally secure. The problem pointed to most often is a lack of oversight. Customs agents inspect a small percentage of shipping containers, but the Bush Administration asks cargo companies to supervise the bulk of security. It's an arrangement designed to allow the President to be true to two bedrock principles—being tough

on terrorism and resisting federal regulation of private industry. "That leads to a paradox in the security area," says Stephen Flynn, a terrorism expert at the Council on Foreign Relations, "because [security] requires a more assertive federal role."

But in areas just as

vulnerable to attack as shipping, the Administration has consistently backed away from—and sometimes simply blocked—federal regulation. A terrorist attack on a chemical facility could kill thousands of people and endanger up to a million, federal experts say, so

in mid-2002, the White House assigned the Environmental Protection Agency (EPA) to secure the nation's chemical plants. The EPA and the fledgling White House Office of Homeland Security spent months developing a legislative package requiring the chemical industry to beef up security. In March 2003 a dozen senior Administration officials met in the Old Executive Office Building next door to the White



BLOCKED
Perry said no to putting EPA in charge of securing U.S. chemical plants from terrorist attacks

House to put the finishing touches on what they considered a major initiative.

At that meeting, though, officials were surprised to see a new face—Philip Pery. As the top lawyer for the White House's Office of Management and Budget, Pery helped oversee Administration regulatory initiatives. According to Bob Bostock, then homeland-security adviser at the EPA, Pery, who hadn't attended any of the prior meetings, declared the proposal dead in a matter of minutes. "Pery said that any federal legislation to deal with this issue would be dead on arrival on the Hill," recalls Bostock, "and that the chemical industry was taking voluntary steps that were sufficient." Pery, who is married to Vice President Dick Cheney's daughter Liz, was merely relaying a Justice Department decision that the Department of Homeland Security (DHS), not the EPA, should handle the job, a spokesman says. While Pery declined to discuss the matter

with TIME on the record, his spokesman says Pery doesn't recall the meeting and Bostock's account "is not accurate or fair."

Today only about 1,100 of the nation's 15,000 biggest plants participate in the voluntary security program. Even Bush loyalists are worried about the vulnerability that remains. "Not all chemical sites are good partners," said Asa Hutchinson, a former top Homeland Security official, at a recent chemical-industry gathering. "Some of the top-tier sites will not let Homeland Security inside the fence."

In some instances, White House officials have gone straight to Capitol Hill to squelch regulatory efforts. In June 2003 Edward Markey, a Democrat from Massachusetts, introduced an amendment to mandate 100% inspection of airplane cargo. While airline passengers walk through metal detectors and have all their bags screened, the 6 billion

pounds of cargo traveling beneath them each year is subject only to spot inspections by the feds. The government leaves it up to air carriers and the companies that forward freight to the carriers to screen their regular cargo customers.

The House passed Markey's amendment by a 278-146 vote, but the airline industry, which makes about \$17 billion annually from cargo on passenger planes, claimed that the technology for 100% inspection wasn't available and that even if it did exist, costs would be prohibitive. Senior officials at the DHS agreed, and that fall they persuaded House-Senate conferees to strip Markey's amendment from the appropriations bill. "The Bush Administration bends over backwards for industry while turning its back on needed homeland security safeguards," Markey complains. "It's commerce over common sense." But Russ Knocke, a DHS spokesman, argues that such public-private

partnerships maximize security without "shutting down the systems and industries we depend upon."

Still, nearly five years after 9/11, it's becoming apparent even to some members of the Administration that private industry can't be relied on to protect the nation's infrastructure on its own. "Expecting a trade association to tell a business it needs to spend more money on security isn't sufficient," says Sal DePasquale, a Georgia chemical-security expert, who helped draft the industry's current voluntary plan. Congress is looking at making chemical-plant security mandatory, and DHS officials say they're ready to order beefed-up security for chemical facilities as well. But that process could take years, and who knows what will happen when new regulations are finally ready for Administration approval. Especially since the DHS's new general counsel is none other than Philip Pery. ■

Belleville.com

Posted on Mon, Feb. 27, 2006

Obama cites poor security at chemical plants

Associated Press

WASHINGTON - Sen. Barack Obama, warning that a terrorist attack on a major chemical plant could cause disastrous results affecting potentially a million or more people, urged Monday that the federal government impose safety standards on the industry.

"Unfortunately, at many of the chemical plants in our nation, the security is light, the facilities are easily entered and the contents are deadly," Obama, D-Ill., said in a statement announcing that he and Sen. Frank Lautenberg, D-N.J., would prepare legislation to address the issue.

Under their proposal, the Environmental Protection Agency and the Department of Homeland Security would identify high-priority chemical threats and write security regulations. Each plant would have to conduct vulnerability studies and develop prevention, preparedness and response plans.

"Safety regulations can be implemented in a way that is flexible enough for the industry yet stringent enough to protect the American people," Obama said. "It is long past time to put the security of our nation ahead of special interests or politics."

According to federal environmental regulators, there are four chemical plants within Chicago that, if attacked under a worst-case scenario, could threaten more than a million people. Altogether, Illinois has at least 10 such facilities, with an additional 20 where a chemical release could threaten more than 100,000 people.

Obama noted that in Chicago a local television station found major security problems at a number of Chicago plants, including unguarded access points that allowed people to walk unchallenged to large chemical tanks.

Marty Durbin, the managing director of federal affairs for the American Chemistry Council and a nephew of Sen. Dick Durbin, D-Ill., said his group has been working to have Congress advance federal legislation.

"As far as the need for federal legislation, we're in complete agreement," he said. "Our view is you need federal standards, national standards, so you have one standard."

Durbin said some 130 companies that are members of his group have made about \$3 billion in security improvements since the terrorist attacks of Sept. 11, 2001.

He declined to comment more specifically until the Obama-Lautenberg legislation has been introduced.

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SENATE ENVIRONMENT AND
NATURAL RESOURCES COMMITTEE
March 27, 2006

**SF 2757: Extraordinary hazardous substances unauthorized releases prevention,
preparedness and response**

"N.J. officials tell chemical plants to assess security," NorthJersey.com. November 30, 2005.

US Senator Jon Corzine and now Governor-elect Corzine has pushed for tougher federal requirements for chemical plant security since Sept. 11:
"Unguarded chemical facilities are a ticking time bomb and represent a threat to our national security."

"Do it yourself Security", Time Magazine. March 6, 2006

"In mid-2002, the White House assigned EPA to secure the nation's chemical plants. The EPA and the fledging White House Office of Homeland Security spent months developing a legislative package requiring the chemical industry to beef up security. In March 2003 a dozen senior Administration officials met to put the finishing touches on what they considered a major initiative. At the meeting...Phillip Berry, Vice President Cheney's son-in-law, who oversees Administration's regulatory initiatives, was present. Even though he had never been at any of the meetings, he declared the proposal dead in a matter of minutes. He said the chemical industry was taking voluntary steps which were sufficient..."

Today only about 1000 of the nation's 15,000 biggest plants participate in the voluntary security program. Even Bush loyalists are worried about the vulnerability that remains. "Not all chemical sites are good partners, said Asa Hutchinson, a former Homeland Security official at a recent chemical industry gathering. "Some of the top tier sites will not let Homeland Security inside the fence."

"The Toxic Politics of Chemicals", US News & World Report. January 23, 2006

"Nationwide there are some 15,000 facilities including oil refineries, water treatment plants, and factories- that use hazardous chemicals to manufacture paints and fertilizers. Over 100 of those plants have reported that a worst case scenario like a terrorist attack could endanger more than 1 million people according to the Congressional Research Service. These plants are the equivalent of weapons of mass destruction pre-positioned in some of the most congested parts of our country, says Stephen Flynn, a terrorism expert with the Council on Foreign Relations."

Quinn, Sally, "Hell on Wheels: Why are trains that carry potentially lethal cargo allowed to transit the capital?," Washington Post. March 10, 2006

Richard Falkenrath, former deputy Homeland Security adviser to the White House, testimony before the US Senate:
"...of all the various remaining civilian vulnerabilities in America today, one stands alone as uniquely deadly, pervasive, and susceptible to terrorist attack: toxic-inhalation-hazard industrial chemicals."



