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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1734

03/01/2021 Authored by Hansen, R., The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to environment; modifying enforcement authority; providing tribal access
1.3 to rural recycling grants; establishing Landfill Responsibility Act; modifying use
1.4 of closed landfill investment fund; providing for environmental justice
1.5 considerations in determining certain state permitting; modifying certain
1.6 requirements for labeling items as biodegradable or compostable; providing for
1.7 climate resiliency program; eliminating duplicate reporting; appropriating money;
1.8 amending Minnesota Statutes 2020, sections 115.03, subdivision 1; 115.071,
1.9 subdivisions 1, 4, by adding subdivisions; 115A.03, by adding subdivisions;
1.10 115A.565, subdivision 1; 115B.421; 116.06, by adding subdivisions; 116.07,
1.11 subdivisions 6, 9, by adding subdivisions; 116.11; 325E.046; proposing coding
1.12 for new law in Minnesota Statutes, chapters 115A; 116; repealing Minnesota
1.13 Statutes 2020, section 115.44, subdivision 9.

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

1.15 Section 1. Minnesota Statutes 2020, section 115.03, subdivision 1, is amended to read:

1.16 Subdivision 1. Generally. The agency is hereby given and charged with the following
1.17 powers and duties:

1.18 (a) to administer and enforce all laws relating to the pollution of any of the waters of
1.19 the state;

1.20 (b) to investigate the extent, character, and effect of the pollution of the waters of this
1.21 state and to gather data and information necessary or desirable in the administration or
1.22 enforcement of pollution laws, and to make such classification of the waters of the state as
1.23 it may deem advisable;

1.24 (c) to establish and alter such reasonable pollution standards for any waters of the state
1.25 in relation to the public use to which they are or may be put as it shall deem necessary for

2.1 the purposes of this chapter and, with respect to the pollution of waters of the state, chapter  
2.2 116;

2.3 (d) to encourage waste treatment, including advanced waste treatment, instead of stream  
2.4 low-flow augmentation for dilution purposes to control and prevent pollution;

2.5 (e) to adopt, issue, reissue, modify, deny, ~~or~~ revoke, reopen, enter into, or enforce  
2.6 reasonable orders, permits, variances, standards, rules, schedules of compliance, and  
2.7 stipulation agreements, under such conditions as it may prescribe, in order to prevent, control  
2.8 or abate water pollution, or for the installation or operation of disposal systems or parts  
2.9 thereof, or for other equipment and facilities:

2.10 (1) requiring the discontinuance of the discharge of sewage, industrial waste or other  
2.11 wastes into any waters of the state resulting in pollution in excess of the applicable pollution  
2.12 standard established under this chapter;

2.13 (2) prohibiting or directing the abatement of any discharge of sewage, industrial waste,  
2.14 or other wastes, into any waters of the state or the deposit thereof or the discharge into any  
2.15 municipal disposal system where the same is likely to get into any waters of the state in  
2.16 violation of this chapter and, with respect to the pollution of waters of the state, chapter  
2.17 116, or standards or rules promulgated or permits issued pursuant thereto, and specifying  
2.18 the schedule of compliance within which such prohibition or abatement must be  
2.19 accomplished;

2.20 (3) prohibiting the storage of any liquid or solid substance or other pollutant in a manner  
2.21 which does not reasonably assure proper retention against entry into any waters of the state  
2.22 that would be likely to pollute any waters of the state;

2.23 (4) requiring the construction, installation, maintenance, and operation by any person  
2.24 of any disposal system or any part thereof, or other equipment and facilities, or the  
2.25 reconstruction, alteration, or enlargement of its existing disposal system or any part thereof,  
2.26 or the adoption of other remedial measures to prevent, control or abate any discharge or  
2.27 deposit of sewage, industrial waste or other wastes by any person;

2.28 (5) establishing, and from time to time revising, standards of performance for new sources  
2.29 taking into consideration, among other things, classes, types, sizes, and categories of sources,  
2.30 processes, pollution control technology, cost of achieving such effluent reduction, and any  
2.31 nonwater quality environmental impact and energy requirements. Said standards of  
2.32 performance for new sources shall encompass those standards for the control of the discharge  
2.33 of pollutants which reflect the greatest degree of effluent reduction which the agency  
2.34 determines to be achievable through application of the best available demonstrated control

3.1 technology, processes, operating methods, or other alternatives, including, where practicable,  
3.2 a standard permitting no discharge of pollutants. New sources shall encompass buildings,  
3.3 structures, facilities, or installations from which there is or may be the discharge of pollutants,  
3.4 the construction of which is commenced after the publication by the agency of proposed  
3.5 rules prescribing a standard of performance which will be applicable to such source.

