

A bill for an act

relating to transportation; appropriating money or reducing appropriations for certain transportation, Metropolitan Council, and public safety activities or programs; modifying provisions relating to transportation projects, contracts, and a highway emergency relief account; repealing provisions regulating the transportation of hazardous materials; amending Minnesota Statutes 2008, sections 161.04, by adding a subdivision; 161.3426, subdivision 3, by adding a subdivision; 174.02, by adding subdivisions; repealing Minnesota Statutes 2008, sections 13.721, subdivision 4; 221.0355, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18.

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

ARTICLE 1

TRANSPORTATION APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ <u>(1,733,000)</u> \$	<u>(2,670,000)</u> \$	<u>(4,403,000)</u>
<u>State Airports</u>	<u>(140,000)</u>	<u>(212,000)</u>	<u>(352,000)</u>
<u>Trunk Highway</u>	<u>-0-</u>	<u>109,000,000</u>	<u>109,000,000</u>
<u>Total</u>	\$ <u>(1,873,000)</u> \$	<u>106,118,000</u> \$	<u>104,245,000</u>

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 36, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for

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2.1 each purpose. The figures "2010" and "2011" used in this article mean that the addition to
 2.2 or subtraction from the appropriations listed under them are available for the fiscal year
 2.3 ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and
 2.4 reductions to appropriations for the fiscal year ending June 30, 2010, are effective the
 2.5 day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 **2011**

2.10 **Sec. 3. DEPARTMENT OF**
 2.11 **TRANSPORTATION**

2.12	<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(811,000)</u>	<u>\$</u>	<u>108,318,000</u>
2.13	<u>Appropriations by Fund</u>				
2.14	<u>General</u>	<u>(671,000)</u>		<u>(470,000)</u>	
2.15	<u>State Airports</u>	<u>(140,000)</u>		<u>(212,000)</u>	
2.16	<u>Trunk Highway</u>	<u>-0-</u>		<u>109,000,000</u>	

2.17 The amounts that may be spent for each
 2.18 purpose are specified in the following
 2.19 subdivisions.

2.20	<u>Subd. 2. State Road Construction</u>		<u>-0-</u>		<u>104,000,000</u>
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2.21 \$104,000,000 in fiscal year 2011 is
 2.22 appropriated to the commissioner of
 2.23 transportation from the trunk highway
 2.24 fund for state road construction. This
 2.25 appropriation is added to appropriations
 2.26 under Laws 2009, chapter 36, article 1,
 2.27 section 3, subdivision 3, paragraph (b),
 2.28 clause (2). This additional appropriation is
 2.29 funded by additional federal highway aid
 2.30 of \$104,000,000 above that specified in
 2.31 Laws 2009, chapter 36, article 1, section 3,
 2.32 subdivision 3, paragraph (b), clause (2). This
 2.33 is a onetime appropriation.

2.34	<u>Subd. 3. Federal Emergency Relief Account</u>		<u>-0-</u>		<u>5,000,000</u>
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3.1 \$5,000,000 in fiscal year 2011 is transferred
 3.2 from the trunk highway fund to the trunk
 3.3 highway emergency relief account and
 3.4 is appropriated to the commissioner of
 3.5 transportation for the purposes of that
 3.6 account.

3.7 **Subd. 4. Multimodal Systems**

3.8 <u>(a) Aeronautics</u>	<u>(140,000)</u>	<u>(212,000)</u>
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3.9 <u>Appropriations by Fund</u>		
3.10 <u>Airports</u>	<u>(140,000)</u>	<u>(212,000)</u>

3.11 **Aviation Support and Services.** A reduction
 3.12 of \$140,000 in fiscal year 2010 is made to
 3.13 Aviation Support and Services, and must
 3.14 be transferred from the airports fund to the
 3.15 general fund before June 30, 2010.

3.16 A reduction of \$212,000 in fiscal year 2011 is
 3.17 made to Aviation Support and Services, and
 3.18 must be transferred from the airports fund to
 3.19 the general fund before June 30, 2011.