Union of Concerned Scientists
Citizens and Scientists for Environmental Solutions

21 March, 2006

2397 Shattuck Avenue, Suite 203
Berkeley, California 94704

Environment and Natural Resources Committee
75 Rev. Dr. Martin Luther King Jr. Blvd., Room 323
St. Paul, Minnesota 55155-1606

Dear Senator Marty and Members of the Environment and Natural Resources Committee:

Re: SF 2816 – Adoption of California Low Emission Vehicle Program

I am writing on behalf of the Union of Concerned Scientists to express our support of Senate File 2816 requiring the Pollution Control Agency to adopt California emission standards for passenger vehicles. These regulations will provide the State of Minnesota with substantial environmental benefits. The regulations provide effective tools for Minnesota's effort to control emissions of pollutants that lead the formation of smog and of heat trapping pollution that lead to global warming.

Passage of SF 2816 and the adoption of California vehicle emission standards will have many benefits for Minnesota – for its environment, public health, and economy.

Environmental Benefits for Minnesota of California Emission Standards

California vehicle emission standards will result in large reductions in the heat-trapping emissions that result in global warming from the state's passenger vehicle fleet. Transportation sources remain the largest source of global warming pollution in the nation. And, like all sources of global warming pollution in the country, emissions from transportation sources are not being addressed by federal programs. California's regulations to limit heat-trapping emissions from passenger vehicles are based on sound analysis of technologies that are available to reduce heat-trapping emissions from passenger vehicles. These regulations are exceptionally cost-effective and will result in large economic savings to Minnesota drivers.

The Great Lakes region faces serious potential impacts resulting from climate change. By the end of the 21st century, Minnesota could see average winter temperatures increase by 6-10 °F and average summer temperatures increase by 7-16 °F. These changes in temperature could be accompanied by changes in the seasonal distribution of precipitation, resulting in dryer summers

and winters with more snow and rain. By the end of the century, summer in Minnesota will resemble that of a summer in current-day Kansas.¹

The effects of climate change will have serious effects on the state's ecosystems and economy as well, particularly related to the state's lakes and streams. Changes in lake temperatures could affect the habitat range and viability of fish species and could exacerbate invasions by non-native species such as zebra mussels. Lower water levels coupled with warmer water temperatures could accelerate the accumulation of toxins such as mercury in the aquatic food chain.²

Public Health Benefits for Minnesota of SF 2816

In addition their global warming benefits, California's standards go above and beyond the federal Tier 2 standards to control emissions of pollutants that lead to the formation of smog. Tighter evaporative emission standards will cut down on ozone-forming hydrocarbon emissions and cancer-causing toxic emissions.³ The zero-emission vehicle program will bring hybrid electric vehicles to the state in even greater numbers and will place Minnesota on the forefront of hydrogen fuel cell vehicle deployment.

A recent analysis completed by the National Academy of Sciences concluded that California's vehicle emission standards provide emissions control and air quality benefits beyond federal regulations. And, California regulations provide innovation beyond federal emission standards.⁴ Minnesota, its environment, and the public health of its citizens will benefit from this innovation.

SF 2816 Will Result in Technologically Sound and Cost-Effective Regulations

California's emission standards for passenger vehicles are based on the most thorough economic and technical analysis of options to reduce greenhouse gas emissions from passenger vehicles conducted to date. This analysis shows that a wide variety of vehicle changes, including engine and transmission modifications, vehicle streamlining, and air conditioner improvements are available to reduce vehicle GHG emissions. These improvements to new vehicles will be made while preserving vehicle size, weight, safety features, and utility. And, improvements and resulting emission reductions are possible in all classes of vehicles.

In addition to the reduction in emissions, New Yorkers will also benefit from the economic savings afforded by the proposed regulations. Some of the improvements in vehicle technology will result in a reduction in vehicle operating cost. These savings will more than offset the increase in vehicle price that results from the regulations. The table below shows the one-time

¹ Kling, G.W., et al., 2003, *Confronting Climate Change in the Great Lakes Region: Impacts on our Communities and Ecosystems*. Union of Concerned Scientists, Cambridge, MA, and Ecological Society of America, Washington, DC.

² *ibid.*

³ NESCAUM, 2003, *Comparing the Emission Reductions of the LEV II Program to the Tier 2 Program*, October.

⁴ National Research Council, 2006, *State and Federal Standards for Mobile Source Emissions*, National Academy of Sciences, Washington, DC.

increase in vehicle price, the lifetime operating cost savings, and payback time for each of the two phases of the proposed regulation.

In each of the two phases of the regulation, the increase in vehicle cost will be made up in less time than the length of the average new car loan.

Average New Passenger Vehicle	Phase I 23% ↓ GHG	Phase II 30% ↓ GHG
Incremental cost (one time)	\$326	\$1,048
Operating cost savings (lifetime)	\$2,465	\$3,394
Payback time (years)	1.1 years	2.8 years

Source: UCS calculations based on: \$2.40/gallon, 5% real discount rate, CARB cost and VMT data. All values in 2002 dollars.

Again, we support Minnesota taking this step to adopt more stringent standards for motor vehicle emission standards. In addition to deriving large public health benefits through reductions in smog-forming and toxic emissions, Minnesota is taking a historic step to address global warming emissions. This action is especially important given the policy vacuum that exists on the national level. Minnesota is acting alongside a number of other states to reduce the harmful emissions from passenger vehicles. Taken together, these states account for over one third of the new vehicle market in the United States.

Thank you for the opportunity to comment on the SF 2816. I am enclosing, for the record, a copy of the Updated Executive Summary of *Confronting Climate Change in the Great Lakes Region: Impacts on our Communities and Ecosystems* (2005) and a summary of the impacts of climate change on Minnesota.

Sincerely,



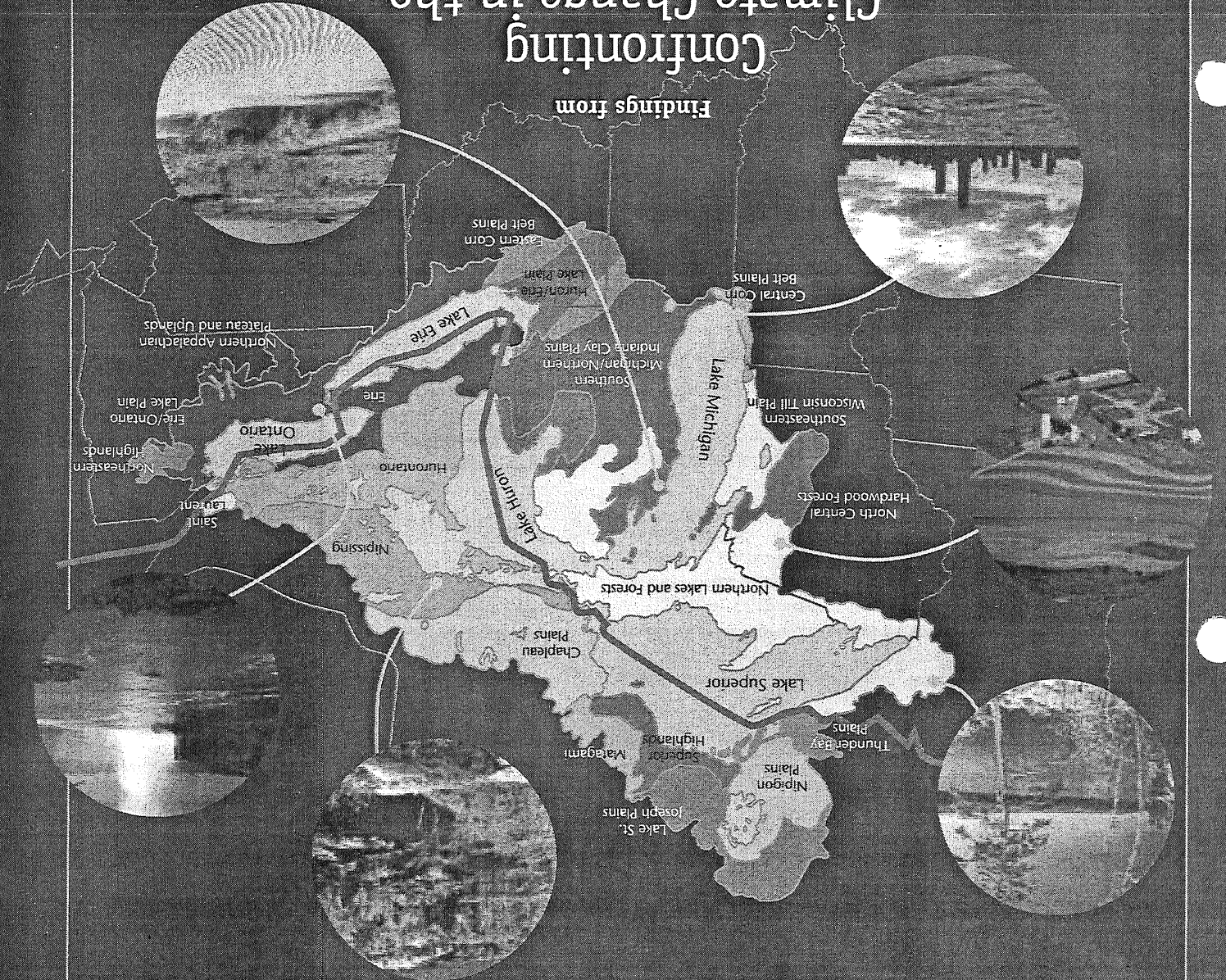
Louise W. Bedsworth, Ph.D.
Senior Vehicles Analyst

