

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
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JO ANNE ZOFF SELLNER
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Senate

State of Minnesota

S.F. No. 3526 - Designating Shawn Silvera Memorial Highway On Marked Interstate Highways 35W, 35E, and 35

Author: Senator Michele M. Bachmann

Prepared by: Bonnie Berezovsky, Senate Counsel (651/296-9191) *BB*
Krista Boyd, Fiscal Analyst (651/296-7681) *KB*

Date: March 30, 2006

Section 1 designates the Shawn Silvera Memorial Highway on I-35 between Broadway Street in Forest Lake and the 35E-35W split; I-35E from its intersection with I-35 to Trunk Highway 96; and on I-35W from the split to Lake Drive in Lino Lakes. The Commissioner of Transportation is directed to adopt a suitable marking sign, approved by the Shawn Silvera Foundation, and produce signs that meet stated size and color specifications. Upon receipt of assurances of adequate funding from nonstate sources, the commissioner is directed to erect a sign in each direction on I-35 and Washington County Highway 2, one sign in each direction on I-35W within 300 feet of the location where Officer Silvera was killed, and one sign in each location at the 35E-35W split.

BB/KB:rer

Senators Bachmann, Reiter and Nienow introduced-

S.F. No. 3526: Referred to the Committee on Transportation.

A bill for an act

relating to highways; designating the Shawn Silvera Memorial Highway; amending Minnesota Statutes 2004, section 161.14, by adding a subdivision.

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

Section 1. Minnesota Statutes 2004, section 161.14, is amended by adding a subdivision to read:

Subd. 56. Shawn Silvera Memorial Highway. (a) Marked Interstate Highway 35 from its intersection with Broadway Street in Forest Lake to the point where the highway divides into marked Interstate Highways 35E and 35W; marked Interstate Highway 35E from the point where it divides from marked Interstate Highway 35 to marked Trunk Highway 96; and marked Interstate Highway 35W from the point where it divides from marked Interstate Highway 35E to Lake Drive in Lino Lakes; are designated as the "Shawn Silvera Memorial Highway."

(b) The commissioner of transportation shall adopt a suitable marking design to memorialize this highway, in consultation with and approval by the Shawn Silvera Foundation, that conforms to the manual on uniform traffic control devices adopted by the commissioner of transportation pursuant to section 169.06, except for the following requirements:

- (1) be a height of at least 60 inches, and a width of at least 48 inches; and
- (2) have a background color of blue, and have white lettering.

(c) The commissioner of transportation shall erect suitable signs at the following locations, subject to section 161.139:

- (1) one sign in each direction on marked Interstate Highway 35 at its intersection with Washington County Highway 2;

- 2.1 (2) one sign in each direction on marked Interstate Highway 35W within 300 feet
2.2 of the location at which Officer Silvera was killed in the line of duty on September 6,
2.3 2005; and
- 2.4 (3) one sign in each direction where marked Interstate Highway 35 divides into
2.5 marked Interstate Highways 35E and 35W.

1.1 Senator moves to amend S.F. No. 3526 as follows:

1.2 Page 2, after line 5 insert:"

1.3 (d) The commissioner may not carry out the provisions of this section without
1.4 having received adequate assurance of the availability of funds from nonstate sources
1.5 sufficient to pay all costs related to designing, erecting, and maintaining the signs."

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State of Minnesota

**S.F. No. 3331 - Petroleum Tank Release Fund
Compensation For Transport Vehicles**

Author: Senator Dan Sparks

Prepared by: Bonnie Berezovsky, Senate Counsel (651/296-9191) *BB*
Krista Boyd, Fiscal Analyst (651/296-7681) *KB*

Date: March 30, 2006

Section 1 modifies the definition of "transport vehicle" to refer to a liquid fuel cargo tank used to deliver gasoline into underground storage tanks during 2002 or 2003 at a retail location. (Current law refers to tanks used during 2002 and 2003.) This section takes effect retroactively from August 1, 2003.

Section 2 appropriates \$477,500 in fiscal year 2007 and \$477,500 in fiscal year 2008 from the petroleum tank release cleanup fund to the Commissioner of Transportation for petroleum tank release costs reimbursable under Minnesota Statutes, section 115C.09, that were incurred before January 1, 2004.

BB/KB:rer

Senator Sparks introduced—

S.F. No. 3331: Referred to the Committee on Commerce.

1 A bill for an act
1.2 relating to commerce; modifying provisions relating to petroleum fund
1.3 compensation for transport vehicles; appropriating money; amending Minnesota
1.4 Statutes 2005 Supplement, section 115C.09, subdivision 3j.

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

1.6 Section 1. Minnesota Statutes 2005 Supplement, section 115C.09, subdivision 3j,
1.7 is amended to read:

1.8 Subd. 3j. **Retail locations and transport vehicles.** (a) As used in this subdivision,
1.9 "retail location" means a facility located in the metropolitan area as defined in section
1.10 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in
1.11 automobiles and trucks. "Transport vehicle" means a liquid fuel cargo tank used to deliver
1.12 gasoline into underground storage tanks during 2002 ~~and~~ or 2003 at a retail location.