3.6 Notwithstanding any other provision of the law of this state, any point source the construction  
3.7 of which is commenced after May 20, 1973, and which is so constructed as to meet all  
3.8 applicable standards of performance for new sources shall, consistent with and subject to  
3.9 the provisions of section 306(d) of the Amendments of 1972 to the Federal Water Pollution  
3.10 Control Act, not be subject to any more stringent standard of performance for new sources  
3.11 during a ten-year period beginning on the date of completion of such construction or during  
3.12 the period of depreciation or amortization of such facility for the purposes of section 167  
3.13 or 169, or both, of the Federal Internal Revenue Code of 1954, whichever period ends first.  
3.14 Construction shall encompass any placement, assembly, or installation of facilities or  
3.15 equipment, including contractual obligations to purchase such facilities or equipment, at  
3.16 the premises where such equipment will be used, including preparation work at such  
3.17 premises;

3.18 (6) establishing and revising pretreatment standards to prevent or abate the discharge of  
3.19 any pollutant into any publicly owned disposal system, which pollutant interferes with,  
3.20 passes through, or otherwise is incompatible with such disposal system;

3.21 (7) requiring the owner or operator of any disposal system or any point source to establish  
3.22 and maintain such records, make such reports, install, use, and maintain such monitoring  
3.23 equipment or methods, including where appropriate biological monitoring methods, sample  
3.24 such effluents in accordance with such methods, at such locations, at such intervals, and in  
3.25 such a manner as the agency shall prescribe, and providing such other information as the  
3.26 agency may reasonably require;

3.27 (8) notwithstanding any other provision of this chapter, and with respect to the pollution  
3.28 of waters of the state, chapter 116, requiring the achievement of more stringent limitations  
3.29 than otherwise imposed by effluent limitations in order to meet any applicable water quality  
3.30 standard by establishing new effluent limitations, based upon section 115.01, subdivision  
3.31 13, clause (b), including alternative effluent control strategies for any point source or group  
3.32 of point sources to insure the integrity of water quality classifications, whenever the agency  
3.33 determines that discharges of pollutants from such point source or sources, with the  
3.34 application of effluent limitations required to comply with any standard of best available  
3.35 technology, would interfere with the attainment or maintenance of the water quality

4.1 classification in a specific portion of the waters of the state. Prior to establishment of any  
4.2 such effluent limitation, the agency shall hold a public hearing to determine the relationship  
4.3 of the economic and social costs of achieving such limitation or limitations, including any  
4.4 economic or social dislocation in the affected community or communities, to the social and  
4.5 economic benefits to be obtained and to determine whether or not such effluent limitation  
4.6 can be implemented with available technology or other alternative control strategies. If a  
4.7 person affected by such limitation demonstrates at such hearing that, whether or not such  
4.8 technology or other alternative control strategies are available, there is no reasonable  
4.9 relationship between the economic and social costs and the benefits to be obtained, such  
4.10 limitation shall not become effective and shall be adjusted as it applies to such person;

4.11 (9) modifying, in its discretion, any requirement or limitation based upon best available  
4.12 technology with respect to any point source for which a permit application is filed after July  
4.13 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the  
4.14 agency that such modified requirements will represent the maximum use of technology  
4.15 within the economic capability of the owner or operator and will result in reasonable further  
4.16 progress toward the elimination of the discharge of pollutants; ~~and~~

4.17 (10) requiring that applicants for wastewater discharge permits evaluate in their  
4.18 applications the potential reuses of the discharged wastewater; and