Minnesota

Confronting Climate Change in the Great Lakes Region

Impacts on Minnesota Communities and Ecosystems

Findings from



Climate Change in the Land of 10,000 Lakes

Much of Minnesota's character is defined by water, from Lake Superior to the thousands of inland lakes to the headwaters of the Mississippi River. This summary highlights the potential impacts of climate change on Minnesota's economy, its people, and the places they love.

Scientists are now convinced that human activity, primarily burning fossil fuels to produce electricity and drive our cars, is changing our climate. These activities emit gases, principally carbon dioxide (CO₂), that blanket the planet and trap heat. Already, we are seeing signs of climate change throughout the Great Lakes region: average annual temperatures are increasing; severe rainstorms have become more frequent; winters are getting shorter; and the duration of lake ice cover is decreasing.

Climate Projections

The latest, most reliable projections of future climate change combine 100 years of historical data for Minnesota with the most up-to-date general circulation models of the Earth's climate system. In general, Minnesota's climate will grow considerably warmer and probably drier during this century, especially in summer.

- **Temperature:** By the end of the 21st century, temperatures are projected to rise 6–10°F in winter and 7–16°F in summer. This dramatic warming is roughly the same as the warming since the last ice age. Overall, extreme heat will be more common and the growing season could be 3–6 weeks longer.

- **Precipitation:** While annual *average* precipitation may not change much, the state may grow drier overall because rainfall cannot compensate for the drying effects of a warmer climate, especially in the summer. Seasonal precipitation in the state is likely to change, increasing in winter by 15–40% and decreasing in summer by up to 15%. Minnesota, then, may well see drier soils and perhaps more droughts.

- **Extreme events:** The frequency of heavy rainstorms, both 24-hour and multiday, will continue to increase, and could be 50–100% higher than today.

- **Ice cover:** Declines in ice cover on the Great Lakes and inland lakes have been recorded during the past 100–150 years and are expected to continue.

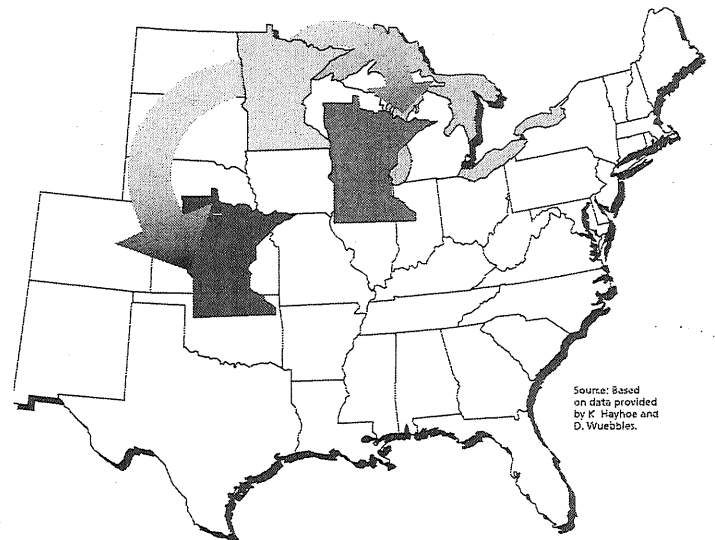
How the Climate Will Feel

These changes will dramatically affect how the climate feels to us. By the end of the century, the Minnesota summer climate will generally resemble that of current-day Kansas, and winters may be like those in current-day Wisconsin.

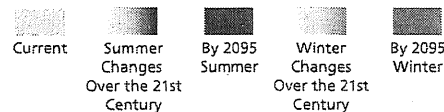
Potential Impacts from Climate Change

Water Supply and Pollution

Minnesota depends heavily on groundwater, on fresh water from lakes and the Mississippi River, and on rainfall for agriculture, drinking, and industrial uses. As the state's popula-



Source: Based on data provided by K. Hayhoe and D. Wuebbles.



tion grows from currently five to nearly six million by 2025, projected changes in rainfall, evaporation, and groundwater recharge rates will affect all freshwater users.

- Reduced summer water levels are likely to diminish the recharge of groundwater, cause small streams to dry up, and reduce the area of wetlands, resulting in poorer water quality and less wildlife habitat.

- Lake levels are expected to decline in both inland lakes and the Great Lakes, as more moisture evaporates due to warmer temperatures and less ice cover.

- Pressure to increase water extraction from the Great Lakes will grow, exacerbating an already contentious debate in the region.

- Development and climate change will degrade the flood-absorbing capacities of wetlands and floodplains, resulting in increased erosion, flooding, and runoff polluted with nutrients, pesticides, and other toxins.

Agriculture

Corn and soybeans are major crops in Minnesota, with more than one billion dollars in sales from these crops in 2001. The state is also a dairy and livestock leader. There are likely to be some positive impacts for agriculture from a warmer climate, although current evidence suggests that the negative consequences could outweigh the positive. In general, however, regional development, technological advances, and market fluctuations have as much influence on farmers as the climate.

Overall, optimal weather conditions are expected to shift northward and eastward in the region. Minnesota agriculture may benefit from warmer temperatures and a longer growing season, but may be constrained by declining soil moisture and thin and acidic soils. Climate variability will likely pose greater risk for smaller farms and may thus reinforce the trend toward increasing farm size and industrialization of agriculture in the region. These changes will affect local farming communities, and, in turn, change the character of rural landscapes across the state.

- Increased atmospheric CO₂ and nitrogen as well as a longer growing season could boost yields of some crops, such as soybeans, corn, and wheat.

- Severe rainstorms and flooding during planting and harvest seasons will likely depress productivity. Similarly, hotter and drier conditions during the main growing season also disrupt production and may require irrigation of currently rain-fed crops.

- Higher ozone concentrations can damage soybeans and horticultural crops, countering positive impacts of a warmer climate.

- Increased soil erosion and runoff of agricultural wastes are likely if the frequency of flooding increases.

- Several climate changes combine to create more favorable conditions for a number of pests and pathogens. The bean leaf beetle, which eats soybeans, and the European corn borer may expand northward.

- Warmer summer temperatures suppress appetite and decrease weight gain in livestock; warmer winters and less snow cover likely will reduce the quantity and quality of spring forage, and thus, milk quality.

Human Health

Climate projections suggest that extreme heat periods are likely to become more common in a warmer climate, as will severe storm events.