1.13 (b) Notwithstanding any other provision in this chapter, and any rules adopted under
1.14 this chapter, the board shall reimburse 90 percent of an applicant's cost for retrofits of
1.15 retail locations and transport vehicles completed between January 1, 2001, and ~~January~~
1.16 September 1, 2006, to comply with section 116.49, subdivisions 3 and 4, provided that the
1.17 board determines the costs were incurred and reasonable. The reimbursement may not
1.18 exceed \$3,000 per retail location and \$3,000 per transport vehicle.

1.19 **EFFECTIVE DATE.** This section is effective retroactively from August 1, 2003.

1.20 Sec. 2. **APPROPRIATION.**

1.21 Notwithstanding Minnesota Statutes, section 115C.09, subdivision 2a, \$477,500 in
1.22 fiscal year 2007 and \$477,500 in fiscal year 2008 are appropriated from the petroleum

- 2.1 tank release cleanup fund to the commissioner of transportation for costs reimbursable
- 2.2 under Minnesota Statutes, section 115C.09, that were incurred before January 1, 2004.

Consolidated Fiscal Note – 2005-06 Session

Bill #: S3331-0 **Complete Date:** 03/27/06

Chief Author: SPARKS, DAN

Title: PETRO FUND REIMBURSEMENT MODIFICATION

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

Agencies: Commerce (03/27/06)
Pollution Control Agency (03/27/06)

Transportation Dept (03/27/06)

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
Petroleum Tank Release Cleanup Fund			477	478	
Commerce			477	478	
Trunk Highway Fund			(16)	(16)	
Transportation Dept			(16)	(16)	
Revenues					
-- No Impact --					
Net Cost <Savings>					
Petroleum Tank Release Cleanup Fund			477	478	
Commerce			477	478	
Trunk Highway Fund			(16)	(16)	
Transportation Dept			(16)	(16)	
Total Cost <Savings> to the State			461	462	

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

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 03/27/06 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S3331-0 **Complete Date:** 03/27/06

Chief Author: SPARKS, DAN

Title: PETRO FUND REIMBURSEMENT MODIFICATION

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

Agency Name: Commerce

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Petroleum Tank Release Cleanup Fund			477	478	
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Petroleum Tank Release Cleanup Fund			477	478	
Revenues					
-- No Impact --					
Net Cost <Savings>					
Petroleum Tank Release Cleanup Fund			477	478	
Total Cost <Savings> to the State			477	478	

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

Bill Description

H.F. 3711 provides for three changes to the existing Petrofund statutes. First, it clarifies a change made by the 2005 Legislature by replacing the word "and" with the word "or." This technical change is being proposed to clarify the original legislative intent, which was to broaden eligibility, not to further restrict it. Second, the bill extends the period in which tank owners can apply for reimbursement of their costs to install stage 1 vapor recovery equipment. This extension was agreed to with the industry because of delivery problems at the end of 2005. Lastly, the bill provides for a buyout of eligible costs incurred by MNDOT prior to January 1, 2004.

Assumptions

The costs are identified in the language of the proposed bill.

Expenditure and/or Revenue Formula

There is no cost associated with the first proposed change. There is also no cost associated with extending the date to September 1, 2006, because these costs were included in the original fiscal note prepared prior to passage in 2005 to reflect legislative intent. These costs also continue to be reflected in the most recent Petrofund forecast. The cost associated with the buyout of eligible costs incurred by MNDOT is \$477,500 per year in FY 07 and FY 08. The total cost has been spread over two fiscal years in order to ease the impact to the Petrofund.

Long-Term Fiscal Considerations

There are no costs associated with this proposed bill beyond FY 08.

Local Government Costs

None

References/Sources

None

Contact:

Jim Pearson, Executive Director
Petroleum Tank Release Cleanup Fund
Minnesota Department of Commerce
651-296-2843
james.pearson@state.mn.us.

Agency Contact Name: James Pearson
FN Coord Signature: DENNIS MUNKWITZ
Date: 03/27/06 Phone: 297-1335

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 03/27/06 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S3331-0 **Complete Date:** 03/27/06

Chief Author: SPARKS, DAN

Title: PETRO FUND REIMBURSEMENT MODIFICATION

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

Agency Name: Pollution Control Agency

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

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

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

Bill Description

Bill does two separate actions. In Section 1 it corrects a mistake made last session. Intent always was to include reimbursements to fuel delivery transports working in either 2002 or 2003 for upgrading their transports. In Section 2 there is proposed a fund transfer from the Petroleum Release Cleanup Fund to MDOT for petroleum remediation work completed by MDOT at various facilities they operated.

Assumptions

MDOT was eligible for these reimbursements on an individual site basis. The appropriation is to resolve any past disputed amounts that MDOT is eligible to receive from PetroFund.