3.20 <u>(b) Transit</u>	<u>(462,000)</u>	<u>(345,000)</u>
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3.21 <u>Appropriations by Fund</u>		
3.22 <u>General</u>	<u>(462,000)</u>	<u>(345,000)</u>

3.23 The base for nonmetro transit grants in 2012
 3.24 is \$16,598,000.

3.25 <u>(c) Freight</u>	<u>(125,000)</u>	<u>(125,000)</u>
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3.26 <u>Appropriations by Fund</u>		
3.27 <u>General</u>	<u>(125,000)</u>	<u>(125,000)</u>

3.28 This reduction is from the hazardous
 3.29 materials registration program.

3.30 <u>Subd. 5. Urban Partnership Reduction</u>	<u>(84,000)</u>	<u>-0-</u>
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3.31 <u>Appropriations by Fund</u>		
3.32 <u>General</u>	<u>(84,000)</u>	<u>-0-</u>

4.1 This is a onetime reduction from the
 4.2 appropriation in Laws 2008, chapter 179,
 4.3 section 16, subdivision 3.

4.4 Subd. 6. Transfers

4.5 Notwithstanding any law to the contrary,
 4.6 by June 30, 2010, the commissioner shall
 4.7 transfer \$265,000 from accounts in the
 4.8 special revenue fund to the general fund.

4.9 After July 1, 2010, and before June 30, 2011,
 4.10 the commissioner shall transfer \$376,000
 4.11 from accounts in the special revenue fund to
 4.12 the general fund.

4.13 Sec. 4. **DEPARTMENT OF PUBLIC SAFETY** \$ **-0-** \$ **(82,000)**

4.14 Appropriations by Fund
 4.15 General -0- (82,000)

4.16 This appropriation reduction is to the
 4.17 information technology budget in the
 4.18 technical support services budget activity
 4.19 of the administration and related services
 4.20 program. This reduction is permanent.

4.21 Sec. 5. **METROPOLITAN COUNCIL** \$ **(1,062,000)** \$ **(2,118,000)**

4.22 Appropriations by Fund
 4.23 General (1,062,000) (2,118,000)

4.24 These reductions are to the bus transit
 4.25 appropriations in Laws 2009, chapter
 4.26 36, article 1, section 4, subdivision 2.
 4.27 To the extent possible, the council shall
 4.28 reduce administrative costs to achieve the
 4.29 reductions. This reduction is permanent.

ARTICLE 2

TRANSPORTATION POLICY

Section 1. Minnesota Statutes 2008, section 161.04, is amended by adding a subdivision to read:

Subd. 5. **Trunk highway emergency relief account.** (a) The trunk highway emergency relief account is created in the trunk highway fund. Money in the account is appropriated to the commissioner to be used to fund relief activities related to an emergency, as defined in section 161.32, subdivision 3.

(b) Reimbursements by the Federal Highway Administration for emergency relief payments made from the trunk highway emergency relief account must be deposited into the account. Interest accrued on the account must be deposited into the account. Notwithstanding section 16A.28, money appropriated to the account for this program from any source is available until spent. If the balance of the account at the end of the fiscal year is greater than \$10,000,000, the amount above \$10,000,000 must be transferred to the trunk highway fund.

(c) By September 1, 2012, and in every subsequent even-numbered year by September 1, the commissioner shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over transportation policy and finance. The report must include the balance, as well as details of payments made from and deposits made to the trunk highway emergency relief account since the last report.

Sec. 2. Minnesota Statutes 2008, section 161.3426, subdivision 3, is amended to read:

Subd. 3. **Stipulated fee.** The commissioner shall award a stipulated fee not less than two-tenths of one percent of the department's estimated cost of design and construction to each unsuccessful short-listed, responsible proposer who ~~provides a responsive but unsuccessful proposal~~ obtains the minimum technical proposal score established by the commissioner in the RFP. If the commissioner does not award a contract, all short-listed proposers must receive the stipulated fee. If the commissioner cancels the contract before reviewing the technical proposals, the commissioner shall award each design-builder on the short list a stipulated fee of not less than two-tenths of one percent of the commissioner's estimated cost of design and construction. The commissioner shall pay the stipulated fee to each proposer within 90 days after the award of the contract or the decision not to award a contract. In consideration for paying the stipulated fee, the commissioner may use any ideas or information contained in the proposals in connection