- Winter cold-related morbidity or mortality will decrease, while summer heat-related morbidity or mortality is likely to increase. The number of hot days is projected to increase, with years later in the century experiencing 40 or more days exceeding 90°F. Of even greater concern is the projected increase in extreme heat days (exceeding 97°F). By 2080–2100, Minnesota may experience 10–25 such days annually. Minneapolis/St. Paul will be particularly vulnerable because extremely high temperatures are now rare. These extremes will require improved warning systems and preparation to avoid severe health impacts.

- Higher temperatures and more electricity generation for air conditioning increase the formation of ground-level ozone, likely exacerbating asthma and other respiratory diseases.

- Some waterborne infectious diseases such as *cryptosporidiosis* or *giardiasis* may become more frequent or widespread if extreme rainstorms occur more often.

- The occurrence of many infectious diseases is strongly seasonal, suggesting that climate plays a role in influencing transmission. Some diseases carried by insects such as Lyme disease

(ticks) or, more recently, West Nile encephalitis (mosquitoes) have expanded across the region. While this spread is attributed largely to land-use changes, future changes in rainfall or temperatures could encourage greater reproduction or survival of the disease-carrying insects.

Property and Infrastructure

Cities are particularly vulnerable to the risks of climate extremes, incurring direct economic losses or requiring costly adaptations.

- More frequent extreme storms and floods, such as the Red River flood shown below, will be exacerbated by stream channeling and more paved surfaces. These climate and land-use changes result in greater property damage, place heavier burdens on emergency management, increase cleanup and rebuilding costs, and exact a financial toll on businesses and homeowners.

- Municipalities in Minnesota will have to upgrade water-related infrastructure including levees, sewer pipes, and wastewater treatment plants in anticipation of more frequent extreme downpours.

- Lower lake levels have costly implications for shipping on Lake Superior, requiring more frequent dredging of channels and harbors and adjusting docks, water intake pipes, and other infrastructure. On the other hand, a longer ice-free season will extend the shipping season.

Minneapolis/
St. Paul will be particularly vulnerable because extremely high temperatures are now rare.

Lakes, Streams, and Fish

Minnesota's famous waters draw millions of visitors each year. Native aquatic plant and animal species will differ widely in their responses to changing water temperature and hydrology.

- Cold-water species such as lake trout, brook trout, and whitefish may decline dramatically as cool-water species such as muskie and walleye along with warm-water species such as bluegill and smallmouth bass expand their ranges northward.

- These disruptions will likely be compounded by invasions of nonnative organisms such as the common carp and zebra mussels, fundamentally changing native fish communities.

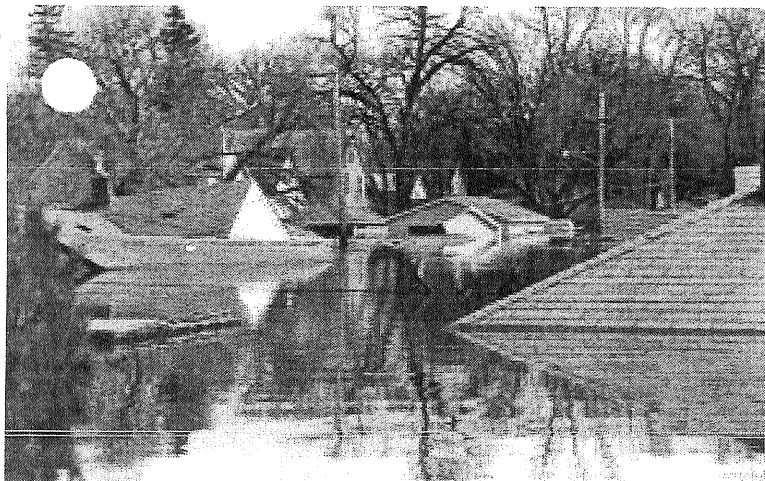
- In all lakes, the duration of summer stratification will increase, adding to the risk of oxygen depletion and formation of deep-water "dead zones" for fish and other organisms, although "winterkill" in shallow lakes will likely decrease.

- Lower water levels coupled with warmer water temperatures may accelerate the accumulation of mercury and other contaminants in the aquatic food chain.

Wetlands and Shorebirds

Earlier spring runoff, more intense flooding, and lower summer water levels generally translate into growing challenges for Minnesota bogs and wetlands and the species that depend on them. Development and agriculture have already reduced wetland habitat significantly.

- The combined pressures of development and climate change will degrade the flood-absorbing capacities of wetlands and



Dave Saville, courtesy of FEMA

floodplains, potentially resulting in increased erosion, additional water pollution, and delayed recovery from acid rain.

- Wetland losses and changes in flood pulses will likely reduce safe breeding sites for amphibians, migratory shorebirds including some warblers, and waterfowl such as canvasbacks, and may cause many migratory species such as Canada geese to winter further north.

- Increased evaporation will likely shrink wetland habitat and dry up prairie potholes. New wetlands, however, may be created along lake edges as water levels drop.

- Warmer temperatures are likely to accelerate CO₂ and methane release from peat lands.

Recreation and Tourism

Tourism is one of Minnesota's top income-producing industries. Birders, boaters, hikers, hunters, and winter sports enthusiasts bring nearly \$10 billion into the state annually.

- Millions of anglers will be affected by range shifts, loss of habitat, and increases or declines of their preferred catch, both on Lake Superior and inland lakes.

- Loss of habitat or food resources for migratory songbirds, shorebirds, and waterfowl will affect Minnesota's multimillion-dollar birdwatching and hunting industries.

- Warmer winters mean trouble for states such as Minnesota, where winter recreation has long been an integral part of people's sense of place. Communities and businesses dependent on revenues from cross-country or downhill skiing, snowmobiling, and, especially, ice fishing, could be hard-hit.

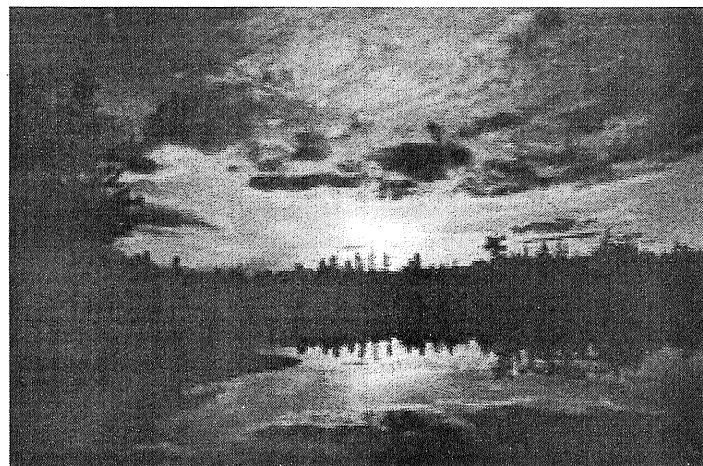
- The summer recreation season will likely expand as temperatures warm further, but extreme heat, heavy downpours, elevated ozone levels, and possible increases in risk from insect- and waterborne diseases may dampen outdoor enthusiasm.

Forests and Terrestrial Wildlife

Northern Minnesota is still dominated by forests of spruce, hemlock, and fir, and forestry is locally important in the state. Factors other than climate are important drivers of change in forest ecosystems and the forestry sector, but climate change may exacerbate existing stresses.

- Warmer temperatures will likely cause boreal forests (pictured above) to shrink and other forest species to move northward unless hindered by barriers.

- Increasing atmospheric CO₂ and nitrogen will likely spur forest growth in the short term, but higher concentrations of ground-level ozone, more frequent droughts and forest fires, and a greater risk from insect pests could damage long-term forest health.



Larry Ricker, LHR Images

- Resident birds such as northern cardinals and chickadees might be able to breed earlier and raise more broods. Bigger resident bird populations, however, could reduce the food available for migratory songbirds.

- Climate warming may benefit some resident mammals such as raccoons, skunks, and the already prolific white-tailed deer, while moose could be negatively affected by warming and more deer-carried parasites.

Climate Change Solutions

Minnesota residents, business leaders, and policymakers can help reduce the potential impacts from climate change by pursuing three necessary and complementary strategies:

- *Reducing heat-trapping gas emissions* by increasing energy efficiency in buildings, investing more heavily in renewable energy sources such as wind and bioenergy, and enhancing clean transportation choices. Minnesota is already the nation's third largest wind power producer and has the potential to do more.