Fund transfer over two fiscal years, \$477,500 in FY07 and \$477,500 in FY08. Transfer to cover reimbursements MDOT was eligible for but never requested.

Expenditure and/or Revenue Formula

None

Long-Term Fiscal Considerations

None

Local Government Costs

None

References/Sources

Agency Contact Name: JEFF LEWIS (651-297-8505)
FN Coord Signature: GLENN OLSON
Date: 03/24/06 Phone: 297-1609

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: MARSHA BATTLES-JENKS
Date: 03/27/06 Phone: 296-8510

Fiscal Note – 2005-06 Session

Bill #: S3331-0 **Complete Date:** 03/27/06

Chief Author: SPARKS, DAN

Title: PETRO FUND REIMBURSEMENT MODIFICATION

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

Agency Name: Transportation Dept

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Trunk Highway Fund			(16)	(16)	
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Trunk Highway Fund			(16)	(16)	
Revenues					
-- No Impact --					
Net Cost <Savings>					
Trunk Highway Fund			(16)	(16)	
Total Cost <Savings> to the State			(16)	(16)	

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

Bill Description

House file 3711 proposes appropriating \$477,500 in each of fiscal years 2007 and 2008 from the petroleum tank release cleanup fund to Mn/DOT "...for costs reimbursable under Minnesota Statutes, section 15C.09, that were incurred before January 1, 2004." The intention of the bill is to allow for the streamlining of the reimbursement to the Trunk Highway Fund from the Petroleum Tank Release Cleanup Fund (Petrofund). Typically, a comprehensive application process must be completed for each individual petroleum cleanup site.

Assumptions

- 1) Mn/DOT is eligible for reimbursement from the Petrofund of 90% of the trunk highway fund costs that have already been incurred for cleanup of petroleum release sites.
- 2) There are 123 sites that are eligible for reimbursement.
- 3) The amounts of reimbursement that would be received using the normal comprehensive application process are assumed to be the same amounts and in the same years as is provided in the bill, that is \$477,500 in FY 2007, and \$477,500 in FY 2008.

Expenditure and/or Revenue Formula

In 2004, Mn/DOT hired a Petrofund application expert to process and submit applications to the Department of Commerce. This work resulted in \$3.1 million being reimbursed from the Petrofund to the trunk highway fund. This employee has left the department and has not been replaced.

Under this bill Mn/DOT will avoid a cost of \$16,300 in both fiscal year 2007 and fiscal year 2008 that would be incurred researching, documenting and preparing applications for reimbursement. Without the bill Mn/DOT would need to hire a person to work on the applications for reimbursement at the costs mentioned above. The \$16,300 is based on salary of \$18.05/hour and 30% state paid fringe benefits for approximately four months/year.

Long-Term Fiscal Considerations

This bill has no direct fiscal considerations beyond fiscal year 2008. Since the reimbursement proposed in the bill covers the period prior to January 1, 2004, additional clean up of sites is occurring that would be eligible for reimbursement. The approach prescribed in this bill could be proposed in future years to address additional sites that have been cleaned up and would be eligible for reimbursement.

Local Government Costs

None.

Technical Observation

Since the work for which reimbursement is being provided under the bill has already been completed, the language perhaps could be changed to state that the appropriation is for transfer to the trunk highway fund for reimbursement of costs that were incurred before January 1, 2004.

References/Sources

Mn/DOT Office of Environmental Services

FN Coord Signature: BRUCE BRIESE
Date: 03/27/06 Phone: 297-1203

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NORMAN FOSTER
Date: 03/27/06 Phone: 215-0594

1.1 Senator moves to amend S.F. No. 3331 as follows:

1.2 Page 1, before line 6, insert:

1.3 "Section 1. Minnesota Statutes 2004, section 80C.01, subdivision 4, is amended to
1.4 read:

1.5 Subd. 4. **Franchise.** (a) "Franchise" means (1) a contract or agreement, either
1.6 express or implied, whether oral or written, for a definite or indefinite period, between
1.7 two or more persons:

1.8 (i) by which a franchisee is granted the right to engage in the business of offering or
1.9 distributing goods or services using the franchisor's trade name, trademark, service mark,
1.10 logotype, advertising, or other commercial symbol or related characteristics;

1.11 (ii) in which the franchisor and franchisee have a community of interest in the
1.12 marketing of goods or services at wholesale, retail, by lease, agreement, or otherwise; and

1.13 (iii) for which the franchisee pays, directly or indirectly, a franchise fee; or

1.14 (2) a contract, lease, or other agreement, either express or implied, whether oral or
1.15 written, for a definite or indefinite period, between two or more persons, whereby the
1.16 franchisee is authorized, permitted, or granted the right to market motor vehicle fuel at
1.17 retail under the franchisor's trade name, trademark, service mark, logotype, or other
1.18 commercial symbol or related characteristics owned or controlled by the franchisor; or