4.19 (11) requiring parties who enter into a negotiated agreement to settle an enforcement  
4.20 matter with the agency to reimburse the agency according to this clause for oversight costs  
4.21 that are incurred by the agency and associated with implementing the negotiated agreement.  
4.22 The agency may recover oversight costs exceeding \$25,000. Oversight costs include  
4.23 personnel and direct costs associated with inspections, sampling, monitoring, modeling,  
4.24 risk assessment, permit writing, engineering review, economic analysis and review, and  
4.25 other record or document review. Only oversight costs incurred after executing the negotiated  
4.26 agreement are covered by this clause. The agency's legal and litigation costs are not covered  
4.27 by this clause. The commissioner has discretion as to whether to apply this clause in cases  
4.28 when the agency is using schedules of compliance to bring a class of regulated parties into  
4.29 compliance. Reimbursement amounts are appropriated to the commissioner;

4.30 (f) to require to be submitted and to approve plans and specifications for disposal systems  
4.31 or point sources, or any part thereof and to inspect the construction thereof for compliance  
4.32 with the approved plans and specifications thereof;

4.33 (g) to prescribe and alter rules, not inconsistent with law, for the conduct of the agency  
4.34 and other matters within the scope of the powers granted to and imposed upon it by this

5.1 chapter and, with respect to pollution of waters of the state, in chapter 116, provided that  
5.2 every rule affecting any other department or agency of the state or any person other than a  
5.3 member or employee of the agency shall be filed with the secretary of state;

5.4 (h) to conduct such investigations, issue such notices, public and otherwise, and hold  
5.5 such hearings as are necessary or which it may deem advisable for the discharge of its duties  
5.6 under this chapter and, with respect to the pollution of waters of the state, under chapter  
5.7 116, including, but not limited to, the issuance of permits, and to authorize any member,  
5.8 employee, or agent appointed by it to conduct such investigations or, issue such notices and  
5.9 hold such hearings;

5.10 (i) for the purpose of water pollution control planning by the state and pursuant to the  
5.11 Federal Water Pollution Control Act, as amended, to establish and revise planning areas,  
5.12 adopt plans and programs and continuing planning processes, including, but not limited to,  
5.13 basin plans and areawide waste treatment management plans, and to provide for the  
5.14 implementation of any such plans by means of, including, but not limited to, standards, plan  
5.15 elements, procedures for revision, intergovernmental cooperation, residual treatment process  
5.16 waste controls, and needs inventory and ranking for construction of disposal systems;

5.17 (j) to train water pollution control personnel, and charge such fees therefor as are  
5.18 necessary to cover the agency's costs. All such fees received shall be paid into the state  
5.19 treasury and credited to the Pollution Control Agency training account;

5.20 (k) to impose as additional conditions in permits to publicly owned disposal systems  
5.21 appropriate measures to insure compliance by industrial and other users with any pretreatment  
5.22 standard, including, but not limited to, those related to toxic pollutants, and any system of  
5.23 user charges ratably as is hereby required under state law or said Federal Water Pollution  
5.24 Control Act, as amended, or any regulations or guidelines promulgated thereunder;

5.25 (l) to set a period not to exceed five years for the duration of any national pollutant  
5.26 discharge elimination system permit or not to exceed ten years for any permit issued as a  
5.27 state disposal system permit only;

5.28 (m) to require each governmental subdivision identified as a permittee for a wastewater  
5.29 treatment works to evaluate in every odd-numbered year the condition of its existing system  
5.30 and identify future capital improvements that will be needed to attain or maintain compliance  
5.31 with a national pollutant discharge elimination system or state disposal system permit; and

5.32 (n) to train subsurface sewage treatment system personnel, including persons who design,  
5.33 construct, install, inspect, service, and operate subsurface sewage treatment systems, and  
5.34 charge fees as necessary to pay the agency's costs. All fees received must be paid into the

6.1 state treasury and credited to the agency's training account. Money in the account is  
6.2 appropriated to the agency to pay expenses related to training.

6.3 The information required in clause (m) must be submitted in every odd-numbered year to  
6.4 the commissioner on a form provided by the commissioner. The commissioner shall provide  
6.5 technical assistance if requested by the governmental subdivision.