- *Minimizing pressures on the environment* by improving air quality, protecting the quality and supply of water resources, protecting habitat, and limiting sprawl.

- *Preparing for those impacts from global warming that cannot be avoided* through better planning and emergency preparedness, adaptations in agriculture and shipping, strengthening public health response, and adjusting infrastructure.

With smart planning and a commitment to responsible management, Minnesota can continue to lead the region in designing effective climate solutions, acting as an exemplary steward of its rich environment and resources in the face of climate change.



This fact sheet is based on the findings of *Confronting Climate Change in the Great Lakes Region*, a report published in April 2003 by the Union of Concerned Scientists and the Ecological Society of America. The report was written by regional experts under the leadership of George Kling (University of Michigan). Experts from Minnesota included Lucinda Johnson (U-MN, Natural Resources Research Institute) and Stephen Polasky (University of Minnesota).

Dr. Lucinda Johnson (218) 720-4251 · Dr. Stephen Polasky (612) 625-9213

The full report is available from UCS at www.ucsusa.org/greatlakes or call (617) 547-5552.

Background on the National Research Council Report on State and Federal Mobile Source Emission Standards

About the National Research Council

The National Research Council (NRC) is a branch of the National Academies, which also comprise the National Academy of Sciences, National Academy of Engineering, and the Institute of Medicine. They are private, nonprofit institutions that provide science, technology, and health policy advice under a congressional charter.

About the Report: Scope and Background

The NRC released a new study on March 16, 2006 called, *State and Federal Standards for Mobile-Source Emissions*. This study, requested by Senator Kit Bond (R-MO) and funded by Congress in 2003, was designed to “review and evaluate the scientific and technical practices used by states in setting emission standards for mobile sources, including those for nonroad engines and vehicles.” The study looked at the scientific, technical, and economic rationale that states have used in adopting California passenger vehicle and other mobile source emission standards that are more stringent than federal law.

Sen. Bond sponsored a legislative rider in 2003 that successfully reversed state authority to adopt California’s stringent two-cycle engine emission standards (e.g., lawnmowers and leaf blowers), and hoped this study would provide him with justification to block state adoption of additional California emission rules. The NRC, however, did not provide such justification, and instead backed California’s pioneering role in improving the nation’s air quality and public health. For a copy of the study, please go to the [National Academies website](#).

Why the Study is Important

Existing Clean Air Act provisions that allow California to adopt mobile source emissions rules that are more protective than federal law and provide other states the option to adopt the California rules are critical to states’ ability to meet federal health-based ambient air quality requirements, such as for particulate matter and ozone.

States need every tool possible to achieve healthy air and reduce the risks of global warming in the most cost-effective manner. In nearly every state with bad air quality, motor vehicles are a major source of the problem. And, they are responsible for one-third of U.S. global warming pollution. It is therefore imperative that states not face federal restrictions in their ability to avail themselves of the greater pollution reduction benefits afforded by the California mobile source emissions standards.

What the Report Says

There are two components of current federal oversight of state adoption of California standards. First, California must obtain a waiver from EPA in order to surpass the federal standards and enforce their own programs. Second, EPA must grant state implementation plan (SIP) credits to other states that choose to adopt the California program.

The NRC study recommended no change to the current system. It discussed two potential alternative roles for EPA that would increase the agency's involvement in the state adoption process, but "did not reach a consensus to recommend either one," and adds: "What role EPA is to have in the state adoption process is a policy decision that goes beyond scientific and technical considerations," with which the committee was tasked.

The Council also expressed support for California's separate and more protective air pollution standards, saying, "California has used its authority as Congress envisioned: to implement more aggressive measures than the rest of the country and to serve as a laboratory for technological innovation." California is urged to continue its pioneering role to aid the state's efforts to achieve air quality goals, as they "benefit California and the rest of the nation."

Affected States

According to the Clean Air Act, any state that has ever failed to meet any of the National Ambient Air Quality Standards may adopt California's mobile source emission standards. These states are:

Alabama	Maine *#	Oregon *
Arizona	Maryland #	Pennsylvania *#
Arkansas	Massachusetts*#	Puerto Rico
Colorado	Michigan	Rhode Island *#
Connecticut *#	Minnesota	South Carolina
Delaware #	Mississippi	Tennessee
Dist. of Columbia #	Missouri	Texas # (<i>stopgap measure only</i>)
Florida	Montana	Utah
Georgia #	Nevada	Vermont *
Guam	New Hampshire	Virginia
Idaho	New Jersey *#	Washington *
Illinois	New Mexico	Wisconsin
Indiana	New York *#	Wyoming
Kentucky	North Carolina #	
Louisiana	Ohio	

* Denotes states that have already adopted CA's Low Emission Vehicle II standards, including for greenhouse gases.

Denotes states that have adopted CA's Diesel Rule for trucks.

As of today, ten states have adopted California's greenhouse gas standards for cars and light trucks as the newest component of the Low Emission Vehicle II package. Twelve states have adopted California's new standards for diesel trucks.

Given the clear benefits that have been demonstrated in states adopting California's tougher pollution limits, over fifteen states sent letters to the NRC strongly urging the panel to do nothing that could undermine existing statutory authority. Also, twelve Senators and twenty-nine Representatives sent letters to the Department of Transportation. These letters are available on the [National Environmental Trust's website](#).



ADVANCED TECHNOLOGY VEHICLES TAKE TO THE ROAD

Alliance members are producing new technologies to reduce fuel use while providing consumers with utility, safety, performance and comfort. Thanks to Alliance members, more than 60 models of advanced technology vehicles are on sale or in development.

Advanced Technology Vehicles Now on Sale (34)

Hybrids

Chevrolet Silverado Hybrid
 GMC Sierra Hybrid
 Ford Escape Hybrid
 Lexus 400h Hybrid
 Mercury Mariner Hybrid
 Toyota Highlander Hybrid
 Toyota Prius

Volkswagen New Beetle TDI
 Volkswagen Passat TDI

Ethanol (E-85)

Chevrolet Avalanche
 Chevrolet Impala
 Chevrolet Monte Carlo
 Chevrolet Silverado
 Chevrolet Suburban
 Chevrolet Tahoe
 Chrysler Sebring
 Chrysler Town & Country
 Dodge Caravan/Grand Caravan
 Dodge Ram

Dodge Stratus
 Ford Crown Victoria
 Ford F-150 Pick-up Truck
 GMC Sierra
 GMC Yukon
 GMC Yukon XL
 Lincoln Town Car
 Mercedes-Benz C-Class
 Mercury Grand Marquis

Diesels/Bio-diesels

Jeep Liberty/Cherokee
 Mercedes Benz E320 CDI
 Volkswagen Golf TDI
 Volkswagen Jetta TDI

Natural Gas

Chevrolet Silverado 2500 HD
 GMC Sierra 2500 HD

Advanced Technology Vehicles in Development Now (26+)

Hybrids

Chevrolet Malibu Hybrid
 Chevrolet Tahoe Hybrid
 Dodge Durango Hybrid
 Dodge Ram Hybrid
 Ford Fusion Hybrid
 GMC Yukon Hybrid
 Lexus GS Hybrid
 Mazda Tribute Hybrid
 Mercury Milan Hybrid
 Porsche Cayenne Hybrid
 Saturn Vue Hybrid
 Toyota Camry Hybrid

Diesels

Audi A8 TDI
 BMW (several models
 considered for US market)
 Mercedes-Benz ML 320 CDI
 Saab 9-5

Hydrogen Internal Combustion Engine

BMW 760h
 Ford Econoline ICE
 Ford Model U
 Mazda RENESIS

Fuel Cells

DaimlerChrysler F-Cell
 Ford Focus
 GM Sequel
 Toyota FCHV
 Volkswagen Bora HY.POWER

Electric Vehicles

Mitsubishi Lancer Evolution IX
 MIEV (Mitsubishi In-Wheel
 Motor Electric Vehicle)
 Mitsubishi "i" MIEV

Commitments and Partnerships

- BMW, DaimlerChrysler and GM have announced a partnership to develop hybrid vehicle technology.
- Ford, Mercury and Lincoln will offer hybrid drive trains on half of all products by 2010.
- Porsche and Volkswagen agreed to the joint development of hybrid gasoline-electric engines.
- Toyota plans to offer hybrid drive trains on many of its products in the future and has set a goal of selling 1 million hybrids annually by 2010.