1.19 (3) the sale or lease of any products, equipment, chattels, supplies, or services to the
1.20 purchaser, other than the sale of sales demonstration equipment, materials or samples for a
1.21 total price of \$500 or less to any one person, for the purpose of enabling the purchaser
1.22 to start a business and in which the seller:

1.23 (i) represents that the seller, lessor, or an affiliate thereof will provide locations or
1.24 assist the purchaser in finding locations for the use or operation of vending machines,
1.25 racks, display cases, or similar devices, or currency operated amusement machines or
1.26 devices, on premises neither owned or leased by the purchaser or seller; or

1.27 (ii) represents that the seller will purchase any or all products made, produced,
1.28 fabricated, grown, bred, or modified by the purchaser using, in whole or in part, the
1.29 supplies, services, or chattels sold to the purchaser; or

1.30 (iii) guarantees that the purchaser will derive income from the business which
1.31 exceeds the price paid to the seller; or

1.32 (4) an oral or written contract or agreement, either expressed or implied, for a
1.33 definite or indefinite period, between two or more persons, under which a manufacturer,
1.34 selling security systems through dealers or distributors in this state, requires regular
1.35 payments from the distributor or dealer as royalties or residuals for products purchased
1.36 and paid for by the dealer or distributor.

2.1 (b) "Franchise" does not include any business which is operated under a lease or
2.2 license on the premises of the lessor or licensor as long as such business is incidental to
2.3 the business conducted by the lessor or licensor on such premises, including, without
2.4 limitation, leased departments, licensed departments, and concessions.

2.5 (c) "Franchise" does not include any contract, lease or other agreement whereby the
2.6 franchisee is required to pay less than \$100 on an annual basis, except those franchises
2.7 identified in paragraph (a), clause (2).

2.8 (d) "Franchise" does not include a contract, lease or other agreement between a new
2.9 motor vehicle manufacturer, distributor, or factory branch and a franchisee whereby the
2.10 franchisee is granted the right to market automobiles, motorcycles, trucks, truck-tractors,
2.11 or self-propelled motor homes or campers if the foregoing are designed primarily for the
2.12 transportation of persons or property on public highways.

2.13 (e) "Franchise" does not include a contract, lease, or other agreement or arrangement
2.14 between two or more air carriers, or between one or more air carriers and one or more
2.15 foreign air carriers. The terms "air carrier" and "foreign air carrier" shall have the
2.16 meanings assigned to them by the Federal Aviation Act, United States Code Appendix,
2.17 title 49, sections 1301(3) and 1301(22), respectively.

2.18 (f) For purposes of paragraph (a), clause (2), "franchise" does not include the
2.19 marketing of motor vehicle fuel in circumstances where all the following are present:

2.20 (1) the franchisor or an affiliate of the franchisor is not a refiner of motor vehicle
2.21 fuel, diesel fuel, or gasoline;

2.22 (2) the franchisor's trade name, trademark, service mark, logotype, or other
2.23 commercial symbol or related characteristics is not used to identify the marketing premises
2.24 generally, but only the gasoline dispensers, canopy, and gasoline price signage, provided,
2.25 however, this circumstance is not changed by a voluntary decision by the retailer to
2.26 identify the buildings on the premises in the manner selected by the retailer;

2.27 (3) the franchisor does not impose any requirements or franchise fee on nonmotor
2.28 vehicle fuel products or sales, provided this circumstance is not changed by a voluntary
2.29 decision by the retailer to purchase nonmotor vehicle fuel products from the franchisor or
2.30 an affiliate of the franchisor; and

2.31 (4) the facility is not leased from the franchisor or affiliate of the franchisor.

2.32 (f) (g) For purposes of this chapter, a person who sells motor vehicle fuel at
2.33 wholesale who does not own or control, or is not an affiliate of a person who owns or
2.34 controls, the trademark, trade name, service mark, logotype, or other commercial symbol
2.35 or related characteristics under which the motor vehicle fuel is sold at retail, is not a
2.36 franchisor or a franchisee, and is not considered to be part of a franchise relationship.

3.1 Sec. 2. [80C.144] EXEMPT MOTOR FUEL FRANCHISES; ALTERNATIVE
3.2 COMPLIANCE.

3.3 A motor fuel franchise exempt from regulation under this chapter pursuant to section
3.4 80C.01, subdivision 4, paragraph (f), is subject to regulation under chapter 80F."

3.5 Renumber the sections in sequence and correct the internal references

3.6 Amend the title accordingly

Senators Saxhaug, Sparks and Murphy introduced-

S.F. No. 3597: Referred to the Committee on Transportation.

1.1 A resolution

1.2 memorializing Congress to support H.R. 3318, the Railroad Antitrust and
1.3 Competition Enhancement Act.