6.6 The powers and duties given the agency in this subdivision also apply to permits issued  
6.7 under chapter 114C.

6.8 Sec. 2. Minnesota Statutes 2020, section 115.071, subdivision 1, is amended to read:

6.9 Subdivision 1. **Remedies available.** The provisions of sections 103F.701 to 103F.755,  
6.10 this chapter and chapters 114C, 115A, and 116, and sections 325E.10 to 325E.1251 and  
6.11 325E.32 and all rules, standards, orders, stipulation agreements, schedules of compliance,  
6.12 and permits adopted or issued by the agency thereunder or under any other law now in force  
6.13 or hereafter enacted for the prevention, control, or abatement of pollution may be enforced  
6.14 by any one or any combination of the following: criminal prosecution; action to recover  
6.15 civil penalties; injunction; action to compel or cease performance; or other appropriate  
6.16 action, in accordance with the provisions of said chapters and this section.

6.17 Sec. 3. Minnesota Statutes 2020, section 115.071, subdivision 4, is amended to read:

6.18 Subd. 4. **Injunctions.** Any violation of the provisions, rules, standards, orders, stipulation  
6.19 agreements, variances, schedules of compliance, or permits specified in this chapter and  
6.20 chapters 114C and 116 ~~shall constitute~~ constitutes a public nuisance and may be enjoined  
6.21 as provided by law in an action, in the name of the state, brought by the attorney general.  
6.22 Injunctive relief under this subdivision may include but is not limited to a requirement that  
6.23 a facility or person immediately cease operation or activities until such time as the  
6.24 commissioner has reasonable assurance that renewed operation or activities will not violate  
6.25 state pollution requirements, cause harm to human health, or result in a serious violation of  
6.26 an applicable permit.

6.27 Sec. 4. Minnesota Statutes 2020, section 115.071, is amended by adding a subdivision to  
6.28 read:

6.29 Subd. 8. **Stipulation agreements.** In exercising enforcement powers over a term of a  
6.30 stipulation agreement when a party asserts a good cause or force majeure claim for an  
6.31 extension of time to comply with a stipulated term, the commissioner must not grant the  
6.32 extension if the assertion is based solely on increased costs.

7.1 Sec. 5. Minnesota Statutes 2020, section 115.071, is amended by adding a subdivision to  
7.2 read:

7.3 Subd. 9. **Compliance when required permit not obtained.** The commissioner may  
7.4 require a person or facility that fails to obtain a required permit to comply with any terms  
7.5 of a permit that would have been issued had the person or facility obtained a permit, including  
7.6 but not limited to reporting, monitoring, controlling pollutant discharge, and creating and  
7.7 implementing operations and maintenance plans. The person or facility is subject to liability  
7.8 and penalties, including criminal liability, for failing to operate in compliance with a permit  
7.9 not obtained beginning at the time a permit should have been obtained.

7.10 Sec. 6. Minnesota Statutes 2020, section 115A.03, is amended by adding a subdivision to  
7.11 read:

7.12 Subd. 10b. **Environmental justice.** "Environmental justice" means the right of  
7.13 communities of color, indigenous communities, and low-income communities to enjoy a  
7.14 healthy environment and to be treated fairly when environmental statutes, rules, and policies  
7.15 are developed, adopted, implemented, and enforced.

7.16 Sec. 7. Minnesota Statutes 2020, section 115A.03, is amended by adding a subdivision to  
7.17 read:

7.18 Subd. 10c. **Environmental justice community.** "Environmental justice community"  
7.19 means a people, group, or geographic location that experiences environmental harms and  
7.20 risks that prevent environmental justice.

7.21 Sec. 8. **[115A.40] CITATION.**

7.22 Sections 115A.40 to 115A.405 may be cited as the "Landfill Responsibility Act."

7.23 Sec. 9. **[115A.401] LEGISLATIVE GOALS AND INTENT.**

7.24 (a) It is the goal of the Landfill Responsibility Act to reduce the environmental impacts  
7.25 from all aspects of solid waste, from acquiring product material through disposing of product,  
7.26 and to prioritize the expansion of waste reduction or source reduction activities across the  
7.27 state. In accordance with the goals and policies of this chapter and the waste management  
7.28 preferences in section 115A.02, the Landfill Responsibility Act supports waste reduction  
7.29 and reuse.