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6.1 with any contract awarded for the project or in connection with a subsequent procurement,
6.2 without any obligation to pay any additional compensation to the unsuccessful proposers.
6.3 Notwithstanding the other provisions of this subdivision, an unsuccessful short-list
6.4 proposer may elect to waive the stipulated fee. If an unsuccessful short-list proposer
6.5 elects to waive the stipulated fee, the commissioner may not use ideas and information
6.6 contained in that proposer's proposal. Upon the request of the commissioner, a proposer
6.7 who waived a stipulated fee may withdraw the waiver, in which case the commissioner
6.8 shall pay the stipulated fee to the proposer and thereafter may use ideas and information in
6.9 the proposer's proposal.

6.10 Sec. 3. Minnesota Statutes 2008, section 161.3426, is amended by adding a subdivision
6.11 to read:

6.12 Subd. 6. **Reissue of RFP.** If the commissioner rejects all bids or does not execute
6.13 the contract, the commissioner may reissue the RFP and allow only short-listed teams
6.14 to resubmit proposals. The commissioner shall then pay a reasonable stipulated fee to
6.15 each unsuccessful short-listed, responsible proposer who obtains the minimum technical
6.16 proposal score established by the commissioner in the reissued RFP.

6.17 Sec. 4. Minnesota Statutes 2008, section 174.02, is amended by adding a subdivision
6.18 to read:

6.19 Subd. 8. **Alternative financing and investment in transportation projects.**
6.20 The commissioner may enter into agreements with governmental or nongovernmental
6.21 entities, including private and nonprofit entities, to finance or invest in transportation
6.22 projects, including repayment agreements subject to the availability of state money or
6.23 other dedicated revenue or resources, with the approval of the commissioner of Minnesota
6.24 Management and Budget.

6.25 Sec. 5. Minnesota Statutes 2008, section 174.02, is amended by adding a subdivision
6.26 to read:

6.27 Subd. 9. **Federal financial program authority.** The commissioner may apply
6.28 for and receive financial assistance under the Transportation Infrastructure Finance and
6.29 Innovation Act of 1998 (TIFIA), United States Code, title 23, chapter 6, or through other
6.30 federal transportation loan, grant, or credit assistance programs. The assistance may
6.31 include but is not limited to loans, loan guarantees, and lines of credit. The commissioner
6.32 may enter into agreements to repay the financial assistance subject to the availability of

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7.1 state money or other dedicated revenue or resources, with the approval of Minnesota
7.2 Management and Budget.

7.3 Sec. 6. **REPEALER.**

7.4 Minnesota Statutes 2008, sections 13.721, subdivision 4; and 221.0355, subdivisions
7.5 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, and 18, are repealed.

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13.721 TRANSPORTATION DATA CODED ELSEWHERE.

Subd. 4. **Transporting hazardous material or waste; permit application.** Data submitted under section 221.0355, subdivision 9, and received by the commissioner of transportation on applications for permits to transport hazardous material or hazardous waste are classified under section 221.0355, subdivision 9.

221.0355 UNIFORM HAZARDOUS MATERIAL AND HAZARDOUS WASTE REGISTRATION AND PERMIT REQUIREMENTS.

Subdivision 1. **Purpose.** The purpose of this section is to enable Minnesota to participate in establishing, implementing, and administering a uniform registration and permitting program for persons who transport or ship hazardous material or hazardous waste by motor vehicle on the public highways in interstate or intrastate commerce. The program's procedures and requirements must conform to those contained in the report submitted to the secretary of transportation pursuant to the "Hazardous Materials Transportation Uniform Safety Act of 1990," United States Code, title 49 appendix, section 1819, subsection (c).

Subd. 2. **Definitions.** For purposes of this section, the following words and phrases have the meanings given them in this subdivision:

(a) "Base state" means the state selected by a carrier according to the procedures established by the uniform program.

(b) "Base state agreement" means the agreement between participating states electing to register or permit carriers of hazardous material or hazardous waste.

(c) "Carrier" means a person who operates a motor vehicle used to transport hazardous material or hazardous waste.