The above information was drawn from publicly available sources. For more information on advanced technology vehicles, visit www.autoalliance.org/innovation.

October 12, 2005

1.1 Senator Marty from the Committee on Environment and Natural Resources, to
1.2 which was re-referred

1.3 S.F. No. 2757: A bill for an act relating to public safety; providing for prevention,
1.4 preparedness, and response to unauthorized releases of extraordinarily hazardous
1.5 substances; amending Minnesota Statutes 2004, section 13.6905, by adding a subdivision;
1.6 proposing coding for new law in Minnesota Statutes, chapter 115E.

1.7 Reports the same back with the recommendation that the bill be amended as follows:

1.8 Delete everything after the enacting clause and insert:

1.9 "Section 1. Minnesota Statutes 2004, section 13.6905, is amended by adding a
1.10 subdivision to read:

1.11 Subd. 1a. Facility security plans. Facility security plans are nonpublic data.

1.12 Sec. 2. Minnesota Statutes 2004, section 115E.01, subdivision 5, is amended to read:

1.13 Subd. 5. **Facility.** "Facility" means a structure, group of structures, equipment,
1.14 or device, other than a vessel, that is used for one or more of the following purposes:
1.15 exploring for, drilling for, producing, storing, handling, transferring, processing, or
1.16 transporting oil or a hazardous substance. Facility includes a motor vehicle, rolling stock,
1.17 or pipeline used for one or more of these purposes. Facility also includes a research and
1.18 development laboratory, which means a specially designated area used primarily for
1.19 research, development, and testing activity and not primarily involved in the production of
1.20 goods for commercial sale. A facility may be in, on, or under land, or in, on, or under
1.21 waters of the state as defined in section 115.01, subdivision 22.

1.22 Sec. 3. Minnesota Statutes 2004, section 115E.01, subdivision 6, is amended to read:

1.23 Subd. 6. **Hazardous substance.** "Hazardous substance" has the meaning given in
1.24 section 115B.02, subdivision 8. In addition, hazardous substance includes the substances
1.25 listed under section 112r of the Clean Air Act, found in Code of Federal Regulations,
1.26 title 40, part 68.

1.27 Sec. 4. Minnesota Statutes 2004, section 115E.01, subdivision 7, is amended to read:

1.28 Subd. 7. **Lead agency.** "Lead agency" means:

- 1.29 (1) the Department of Agriculture, with respect to agricultural chemicals; ~~or~~
1.30 (2) the Pollution Control Agency, for other hazardous substances or oil; or
1.31 (3) the Department of Public Safety, with respect to the security planning and
1.32 security measures.

1.33 Sec. 5. Minnesota Statutes 2004, section 115E.01, is amended by adding a subdivision
1.34 to read:

1.35 Subd. 11d. Security measure. "Security measure" means an action carried out to
1.36 increase the security of a facility, including employee training and background checks,

2.1 limitation and prevention of access to controls of the facility, protection of the perimeter
2.2 of the facility, installation and operation of an intrusion detection sensor, or a measure to
2.3 increase computer or computer network security.

2.4 Sec. 6. Minnesota Statutes 2004, section 115E.01, is amended by adding a subdivision
2.5 to read:

2.6 Subd. 11e. Use of inherently safer technology. "Use of inherently safer
2.7 technology" means the use of a technology, product, raw material, or practice that, as
2.8 compared with the technologies, products, raw materials, or practices currently in use,
2.9 reduces or eliminates the possibility of a release, and reduces or eliminates the threats to the
2.10 public health or safety and environment associated with the release or threatened release.

2.11 Sec. 7. Minnesota Statutes 2004, section 115E.01, subdivision 13, is amended to read:

2.12 Subd. 13. **Worst case discharge.** "Worst case discharge" means:

2.13 (1) in the case of a vessel, sudden loss of the entire contents of the vessel in weather
2.14 conditions that impede cleanup;

2.15 (2) for each tank of a storage tank facility, sudden loss of the entire contents of the
2.16 tank in weather conditions that impede cleanup;

2.17 (3) in the case of railroad rolling stock facilities, sudden loss of the contents of the
2.18 maximum expected number of the rail cars containing oil or hazardous substance of a train
2.19 onto land or into water in weather conditions that impede cleanup;

2.20 (4) in the case of truck and trailer rolling stock facilities, sudden loss of the entire
2.21 contents of the truck or trailer onto land or into water in weather conditions that impede
2.22 cleanup;

2.23 (5) in the case of a pipeline facility, sudden loss of the contents of the pipeline
2.24 which would be expected from complete failure of the pipeline onto land or into water in
2.25 weather conditions that impede cleanup;

2.26 (6) in the case of oil or hazardous substance transfer facilities, sudden loss of the
2.27 largest volume which could occur during transfer into or out of a facility; ~~or~~

2.28 (7) in the case of a facility with more than the threshold quantity of any substance
2.29 listed in Code of Federal Regulations, title 40, part 68, under section 112r of the Clean
2.30 Air Act, on the property at any point in the year, sudden loss of the maximum expected
2.31 inventory of the substances; or

2.32 (8) the worst case discharge for the facility as described by regulations under the
2.33 Oil Pollution Act of 1990 if the regulations, when adopted, describe a discharge worse
2.34 than one described in clauses (1) to ~~(6)~~ (7).

2.35 Sec. 8. [115E.025] DUTY TO SECURE FACILITIES.

3.1 Subdivision 1. General security. A person who owns or operates a vessel or
3.2 facility transporting, storing, or otherwise handling hazardous substances or oil, or who
3.3 is otherwise in control of hazardous substances or oil, shall take reasonable security
3.4 measures to prevent the unauthorized access of persons to the facilities or to the control
3.5 mechanisms of the facility.

3.6 Subd. 2. Specific security measures. The following persons shall comply with the
3.7 specific requirements of section 115E.04, subdivision 2:

3.8 (1) persons who own or operate facilities subject to Code of Federal Regulations,
3.9 title 40, part 68, under section 112r of the Clean Air Act, except for retail facilities at
3.10 which more than one-half of the income is obtained from direct sales of ammonia or
3.11 propane to end users; and

3.12 (2) persons who own or operate facilities containing 1,000,000 gallons or more of
3 oil or hazardous substance in tank storage at any time.

3.14 Sec. 9. Minnesota Statutes 2004, section 115E.04, is amended by adding a subdivision
3.15 to read:

3.16 Subd. 1a. Security plan. Persons required to show specific security measures
3.17 under section 115E.025, subdivision 2, shall prepare and maintain a facility security
3.18 plan. The security plan must be completed in consultation with local law enforcement
3.19 agencies. The security plan must:

3.20 (1) summarize the methods used and results of an assessment of vulnerability of
3.21 the facility to a terrorist attack or other unauthorized entry and release, the expertise
3.22 and affiliation of the evaluators, and any direct or indirect relationship between the
3 vulnerability evaluators and the owner or operator of the facility;

3.24 (2) provide an inventory of the hazardous substance or oil subject to the security
3.25 plan, with ranges of the quantity of each substance expected to be in the facility and
3.26 entering and leaving the facility during the course of a year;

3.27 (3) assess the use of inherently safe technology in reducing or eliminating the
3.28 vulnerability of the facility and the possibility of an unauthorized release;

3.29 (4) describe actions and procedures, including safer design and maintenance of
3.30 the facility, use of inherently safer technology, and all appropriate security measures
3.31 undertaken to eliminate or significantly lessen the vulnerability to an unauthorized entry to
3.32 the facility or an unauthorized release of oil or a hazardous substance; and

3.33 (5) the names of all insurance carriers underwriting the facility's environmental
3.34 liability and workers' compensation insurance policies and the scope of the policies,
3.35 including any limitations and exclusions.