7.30 (b) The legislature intends for the projects developed under the Landfill Responsibility  
7.31 Act to encourage a greater awareness of the need for and benefits of waste reduction and

8.1 reuse and to develop a greater degree of cooperation and coordination among all elements  
8.2 of government, industry, and the public in advancing more sustainable actions.

8.3 **Sec. 10. [115A.402] DEFINITIONS.**

8.4 Subdivision 1. **Applicability.** For the purposes of sections 115A.40 to 115A.405, the  
8.5 terms defined in this section have the meanings given.

8.6 Subd. 2. **Applicable area.** "Applicable area" means an area described in a permit for a  
8.7 disposal facility that accepted mixed municipal solid waste during the immediately preceding  
8.8 year.

8.9 Subd. 3. **Covered entity.** "Covered entity" means the owner or operator of a disposal  
8.10 facility at which an applicable area is located.

8.11 Subd. 4. **Rate charged.** "Rate charged" means the total amount charged by a covered  
8.12 entity, per ton, to accept solid waste at a disposal facility for treatment, storage, processing,  
8.13 transfer, disposal, or any other purpose and includes tipping fees and service charges.

8.14 **Sec. 11. [115A.403] LANDFILL RESPONSIBILITY PROJECTS.**

8.15 Subdivision 1. **Project application and eligibility.** (a) Every three years, or more  
8.16 frequently at the commissioner's discretion, the commissioner must provide public notice  
8.17 and solicit proposals for eligible landfill responsibility projects.

8.18 (b) At any time after the notice is provided under paragraph (a), a person may propose  
8.19 a landfill responsibility project. Proposals must be submitted in the form and manner  
8.20 prescribed by the commissioner. At a minimum, a proposal must include:

8.21 (1) a description of the proposer's qualifications with waste reduction or source reduction;

8.22 (2) a description of the scope of the project, including how the project will result in  
8.23 waste reduction or source reduction;

8.24 (3) the expected amount of waste reduction or source reduction attributable to the project;

8.25 (4) a description of the timeline of the project;

8.26 (5) a detailed annual budget for the project;

8.27 (6) identification and a description of environmental justice communities served by the  
8.28 project;

8.29 (7) a description of how the project meets the following minimum requirements:

8.30 (i) is administered in the state;

9.1 (ii) does not supplant existing work;

9.2 (iii) provides a high return in environmental benefits, including but not limited to reducing  
9.3 greenhouse gas emissions;

9.4 (iv) demonstrates cost-effectiveness;

9.5 (v) has measurable outcomes for waste reduction or source reduction; and

9.6 (vi) includes only waste reduction or source reduction activities; and

9.7 (8) any other information required by the commissioner to evaluate the project.

9.8 (c) Only waste reduction and reuse as a waste management practice under section  
9.9 115A.02, paragraph (b), clause (1), are eligible for project funding under this section. Waste  
9.10 management practices under section 115A.02, paragraph (b), clauses (2) to (6), are not  
9.11 eligible.

9.12 (d) The commissioner must establish and maintain a list of eligible landfill responsibility  
9.13 projects and make the list available to covered entities. The commissioner must evaluate  
9.14 proposals submitted under paragraph (b) and determine whether to include each proposal  
9.15 on the list of eligible landfill responsibility projects. The commissioner may remove a project  
9.16 from the list at any time if the project no longer meets the minimum criteria under paragraph  
9.17 (b), clause (7), or if the commissioner determines the project will not be completed as  
9.18 proposed.

9.19 (e) The waste reduction or source reduction activities of an eligible project as described  
9.20 in a proposal under paragraph (b) may not begin until:

9.21 (1) the project is included in a plan approved by the commissioner under subdivision 4;  
9.22 or

9.23 (2) the proposal is rescinded or the project is removed from the eligible projects list.

9.24 Subd. 2. **Obligation.** (a) Each year, a covered entity must fund eligible landfill  
9.25 responsibility projects according to this subdivision in an amount at least equal to the covered  
9.26 entity's obligation determined under paragraph (b).