(d) "Designated hazardous material" means a hazardous material described in Code of Federal Regulations, title 49, section 107.601, which is incorporated by reference.

(e) "Hazardous material" means:

(1) a hazardous material when the hazardous material is of a type or in a quantity that requires the transport vehicle to be placarded in accordance with Code of Federal Regulations, title 49, part 172; or

(2) a hazardous substance or marine pollutant when transported in bulk packaging as defined in Code of Federal Regulations, title 49, section 171.8, which is incorporated by reference.

(f) "Hazardous material transportation" means the transportation of hazardous material or hazardous waste, or both, on the public highways.

(g) "Hazardous waste" means hazardous waste of a type and amount that requires the shipment to be accompanied by a uniform hazardous waste manifest described in Code of Federal Regulations, title 40, part 262, including state-designated hazardous wastes when a list of state-designated hazardous wastes has been filed by the state with the national repository under the uniform program.

(h) "Participating state" means a state electing to participate in the uniform program by entering a base state agreement.

(i) "Person" means an individual, firm, copartnership, cooperative, company, association, limited liability company, corporation, or public entity.

(j) "Public entity" means a carrier who is a federal or state agency or political subdivision.

(k) "Shipper" means a person who offers a designated hazardous material to another person for shipment or who causes a designated hazardous material to be transported or shipped by another person.

(l) "Uniform application" means the uniform motor carrier registration and permit application form established under the uniform program.

(m) "Uniform program" means the Uniform State Hazardous Materials Transportation Motor Carrier Registration and Permit Program established in the report submitted to the secretary of transportation pursuant to the "Hazardous Materials Transportation Uniform Safety Act of 1990," United States Code, title 49 appendix, section 1819, subsection (c).

Subd. 3. **General requirements; exceptions.** Except as provided in subdivision 17, after October 1, 1994:

(a) No carrier, other than a public entity, may transport a hazardous material by motor vehicle in Minnesota unless it has complied with subdivision 4.

(b) No carrier, other than a public entity, may transport a hazardous waste in Minnesota unless it has complied with subdivisions 4 and 5.

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(c) No shipper may offer a designated hazardous material for shipment or cause a designated hazardous material to be transported or shipped in Minnesota unless it has complied with subdivision 7.

(d) No carrier, other than a public entity, may transport a designated hazardous material by rail or water in Minnesota unless it has complied with subdivision 7a.

(e) No public entity may transport a hazardous material or hazardous waste by motor vehicle in Minnesota unless it has complied with subdivision 8.

(f) A carrier registered under this section, who exclusively offers designated materials for shipment only in vehicles controlled or operated by that carrier and who does not offer hazardous materials to other private or for-hire carriers, is not required to register as a shipper under subdivision 7.

Subd. 4. Hazardous material registration and permit. (a) A carrier with its principal place of business in Minnesota or that designates Minnesota as its base state, shall register its hazardous material transportation with and obtain a permit from the commissioner before transporting a hazardous material or hazardous waste in Minnesota. A carrier that designates another participating state as its base state shall register its hazardous material transportation with and obtain a permit from that state before transporting a hazardous material or hazardous waste in Minnesota.

(b) A carrier who engages in the interstate transportation of a hazardous material and who is required to register its hazardous material transportation in Minnesota shall file parts I and II of the uniform application with the commissioner and pay an administrative processing fee of \$50 and an apportioned vehicle registration fee. The amount of the apportioned vehicle registration fee must be calculated under subdivision 6. A carrier who engages only in the intrastate transportation of a hazardous material, excluding hazardous waste, and who is required to register its hazardous material transportation in Minnesota shall file part I of the uniform application, pay a vehicle registration fee of \$15 for each vehicle it operates, and pay no apportioned fee.

(c) Upon a carrier's compliance with this subdivision, the commissioner shall issue a notice of registration form and a permit to the carrier. A notice of registration form must include a company registration number. A registration is valid for one year from the date a notice of registration form is issued and a permit is valid for three years from the date issued or until a carrier fails to renew its registration, whichever occurs first.

(d) A registered carrier shall maintain a copy of the notice of registration form and the permit in each vehicle it uses to transport a hazardous material or hazardous waste.