4.1 A plan submitted to the federal government under the Oil Pollution Act of 1990 or
4.2 prepared under any other law may be used to satisfy the security plan requirement in this
4.3 subdivision, if the information required by this subdivision is included in the plan.

4.4 The security plan required by this subdivision and material specifically related to
4.5 preparation, review, or approval of the security plan are nonpublic data under chapter 13.

4.6 Sec. 10. Minnesota Statutes 2004, section 115E.04, subdivision 2, is amended to read:

4.7 Subd. 2. **Timing.** (a) A person required to be prepared under section 115E.03, other
4.8 than a person who owns or operates a motor vehicle, rolling stock, or a facility that stores
4.9 less than 250,000 gallons of oil or a hazardous substance, shall complete the response plan
4.10 required by this section by March 1, 1993, unless one of the commissioners orders the
4.11 person to demonstrate preparedness at an earlier date under section 115E.05.

4.12 (b) A person who owns or operates a motor vehicle, rolling stock, or a facility
4.13 that stores less than 250,000 gallons of oil or a hazardous substance shall complete the
4.14 response plan required by this section by January 1, 1994.

4.15 (c) A person required to prepare a security plan shall complete it within 90 days of the
4.16 effective date of this act. The security plan must be amended following significant change
4.17 in the security measures, vulnerability, or presence of hazardous substances on the facility.

4.18 (d) Plans required under section 115E.04 or 115E.045 must be updated every three
4.19 years. Plans must be updated before three years following a significant discharge, upon
4.20 significant change in vessel or facility operation or ownership, upon significant change in
4.21 the national or area contingency plans under the Oil Pollution Act of 1990, or upon change
4.22 in the capabilities or role of a person named in a plan who has an important response role.

4.23 Sec. 11. Minnesota Statutes 2004, section 115E.04, is amended by adding a subdivision
4.24 to read:

4.25 Subd. 4a. **Review of security plans.** (a) A person required to complete a security
4.26 plan under section 115E.025, subdivision 2, must submit a copy of the security plan to the
4.27 Department of Public Safety within five business days of its completion.

4.28 (b) Authorized staff of the Department of Public Safety must be granted access to
4.29 the facility for the purpose of inspecting security measures.

4.30 (c) Upon the request of authorized staff of the Department of Public Safety, a person
4.31 shall demonstrate the adequacy of the security plan and security measures by conducting
4.32 announced or unannounced drills, calling persons and organizations named in a security
4.33 plan and verifying roles and capabilities, locating and testing security measure procedures
4.34 or equipment, questioning facility personnel, or other means that in the judgment of the
4.35 commissioner or sheriff demonstrate security. Before requesting an unannounced security

5.1 drill, the commissioner of public safety or authorized person shall invite the county sheriff
 5.2 to participate in or witness the drill. If an announced drill is conducted to the satisfaction
 5.3 of the commissioner, the person conducting the security drill may not be required to
 5.4 conduct an additional unannounced security drill in the same calendar year.

5.5 Sec. 12. Minnesota Statutes 2004, section 115E.04, is amended by adding a subdivision
 5.6 to read:

5.7 Subd. 4b. **Data.** Assessments and plans prepared under this section are nonpublic
 5.8 data as defined in section 13.02, except that the data may be provided to law enforcement,
 5.9 firefighters, members of the National Guard, or other representatives of a government
 5.10 entity responding to a request for services at a facility that is the subject of the assessment
 5.11 and plan.

5.12 Sec. 13. Minnesota Statutes 2004, section 115E.05, subdivision 1, is amended to read:

5.13 **Subdivision 1. Amendment to plan.** If one or more of the commissioners finds
 5.14 the prevention and response plans or preparedness measures of a person do not meet the
 5.15 requirements of this chapter, or if the commissioner or public safety finds that the security
 5.16 plan does not meet the requirements of this chapter, the commissioner or commissioners
 5.17 making the finding may by order require that reasonable amendments to the plan or
 5.18 reasonable additional preventive ~~or~~ preparedness, or security measures be implemented
 5.19 in a timely fashion. If more than one commissioner makes the finding, the order must
 5.20 be a joint order.

5.21 Sec. 14. Minnesota Statutes 2004, section 115E.05, subdivision 2, is amended to read:

5.22 **Subd. 2. Compliance.** If oil or a hazardous substance is discharged while it is
 5.23 under the control of a person not identified in section 115E.03, subdivision 2, or in
 5.24 section 115E.025, any one of the commissioners with appropriate jurisdiction may by
 5.25 order require the person to comply with the prevention and response plan or security plan
 5.26 requirements of sections 115E.03 and 115E.04 in a timely manner if:

- 5.27 (1) land, water, or air of the state is polluted or threatened; or
 5.28 (2) human life, safety, health, natural resources, or property is damaged or threatened.

5.29 Sec. 15. Minnesota Statutes 2004, section 115E.08, subdivision 3, is amended to read:

5.30 **Subd. 3. Jurisdiction.** Except as otherwise provided, the following agencies have
 5.31 primary responsibility for the specified areas in carrying out the duties and authorities
 5.32 of this chapter:

- 5.33 (1) the Department of Agriculture, for agricultural chemicals;

6.1 (2) the Department of Public Safety, for public safety and, protection of property,
6.2 and security measures;

6.3 (3) the Department of Natural Resources, for assessment and rehabilitation of water
6.4 resources;

6.5 (4) the Pollution Control Agency, for all other matters subject to this chapter; and

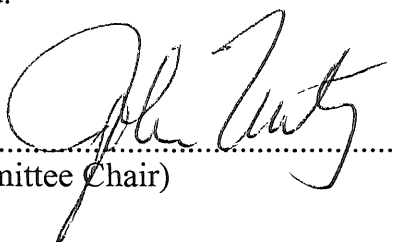
6.6 (5) the Department of Transportation, with respect to requirements related to the
6.7 packaging, labeling, placarding, routing, and written reporting on releases of hazardous
6.8 materials that are being transported.

6.9 Sec. 16. APPROPRIATION.

6.10 \$..... is appropriated in fiscal year 2006 from the general fund to the commissioner
6.11 of public safety for purposes of this act."

6.12 Amend the title accordingly

6.13 And when so amended the bill do pass and be re-referred to the Committee on
6.14 Finance. Amendments adopted. Report adopted.

6.15
6.16 (Committee Chair) 

6.17 March 27, 2006
6.18 (Date of Committee recommendation)

1.1 **Senator Marty from the Committee on Environment and Natural Resources,**
1.2 **to which was referred**

1.3 **S.F. No. 2973:** A bill for an act relating to natural resources; modifying contractual
1.4 and grant agreement provisions; excepting the electronic licensing system commission
1.5 from certain standing appropriations; modifying invasive species provisions; modifying
1.6 certain state trail descriptions; modifying certain definitions; modifying water use
1.7 surcharge provisions; modifying water aeration safety provisions; amending Minnesota
1.8 Statutes 2004, sections 84.026; 84.0911, as amended; 84D.01, subdivisions 9a, 13, 15, 16;
1.9 84D.02, subdivision 2; 85.015, subdivisions 7, 8, 11; 97A.015, subdivision 18; 103G.611,
1.10 by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 84.8205,
1.11 subdivision 1; 85.015, subdivision 5; 88.17, subdivision 5; 103G.271, subdivision 6;
1.12 repealing Minnesota Statutes 2004, section 103G.611, subdivision 6.