1.4 WHEREAS, freight rail service in Minnesota is vital to the health of our state's economy,
1.5 with major impacts on agriculture, forest products, utilities, and manufacturing, affecting
1.6 consumer pocketbooks, as well as economic development and jobs; and

1.7 WHEREAS, in 1980, when Congress deregulated most railroad activities, the United States
1.8 had 40 major railroads, but today there are only seven Class I railroads, and four of those control
1.9 90 percent of the nation's freight rail traffic; and

1.10 WHEREAS, the concentration of rail service among fewer carriers has led to more "captive
1.11 shippers," customers with one railroad as their only transportation option, and has recently led to
1.12 dramatically increasing transportation costs for rail service to bulk commodity industries; and

1.13 WHEREAS, the freight rail industry enjoys both freedom from extensive federal regulation
1.14 and an exemption from the federal antitrust laws, creating an uncompetitive environment that
1.15 hampers the development of competitive forces that might restrain transportation price increases;
1.16 and

1.17 WHEREAS, electric power suppliers to Minnesota consumers are a key component of a
1.18 healthy Minnesota economy, and heavily rely upon rail service for fuel delivery, and they are
1.19 incurring dramatically increased rail service costs and a declining quality of rail service with
1. utilities reporting near doubling of rail rates for moving coal to electric generators; and

2.1 WHEREAS, higher rail rates and deteriorating service have greatly affected agriculture, the
2.2 state's number one industry, by restraining the ability of our state's farmers to remain competitive
2.3 in the global marketplace; NOW, THEREFORE,

2.4 BE IT RESOLVED by the Legislature of the State of Minnesota that Congress repeal the
2.5 current antitrust exemption of the railroad industry from the nation's antitrust laws in order
2.6 to increase competition and ultimately lower prices to benefit our Minnesota economy and
2.7 consumers.

2.8 BE IT FURTHER RESOLVED that the Secretary of State of the State of Minnesota is
2.9 directed to prepare copies of this memorial and transmit them to the President of the United
2.10 States, the President and the Secretary of the Senate, the Speaker and the Clerk of the House
2.11 of Representatives, the Chairs of the House and Senate committees on transportation, and
2.12 Minnesota's Senators and Representatives in Congress.

1.1 Senator moves to amend S.F. No. 3597 as follows:

1.2 Page 1, line 3, after "Act" insert ", and S.919/H.R. 2047, the Railroad Competition
1.3 Act"

1.4 Page 2, line 4, after "Congress" insert "establish competition in the freight rail
1.5 industry and"

PAUL C. THOMPSON
International President

RICK L. MARCEAU
Assistant President

DAN E. JOHNSON
General Secretary and Treasurer

J. M. BRUNKENHOEFER
National Legislative Director



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A

March 30, 2006

Phillip J. Qualy
411 Main Street, St. 212
St. Paul, MN 55102

Dear Brother Qualy:

Critics of U.S. freight railroads complain that the railroads "enjoy an exemption from important parts of the antitrust laws of the nation." The implication is that railroads can engage in conduct over which there is no government oversight. This implication is false.

In reality, freight railroads are subject to antitrust laws that prohibit agreements among railroads to set rates, allocate markets, or otherwise unreasonably restrain trade. In addition, railroads are subject to extensive economic regulation by the Surface Transportation Board.

Therefore any attempt to subject railroads to antitrust law in addition to their extensive economic regulation would have a stifling effect on their ability to handle the nation's freight. I urge you to oppose any effort to urge Congress to eliminate the railroads antitrust exemptions.

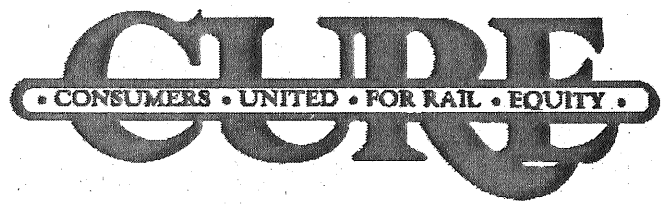
Fraternally yours,

A handwritten signature in black ink that reads "James Brunkenhoefer". The signature is written in a cursive, flowing style.

James Brunkenhoefer
National Legislative Director



⑤



November 2005

HOW DO CAPTIVE RAIL RATES COMPARE TO COMPETITIVE RAIL RATES?

The answer to the question is anything but simple and straight-forward. No federal agency sets rail rates or approves rates, except in those rare cases where a captive rail customer files a complaint with the Surface Transportation Board alleging that its rate is "unreasonably high". Rates vary by origin, destination, distance and commodity. Most rail rates are pursuant to contract and are confidential. Most rail customers either are constrained from revealing contract rates or must keep their rates confidential for competitive purposes or for future negotiations with their rail carriers. The railroads do not normally share information on captive rates as compared to competitive rates.

The only known data bank of railroad rates exists at the Surface Transportation Board. The data bank contains information on both contract and tariff rates, which by law must be filed with the Board. The law requires that contract rates be confidential. Thus, the Board restricts access to the data bank to studies that will provide aggregate information and to plaintiffs in rate reasonableness cases. There is also a lag time associated with the rates referenced in the periodic Board studies.