(e) A carrier with a permit shall annually certify that its current operations are not substantially different from its operations on the date it obtained its permit and shall recertify its compliance with applicable laws and regulations in part II of the uniform application when it renews its registration under this subdivision. Failure to comply with the certifications in part II is prohibited.

Subd. 5. Hazardous waste transporter. (a) A carrier with its principal place of business in Minnesota or who designates Minnesota as its base state shall file a disclosure statement with and obtain a permit from the commissioner that specifically authorizes the transportation of hazardous waste before transporting a hazardous waste in Minnesota. A carrier that designates another participating state as its base state shall file a disclosure statement with and obtain a permit from that state that specifically authorizes the transportation of hazardous waste before transporting a hazardous waste in Minnesota. A registration is valid for one year from the date a notice of registration form is issued and a permit is valid for three years from the date issued or until a carrier fails to renew its registration, whichever occurs first.

(b) A disclosure statement must include the information contained in part III of the uniform application. The commissioner shall not issue a notice of registration or permit to a hazardous waste transporter who has not made a full and accurate disclosure of the required information or paid the fees required by this subdivision. Making a materially false or misleading statement in a disclosure statement is prohibited.

(c) The commissioner shall assess a carrier the actual costs incurred by the commissioner for conducting the uniform program's required investigation of the information contained in a disclosure statement.

Subd. 6. Apportioned vehicle registration fee calculation. (a) An apportioned vehicle registration fee shall be equal to the percentage of Minnesota transportation multiplied by the percentage of hazardous material transportation multiplied by the total number of vehicles the carrier operates multiplied by a per-vehicle fee of \$30.

(b) A carrier shall calculate its percentage of Minnesota transportation and its percentage of hazardous material transportation as follows:

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(1) A carrier shall determine its percentage of Minnesota transportation by dividing the number of miles it traveled in Minnesota under the international registration plan, pursuant to section 168.187, during the previous year, by the number of miles it traveled in the United States and Canada under the international registration plan during the previous year. If a carrier operated only in Minnesota, it must use 100 percent of the miles traveled as its percentage of Minnesota transportation. If a carrier does not register its vehicles through the international registration plan, it must calculate the number of miles traveled in the manner required under the international registration plan. If a carrier operates more than one fleet under the international registration plan the carrier must add all miles traveled by all vehicles in all fleets to calculate its mileage. A Minnesota carrier who operates in an adjacent state under a reciprocal agreement with that state must include the miles operated under the agreement as miles traveled in Minnesota in calculating mileage under this clause.

(2) A carrier shall determine its percentage of hazardous material transportation as follows:

(i) for less-than-truckload shipments, it must divide the weight of the carrier's hazardous material and hazardous waste shipments transported during the previous year by the total weight of all shipments transported during the previous year; or

(ii) for truckload shipments, it must divide the number of shipments transported during the previous year for which placarding, marking, or manifesting, was required by Code of Federal Regulations, title 49, part 172, by the total number of all shipments transported during the previous year.

(c) A carrier that transports both truckload and less-than-truckload shipments of hazardous material or hazardous waste must determine its percentage of hazardous material transportation by calculating the absolute percentage of business that is hazardous material transportation on a proportional basis with the percentage of business that is not hazardous material transportation or by calculating its percentage within the ranges allowed following procedures under the uniform program.

(d) A carrier may use data from its most recent complete fiscal year or the most recent complete calendar year in calculating the percentages required in this subdivision for transportation conducted during the previous year.

Subd. 7. Shipper registration. (a) A shipper who maintains a distribution, terminal, warehouse, or other facility in Minnesota used to ship hazardous material or hazardous waste and who is required to comply with Code of Federal Regulations, title 49, sections 107.601 to 107.620, shall file, with the commissioner, a complete and accurate copy of its current registration statement, on the form described in Code of Federal Regulations, title 49, section 107.608, and a copy of its current federal certificate of registration. The fee for filing a shipper registration statement is \$250. If a shipper is required to pay a fee under section 299K.095, the commissioner shall credit the actual amount paid by the shipper during the previous 12 months toward payment of the fee required in this subdivision, not to exceed \$250 annually.