1.13 Reports the same back with the recommendation that the bill be amended as follows:

1.14 Page 2, delete section 3 and insert:

1.15 "Sec. 3. Minnesota Statutes 2005 Supplement, section 84.8205, subdivision 1,
1.16 is amended to read:

1.17 Subdivision 1. **Sticker required; fee.** (a) Except as provided in paragraph (b), a
1.18 person may not operate a snowmobile on a state or grant-in-aid snowmobile trail unless a
1.19 snowmobile state trail sticker is affixed to the snowmobile. The commissioner of natural
1.20 resources shall issue a sticker upon application and payment of a \$15 fee. The fee for a
1.21 three-year snowmobile state trail sticker that is purchased at the time of snowmobile
1.22 registration is \$30. In addition to other penalties prescribed by law, a person in violation of
1.23 this subdivision must purchase an annual state trail sticker for a fee of \$30. The sticker is
1.24 valid from November 1 through April 30. Fees collected under this section, except for the
1.25 issuing fee for licensing agents ~~under this section and for the electronic licensing system~~
1.26 ~~commission established by the commissioner under section 84.027, subdivision 15,~~ shall
1.27 be deposited in the state treasury and credited to the snowmobile trails and enforcement
1.28 account in the natural resources fund and, except for the electronic licensing system
1.29 commission established by the commissioner under section 84.027, subdivision 15, must
1.30 be used for grants-in-aid, trail maintenance, grooming, and easement acquisition.

1.31 (b) A state trail sticker is not required under this section for:

1.32 (1) a snowmobile owned by the state or a political subdivision of the state that is
1.33 registered under section 84.82, subdivision 5;

1.34 (2) a snowmobile that is owned and used by the United States, another state, or
1.35 a political subdivision thereof that is exempt from registration under section 84.82,
1.36 subdivision 6;

1.37 (3) a collector snowmobile that is operated as provided in a special permit issued for
1.38 the collector snowmobile under section 84.82, subdivision 7a; or

1.39 (4) a person operating a snowmobile only on the portion of a trail that is owned by
1.40 the person or the person's spouse, child, or parent.

1.41 Sec. 4. Minnesota Statutes 2004, section 84.8205, subdivision 2, is amended to read:

2.1 Subd. 2. **Placement of sticker.** The state trail sticker shall be permanently affixed
2.2 to either:

2.3 (1) the forward half of the snowmobile directly above or below the headlight of
2.4 the snowmobile;

2.5 (2) above the expiration year on the top portion of the snowmobile registration
2.6 validation decal; or

2.7 (3) the lower right corner of a registration plate issued to a dealer or manufacturer
2.8 under section 84.82, subdivision 3."

2.9 Page 4, after line 12, insert:

2.10 "Sec. 10. Minnesota Statutes 2004, section 85.015, subdivision 2, is amended to
2.11 read:

2.12 Subd. 2. **Casey Jones Trail, Murray, Redwood, and Pipestone Counties.** (a) The
2.13 trail shall originate in Lake Shetek State Park in Murray County and include the six-mile
2.14 loop between Currie in Murray County and Lake Shetek State Park. From there, the first
2.15 half of the trail shall trail southwesterly to Slayton in Murray County; thence westerly to
2.16 the point of intersection with the most easterly terminus of the state-owned abandoned
2.17 railroad right-of-way, commonly known as the Casey Jones unit; thence westerly along
2.18 said Casey Jones unit to Pipestone in Pipestone County; thence southwesterly to Split
2.19 Rock Creek State Park in Pipestone County, and there terminate. The second half of the
2.20 trail shall commence in Lake Shetek State Park in Murray County and trail northeasterly to
2.21 Walnut Grove in Redwood County ~~and there terminate;~~ thence northeasterly to Redwood
2.22 Falls in Redwood County to join with the Minnesota River State Trail.

2.23 (b) The trail shall be developed as a multiuse, multiseasonal, dual treadway trail.
2.24 Nothing herein shall abrogate the purpose for which the Casey Jones unit was originally
2.25 established, and the use thereof shall be concurrent."

2.26 Page 5, after line 26, insert:

2.27 "Sec. 15. Minnesota Statutes 2004, section 85.015, subdivision 12, is amended to
2.28 read:

2.29 Subd. 12. **Heartland Trail, Clay, Becker, Hubbard, and Cass Counties.** (a)
2.30 The trail shall originate at Moorhead in Clay County and extend in an easterly direction
2.31 through Detroit Lakes in Becker County to mile post 90.92 at Park Rapids in Hubbard
2.32 County and shall extend; thence in an easterly direction along the Burlington Northern
2.33 Railroad right-of-way through Walker in Cass County. ~~The trail shall then continue;~~
2.34 thence in a northerly direction along the Burlington Northern Railroad right-of-way to
2.35 Cass Lake in Cass County, and there terminate.

2.36 (b) The trail shall be developed primarily for riding and hiking.

3.1 ~~(c) In addition to the authority granted in subdivision 1, lands and interests in lands~~
 3.2 ~~for the Heartland Trail may be acquired by eminent domain. Before acquiring any land~~
 3.3 ~~or interest in land by eminent domain the commissioner of administration shall obtain~~
 3.4 ~~the approval of the governor. The governor shall consult with the Legislative Advisory~~
 3.5 ~~Commission before granting approval. Recommendations of the Legislative Advisory~~
 3.6 ~~Commission shall be advisory only. Failure or refusal of the commission to make a~~
 3.7 ~~recommendation shall be deemed a negative recommendation.~~

3.8 Sec. 16. Minnesota Statutes 2004, section 85.015, is amended by adding a subdivision
 3.9 to read:

3.10 Subd. 25. **Great River Ridge Trail, Wabasha and Olmsted Counties.** The trail
 3.11 shall originate in the city of Plainview in Wabasha County and extend southwesterly
 3.12 through the city of Elgin in Wabasha County and the town of Viola in Olmsted County to
 3.13 the Chester Woods Trail in Olmsted County.

3.14 Sec. 17. Minnesota Statutes 2004, section 85.32, subdivision 1, is amended to read:

3.15 Subdivision 1. **Areas marked.** The commissioner of natural resources is authorized
 3.16 in cooperation with local units of government and private individuals and groups when
 3.17 feasible to mark canoe and boating routes on the Little Fork, Big Fork, Minnesota,
 3.18 St. Croix, Snake, Mississippi, Red Lake, Cannon, Straight, Des Moines, Crow Wing,
 3.19 St. Louis, Pine, Rum, Kettle, Cloquet, Root, Zumbro, Pomme de Terre within Swift
 3.20 County, Watonwan, Cottonwood, Whitewater, Chippewa from Benson in Swift County
 3.21 to Montevideo in Chippewa County, Long Prairie, Red River of the North, Sauk, and
 3.22 Crow Rivers which have historic and scenic values and to mark appropriately points of
 3.23 interest, portages, camp sites, and all dams, rapids, waterfalls, whirlpools, and other
 3.24 serious hazards which are dangerous to canoe and watercraft travelers."

3.25 Page 6, after line 13, insert:

3.26 "Sec. 19. Minnesota Statutes 2004, section 89.01, subdivision 1, is amended to read:

3.27 Subdivision 1. **Best methods.** The commissioner shall ascertain and observe the
 3.28 best methods of reforesting cutover and denuded lands, foresting waste ~~and prairie~~ lands,
 3.29 preventing destruction of forests and lands by fire, administering forests on forestry
 3.30 principles, encouraging private owners to preserve and grow timber for commercial
 3.31 purposes, and conserving the forests around the head waters of streams and on the
 3.32 watersheds of the state."

3.33 Page 8, after line 17, insert:

3.34 "Sec. 23. AGREEMENT; WABASHA COUNTY REGIONAL RAIL
3.35 AUTHORITY.

4.1 The commissioner of natural resources shall enter an agreement with the Wabasha
4.2 County Regional Rail Authority to maintain and develop the Great River Ridge Trail
4.3 as a state trail."

4.4 Page 8, after line 19, insert:

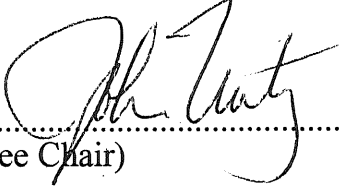
4.5 "Sec. 25. EFFECTIVE DATE.

4.6 Sections 16 and 23 are effective the day after the governing body of the Wabasha
4.7 County Regional Rail Authority and its chief clerical officer timely complete their
4.8 compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

4.9 Renumber the sections in sequence

4.10 Amend the title accordingly

4.11 And when so amended the bill do pass. Amendments adopted. Report adopted.

4.12 
4.13
(Committee Chair)

4.14 March 27, 2006
4.15 (Date of Committee recommendation)