9.27 (b) A covered entity's obligation is three percent of the covered entity's revenue and is  
9.28 calculated according to the formula:

9.29  $X=(A*B) * 0.03$

9.30 Where:

10.1 X is the total obligation that the covered entity must meet in the three-year approved  
10.2 plan

10.3 A is the annual average rate charged at an applicable area during the three-year period  
10.4 immediately preceding the date a plan must be submitted under subdivision 3

10.5 B is the total tons of solid waste accepted in the applicable area during the three-year  
10.6 period immediately preceding the date a plan must be submitted under subdivision 3

10.7 Subd. 3. **Covered entity plans.** (a) By January 1, 2023, and every third year thereafter,  
10.8 or more frequently as determined by the commissioner, a covered entity must submit a plan  
10.9 to the commissioner in the form and manner prescribed by the commissioner. The plan must  
10.10 include:

10.11 (1) the covered entity's obligation for the plan period as calculated in subdivision 2;

10.12 (2) a selection of projects from the list of eligible projects under subdivision 1, paragraph  
10.13 (d), according to the following:

10.14 (i) selection must be made so that 40 percent of the obligation will directly serve  
10.15 environmental justice communities; and

10.16 (ii) the total selection must include projects with budgets that annually meet or exceed  
10.17 the covered entity's obligation for the period of the plan;

10.18 (3) estimated amounts of waste reduction or source reduction for each selected project,  
10.19 categorized by material type;

10.20 (4) a description of how the covered entity will annually meet its obligation for each of  
10.21 the three years in the plan period; and

10.22 (5) any other criteria required by the commissioner to determine the sufficiency of the  
10.23 plan.

10.24 (b) The commissioner may modify dates for plan submission under paragraph (a) if the  
10.25 commissioner determines it is necessary to implement the Landfill Responsibility Act.

10.26 Subd. 4. **Commissioner review.** (a) Upon receiving a plan under subdivision 3, the  
10.27 commissioner must:

10.28 (1) notify a covered entity if a plan is incomplete, specifying the specific items that need  
10.29 to be submitted to make the plan complete;

11.1 (2) giving first-come first-served preference based on when a plan is submitted, require  
11.2 a covered entity to revise and resubmit a plan if the commissioner determines it necessary  
11.3 to:

11.4 (i) ensure that no more than 25 percent of the total obligation of all covered entities is  
11.5 allocated to a single recipient;

11.6 (ii) prevent duplicative selection of eligible projects;

11.7 (iii) prioritize fully funding individual eligible projects before selecting additional projects  
11.8 for funding; or

11.9 (iv) implement the Landfill Responsibility Act and remain consistent with other state  
11.10 law; and

11.11 (3) provide covered entities with plan approval, including any modifications required  
11.12 under this paragraph, within 45 days after the plan is submitted under subdivision 3.

11.13 (b) After receiving initial approval of a plan, a covered entity must revise and resubmit  
11.14 a plan for approval or disapproval if the eligible projects change during the plan period. If  
11.15 a project can no longer be completed as described, a covered entity must choose another  
11.16 project to meet its obligation. The covered entity must resubmit its plan to the commissioner  
11.17 if there is a substantial change in obligation or if an eligible project is unable to be performed  
11.18 as described.

11.19 Subd. 5. **Project implementation.** (a) After a plan is approved under subdivision 4, a  
11.20 covered entity must implement the plan.

11.21 (b) After a person receives funding from a covered entity, the covered entity and the  
11.22 person receiving funding must implement the plan according to the proposal submitted  
11.23 under subdivision 1. If a person implementing the project is no longer able to perform the  
11.24 project according to the proposal, the person must immediately notify the covered entity  
11.25 and the commissioner.

11.26 Subd. 6. **Reporting requirements.** (a) No later than February 1 each year, a covered  
11.27 entity must submit a report to the commissioner for the preceding calendar year. The annual  
11.28 report must be submitted in a form and manner prescribed by the commissioner and must  
11.29 include:

11.30 (1) a description of the covered entity's progress made toward objectives detailed in the  
11.31 plan developed under subdivision 3, including a summary of the projects completed for the  
11.32 reporting year;

12.1 (2) evidence, such as receipts, of meeting the covered entity's obligation for the previous  
 12.2 year;

12.3 (3) the rate charged during the preceding calendar year;

12.4 (4) proof of how at least 40 percent of the covered entity's obligation is met through  
 12.5 projects directly serving environmental justice communities; and

12.6 (5) any other information requested by the commissioner to determine compliance.