(b) Upon a shipper's compliance with this subdivision, the commissioner shall issue a certificate of registration to the shipper. A certificate of registration must bear an effective date and show the shipper's Minnesota hazardous material transportation registration number. A certificate of registration is valid for one year from the date it is issued and must be kept at the shipper's principal place of business.

(c) A shipper whose name, principal place of business, or business telephone number has changed during the time a certificate of registration is effective, shall notify the commissioner of the change by submitting an amended registration statement not later than 30 days after the change. Upon receiving an amended registration statement, the commissioner shall issue an amended certificate of registration. There is no fee for filing an amended registration statement or for issuing an amended certificate of registration.

Subd. 7a. Rail and water carriers. (a) A carrier of hazardous material by rail or water who is required to comply with Code of Federal Regulations, title 49, sections 107.601 to 107.620, shall file with the commissioner a complete and accurate copy of its current registration statement, on the form described in Code of Federal Regulations, title 49, section 107.608, and a copy of its current federal certificate of registration. The fee for filing the registration statement is \$250. If the carrier is required to pay a fee under section 299K.095, the commissioner shall credit the actual amount paid by carrier during the previous 12 months toward payment of the fee required in this subdivision, not to exceed \$250 annually.

(b) Upon a carrier's compliance with this subdivision, the commissioner shall issue a certificate of registration to the carrier. A certificate of registration must bear an effective date and show the carrier's Minnesota hazardous material transportation registration number. A certificate of registration is valid for one year from the date it is issued and must be kept at the carrier's principal place of business.

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(c) A carrier whose name, principal place of business, or business telephone number has changed during the time a certificate of registration is effective, shall notify the commissioner of the change by submitting an amended registration statement not later than 30 days after the change. Upon receiving an amended registration statement, the commissioner shall issue an amended certificate of registration. There is no fee for filing an amended registration statement or for issuing an amended certificate of registration.

Subd. 8. **Public entity registration.** (a) A public entity with its principal place of business in Minnesota or that designates Minnesota as its base state, shall register its hazardous material transportation with the commissioner before transporting a hazardous material or hazardous waste in Minnesota. A public entity that designates another participating state as its base state shall register its hazardous material transportation with that state before transporting a hazardous material or hazardous waste in Minnesota.

(b) A public entity that is required to register its hazardous material transportation in Minnesota shall file part I of the uniform application with the commissioner. There is no fee for the registration required in this subdivision.

(c) Upon a public entity's compliance with this subdivision, the commissioner shall issue a notice of registration form to the public entity. The notice of registration form must include a registration number. A registration is valid for one year from the date a notice of registration form is issued.

(d) A registered public entity shall maintain a copy of the notice of registration form in each vehicle it uses to transport hazardous material or hazardous waste.

Subd. 9. **Application data.** The following data submitted to the commissioner under subdivisions 4 and 5 are private data, with respect to data on individuals, and nonpublic data, with respect to data not on individuals: information contained in parts II and III of the uniform application relating to a carrier's customers and service provided to specific customers, financial balance sheet and income statement data, ownership and debt liability data, and information relating to a carrier's parent companies, affiliates, and subsidiaries. For the purpose of administering or enforcing the uniform program, the commissioner may disclose any information classified as private data on individuals or nonpublic data by this subdivision to the United States Department of Transportation, any other participating state or state agency, or to the national repository established under the uniform program.

Subd. 10. **Enforcement.** The commissioner may inspect or examine any motor vehicle or facility operated by a carrier or any facility operated by a person who ships, or offers for shipment, hazardous material or hazardous waste and may require the production of papers, books, records, documents, or other evidentiary material necessary to determine if a carrier or shipper is accurately reporting its hazardous material transportation operations and is otherwise complying with this section and the uniform program. The commissioner also may conduct investigations and audits necessary to determine if a carrier is entitled to a permit or to make suspension or revocation determinations.

Subd. 11. **Administrative penalties.** The commissioner may issue an order requiring violations of this section to be corrected. An order may include the administrative assessment of a monetary penalty up to a maximum of \$10,000 for all violations of this section identified during a single inspection, investigation, or audit. Section 221.036 applies to administrative penalty orders issued under this section. Penalties collected under this section must be deposited in the state treasury and credited to the trunk highway fund.