Despite these constraints, a compelling showing can be made that captive rates are much higher than competitive rates.

On a Per Ton Basis, What is the Difference Between Captive and Competitive Rates By Commodity and Major Railroad

The following information was calculated by Escalation Consultants, Inc. of Gaithersburg, Maryland. This "per ton" information is calculated from the 2003 Surface Transportation Board "Revenue Shortfall Allocation Methodology" (RSAM) study, the latest study available from the Board.

	<u>NS</u>	<u>CSX</u>	<u>BN</u>	<u>UP</u>
Farm Products Captive Rate	\$21.37	\$36.74	\$45.28	\$37.99
Farm Products Non-Captive Rate	\$11.88	\$20.83	\$26.09	\$21.29
Coal Captive Rate	\$17.56	\$17.22	\$16.77	\$17.00
Coal Non-Captive Rate	\$9.76	\$9.76	\$9.66	\$9.53
Chemicals Captive Rate	\$36.98	\$34.33	\$42.57	\$38.94
Chemicals Non-Captive Rate	\$20.56	\$19.46	\$24.52	\$21.82
Lumber or Wood Captive Rate	\$29.43	\$36.13	\$59.19	\$59.49
Lumber or Wood Non-Captive Rate	\$16.36	\$20.48	\$34.10	\$33.34
Pulp, Paper Captive Rate	\$39.48	\$40.82	\$62.14	\$55.40
Pulp, Paper Non-Captive Rate	\$21.95	\$23.14	\$35.80	\$31.05

Escalation Consultants has calculated the captive and non-captive rates on 8 other commodities.

What is the Difference in RVC Between Captive and Competitive Rates? (2003 RSAM Study)

Another indicator of the difference between the rates paid by captive and competitive rail customers is reflected in the average Revenue to Variable Cost (RVC) of these two customer groups. The Revenue is the rate charged by the railroad; the Variable Cost (VC) is the railroad cost directly attributed to the movement by the railroad. (For example, if the Revenue is \$20 and the VC is \$10, the RVC is 200%). The RVC for captive traffic is the average RVC for every movement paying 180% RVC or greater. For each major railroad in 2003, the average RVC's of captive and competitive traffic was as follows:

	<u>Captive</u>	<u>Competitive</u>
BN	215.6%	109.1%
CSX	186.8%	93.1%
NS	209.2%	102.3%
UP	210.4%	106.8%

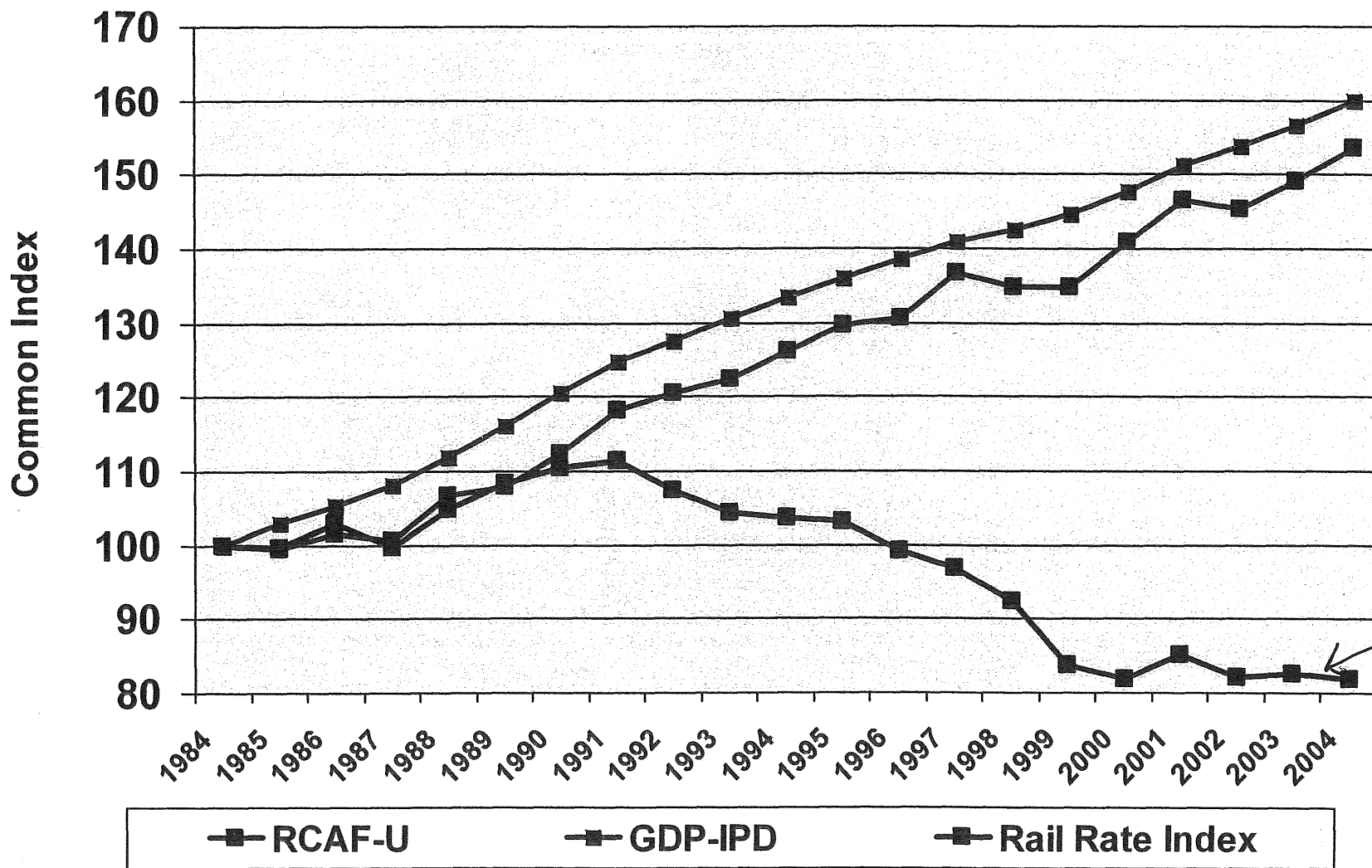
Which commodities on the major railroads are captive and what percentage of the revenue derived from these commodities is attributable to captive traffic? (2003 RSAM Study)