Subd. 12. **Suspension, revocation, and denial.** (a) The commissioner may suspend or revoke a permit issued under this section or order the suspension of the transportation of hazardous material or hazardous waste in Minnesota by a carrier who has obtained a permit from another participating state under the uniform program if the commissioner determines that a carrier:

(1) committed a violation of Code of Federal Regulations, title 49, parts 100 to 180, 383, 387, or 390 to 397, while engaging in hazardous materials transportation if the violation posed an imminent hazard to the public or the environment;

(2) made a knowing falsification of a material fact in a uniform application;

(3) has received an unsatisfactory safety rating from the state or the United States Department of Transportation; or

(4) has exhibited reckless disregard for the public and the environment.

(b) In determining if a carrier has exhibited reckless disregard for the public and the environment in violation of paragraph (a), clause (4), the commissioner shall consider:

(1) whether the carrier has engaged in a pattern of violations of Code of Federal Regulations, title 49, parts 100 to 180, 383, 387, or 390 to 397, or regulations governing the management of hazardous waste, while engaging in hazardous materials transportation, when the

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violations are viewed in relation to the number of truck-miles of hazardous material transportation and the number of vehicles in the carrier's fleet;

(2) the actual or potential level of environmental damage resulting from an incident or a violation of the federal regulations described in paragraph (a), clause (1);

(3) the response by the carrier to an incident or a violation of the federal regulations described in paragraph (a), clause (1);

(4) the carrier's history of violations for the past three years;

(5) any mitigating factors; and

(6) other factors as justice requires, if the commissioner specifically identifies the additional factors in the order of suspension or revocation.

(c) The commissioner may not issue a permit to a carrier if the commissioner determines that a carrier's conduct would constitute grounds for suspension or revocation under this subdivision. A carrier who wishes to contest a denial, suspension, or revocation is entitled to a hearing under chapter 14.

Subd. 13. **Base state agreement.** The commissioner may enter into agreements with federal agencies, a national repository, or other participating states as necessary to allow the reciprocal registration and permitting of carriers transporting hazardous material or hazardous waste. The agreements may include procedures for determining a base state, the collection and distribution of registration fees, dispute resolution, the exchange of information for reporting and enforcement purposes, and other provisions necessary to fully implement, administer, and enforce the uniform program.

Subd. 14. **Preemption.** This section preempts and supersedes any hazardous material or hazardous waste transportation registration or permitting program administered or enforced by any state agency, city, county, or other political subdivision of the state.

Subd. 16. **Revolving account.** (a) The commissioner shall deposit in a separate account in the trunk highway fund all federal funds received for implementing, administering, and enforcing this section. Money in the account is appropriated to the commissioner for those purposes.

(b) The commissioner shall accept and disburse federal funds available for the purpose of implementing, administering, and enforcing the uniform program.

Subd. 17. **Exemptions.** This section does not apply to the intrastate transportation described as follows:

(1) the transportation of hazardous material in a vehicle controlled by a farmer and operated by a farmer or farm employee when the hazardous material is to be used on the farm to which it is transported;

(2) the transportation of a hazardous waste jointly designated as a "special waste" by the commissioner of transportation and the commissioner of the Minnesota Pollution Control Agency; or

(3) transportation by fertilizer and agricultural chemical retailers while exclusively engaged in the delivery of fertilizer and agricultural chemicals when:

(i) the delivery is from the retailer's place of business directly to a farm within a 50-mile radius of the retailer's place of business; and

(ii) the fertilizer and agricultural chemicals are for use on the farm to which they are delivered.

Subd. 18. **Deposit and use of fees.** Fees received by the commissioner for administrative processing and investigating information in a disclosure statement must be deposited in the state treasury and credited to the trunk highway fund. Notwithstanding section 221.82, registration fees collected under subdivisions 4, 5, 7, and 7a must be deposited in the state treasury, credited to the general fund, and used to cover the costs of hazardous materials incident response capability under sections 299A.48 to 299A.52 and 299K.095.