<u>Commodity</u>	<u>Percent of Total Freight Revenue</u>	<u>Percentage of Revenue Greater than 180% (Captive Revenue)</u>
Farm Products	7.3%	34.4%
Metallic Ores	1.1%	42.0%
Coal	20.1%	39.9%
Ordinance or Accessories	0.4%	76.7%
Chemicals	12.7%	59.0%
Petroleum or Coal Products	3.0%	50.4%
Stone, Clay and Glass Products	3.3%	38.6%
Fabricated Metal Products	0.12%	44.3%

What percentage of revenue of each major railroad is derived from captive traffic? (2003 RSAM Study)

Burlington Northern	26.6%
CSX	38.1%
Norfolk Southern	41.1%
Union Pacific	31.6%

Basin Electric Power's Laramie River Station Rail Rate Index versus Rail Cost Index and GDP-IPD (Oct 1984 – Oct 2004)



Basin Electric Rate

Bill Summary

Senate

Senate Counsel & Research

State of Minnesota

S.F. No. 3450 - Metropolitan Council Special Transportation Service Requirements Duties Expansion

Author: Senator Steve Murphy
Prepared by: Krista Boyd, Fiscal Analyst (651/296-7681)
Bonnie Berezovsky, Senate Counsel (651/296-9191)
Date: March 23, 2006

Section 1 requires the Metropolitan Council to ensure that the geographic service area of the Metro Mobility special transportation service is continuous within the transit taxing district's boundaries.

KB/BB:rer

[Check on the status of this bill](#)

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Last review or update: 03/29/2006

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Senator Murphy introduced—

S.F. No. 3450: Referred to the Committee on Transportation.

A bill for an act relating to metropolitan government; governing special transportation service requirements; amending Minnesota Statutes 2004, section 473.386, subdivision 3.

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

Section 1. Minnesota Statutes 2004, section 473.386, subdivision 3, is amended to read:

Subd. 3. **Duties of council.** In implementing the special transportation service, the council shall:

(a) encourage participation in the service by public, private, and private nonprofit providers of special transportation currently receiving capital or operating assistance from a public agency;

(b) contract with public, private, and private nonprofit providers that have demonstrated their ability to effectively provide service at a reasonable cost;

(c) encourage individuals using special transportation to use the type of service most appropriate to their particular needs;

(d) ensure that all persons providing special transportation service receive equitable treatment in the allocation of the ridership;

(e) encourage shared rides to the greatest extent practicable;

(f) encourage public agencies that provide transportation to eligible individuals as a component of human services and educational programs to coordinate with this service and to allow reimbursement for transportation provided through the service at rates that reflect the public cost of providing that transportation;

(g) establish criteria to be used in determining individual eligibility for special transportation services;

2.1 (h) consult with the Transportation Accessibility Advisory Committee in a timely
2.2 manner before changes are made in the provision of special transportation services,
2.3 including, but not limited to, changes in policies affecting the matters subject to hearing
2.4 under subdivision 2;

2.5 (i) provide for effective administration and enforcement of council policies and
2.6 standards; ~~and~~

2.7 (j) annually evaluate providers of special transportation service to ensure compliance
2.8 with the standards established for the program; and

2.9 (k) ensure that, taken as a whole including contracts with public, private, and private
2.10 nonprofit providers, the geographic coverage area of the special transportation service
2.11 is continuous within the boundaries of the transit taxing district, as defined in section
2.12 473.446, subdivision 2.

Fiscal Note – 2005-06 Session

Bill #: S3450-0 **Complete Date:** 03/30/06

Chief Author: MURPHY, STEVE

Title: MET CNCL SP TRANSP SVC REQUIREMENTS

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

Agency Name: Metropolitan Council

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund			1,500	2,100	2,300
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund			1,500	2,100	2,300
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund			1,500	2,100	2,300
Total Cost <Savings> to the State			1,500	2,100	2,300

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

Bill Description: This bill (SF 3450) requires the Council to ensure that the geographic coverage area of special transportation service (Metro Mobility and other ADA services) is continuous within the boundaries of the transit taxing district.

Background:

- Under current federal law, the Metropolitan Council is required to provide “complementary service” to the fixed regular route system for persons with disabilities, this service is known as special transportation service and is provided primarily through Metro Mobility.
- The federal law requires that special transportation services be provided within ¾ of a mile of existing non-commuter regular routes, and that the service operate under similar hours and frequency of service.
- This minimum requirement can result in only portions of a city being served by special transportation services and also a somewhat confusing service area.
- To avoid this confusion, the Council’s past practice has been that if the ¾ mile requirement would result in only a portion of a city being served, the entire city has been provided the service. This practice has also resulted in a current special transportation service area that is essentially contiguous with the transit taxing district and is also much larger than required under federal law. Serving this larger area has resulted in approximately \$3 million in additional operating costs.
- Metro Mobility has historically been recognized as a service that is a state funding obligation and has been funded entirely through state general fund appropriations and fares.
- Metro Mobility retains the Federal Transit Administration’s goal of having a zero trip denial rate.
- Two years ago when the Council had a significant budget deficit and was forced to make substantial service cuts to the regular route system, the Council chose to essentially hold Metro Mobility “harmless,” and no service cuts were applied to Metro Mobility.
- The operating budget for Metro Mobility was reduced due to efficiencies which were realized by; buying bulk fuel at more competitive rates, lower competitive contract rates, and implementation of a third party assessment program to assure eligibility under ADA guidelines. Over \$2 million in annual savings occurred without any resulting service cuts.
- When the Council chose not to cut back special transportation service it resulted in a funding shift whereby for the first time, the service began to be funded partially through non-state revenue sources.

Assumptions: (Note: We are interpreting the bill language to mean that the service area must be equal to or contiguous with the area within the transit taxing district.)

- The CY 2006 budget for special transportation services is approximately \$31.4 million and is 9.8% of the Council’s total transportation budget.
- In 2005, special transportation services provided over 1.3 million rides, at a passenger subsidy rate of \$20.80 per trip. Current one-way fares are \$3.50 during peak hours and \$2.50 during non-peak hours.
- Falling motor vehicle sales tax (MVST) revenues, combined with the Council’s assumption of an annual 3.2% increase in costs, leads to a projected budget deficit for fiscal years 2007 through 2009. Estimated deficits are approximately: FY07 - \$15.3 million, FY08 - \$21.5 million and in FY09 - \$23.8 million.
- If the constitutional amendment fails this November, the Council will have a significant budget deficit that will need to be addressed through a combination of increased general fund appropriations, service cuts and other cost saving measures.
- If the constitutional amendment to dedicate additional motor vehicle sales tax revenues to transportation (38% to the metropolitan area) is passed this November, the Council will be able to manage the deficits in fiscal years 08 and 09 with the new revenues, but will still have a deficit in FY07.
- Given the efficiency savings that recently occurred with the special transportation service budget, it is not anticipated that the shortfall can be addressed through additional efficiency measures.

Expenditure Formula:

Special transportation service share of deficit at 9.8% of total budget:

FY07 \$15.3 M x .098 = \$1.5 M
FY08 \$21.5 M x .098 = \$2.1 M
FY09 \$23.8 M x .098 = \$2.3 M

SF 3450 would prohibit the Council from achieving any savings through reduction of special transportation service levels, even if the regular route service is being cut back. Therefore, if the constitutional amendment does not pass, it is anticipated that to maintain the current special transportation service level a general fund appropriation equal to the amount of the shortfall would be required.

Long Term Fiscal Considerations:

- Under federal law and Council practice, if a city joined the taxing district and was receiving only commuter route service, special transportation service would not be provided to that city.
- Under this legislation, the Council would be required to provide special transportation service to any city that joined the taxing district. This could result in substantial new costs and would be a disincentive for the Council to expand the transit taxing district.
- For example, if the City of Lakeville were to join the taxing district, providing special transportation service would have an estimated annual cost of \$840,000 in 2010.
- If the denial rate for Metro Mobility trips increased, the Council could be subject to legal action.

Local Government Impact: None.

Agency Contact Name: Amy Vennewitz, Transp. Planning 651-602-1058
FN Coord Signature: MIKE KUEHN
Date: 03/30/06 Phone: 602-1364

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NORMAN FOSTER
Date: 03/30/06 Phone: 215-0594

1.1 Senator moves to amend S.F. No. 3450 as follows:

1.2 Page 2, line 11, after "defined" insert "as of March 1, 2006,"