12.7 (b) No later than February 1 each year, a person receiving funding for a landfill  
 12.8 responsibility project must submit a report to the commissioner for the preceding calendar  
 12.9 year. The annual report must be submitted in a form and manner prescribed by the  
 12.10 commissioner and must include:

12.11 (1) proof of the amount of funding received and the time frame for each eligible project;

12.12 (2) the time frame for the project;

12.13 (3) a description of the amount of waste reduction or source reduction achieved by the  
 12.14 project during the reporting year by weight, categorized by material type;

12.15 (4) a description of how the project served environmental justice communities, if  
 12.16 applicable;

12.17 (5) a description of how the data was measured and the activities used to achieve the  
 12.18 specified waste reduction or source reduction amounts; and

12.19 (6) any other information requested by the commissioner to determine compliance.

12.20 Subd. 7. **Operating record.** A covered entity must record and maintain in an operating  
 12.21 record all information used to determine the rate charged, including gate receipts and financial  
 12.22 records, for a minimum of five years.

12.23 Subd. 8. **Duty to provide information.** If the commissioner requests information to  
 12.24 determine compliance with this section, a person must furnish to the commissioner any  
 12.25 information that the person may have or may reasonably obtain.

12.26 Sec. 12. **[115A.404] LANDFILL RESPONSIBILITY ASSESSMENT.**

12.27 (a) By January 1 each year, a covered entity must pay to the commissioner an assessment  
 12.28 fee according to this section. The commissioner must deposit the fee in the state treasury  
 12.29 and credit the fee to the environmental fund.

12.30 (b) The annual assessment fee is calculated for each covered entity according to the  
 12.31 formula:

13.1  $X = A * (B/C)$

13.2 Where:

13.3 X is the assessment fee owed by each covered entity

13.4 A is the anticipated total annual cost to the agency to administer and implement the  
13.5 Landfill Responsibility Act for the following year, as determined by the commissioner

13.6 B is the total amount of solid waste, measured in tons, disposed of in a covered entity's  
13.7 applicable area or applicable areas according to the covered entity's most recent annual  
13.8 report

13.9 C is the total amount of solid waste, measured in tons, disposed of in the applicable areas  
13.10 at all covered entities according to the covered entities' most recent annual reports

13.11 **Sec. 13. [115A.405] WASTE COMPOSITION STUDY.**

13.12 Subdivision 1. **Waste composition study.** By January 1 each year, the commissioner  
13.13 must conduct a waste composition study at covered entities. When identifying facilities for  
13.14 waste composition studies, the commissioner must rotate the covered entities and each  
13.15 covered entity must allow the commissioner to perform a waste composition study at least  
13.16 once every three years.

13.17 Subd. 2. **Access.** The commissioner or commissioner's designee, upon presentation of  
13.18 credentials, may enter upon any public or private property to take any action authorized by  
13.19 this section. The covered entity must provide access to pertinent books and records and  
13.20 provide reasonable accommodations for a waste composition study to be completed  
13.21 accurately and safely.

13.22 Subd. 3. **Data compilation.** The commissioner must annually compile and summarize  
13.23 the waste composition data. The commissioner must make the summary information available  
13.24 to the public.

13.25 **Sec. 14. Minnesota Statutes 2020, section 115A.565, subdivision 1, is amended to read:**

13.26 **Subdivision 1. **Grant program established.**** The commissioner ~~shall~~ must make  
13.27 competitive grants to political subdivisions or federally recognized tribes to establish curbside  
13.28 recycling or composting, increase recycling or composting, reduce the amount of recyclable  
13.29 materials entering disposal facilities, or reduce the costs associated with hauling waste by  
13.30 locating collection sites as close as possible to the site where the waste is generated. To be  
13.31 eligible for grants under this section, a political subdivision or federally recognized tribe

14.1 must be located outside the seven-county metropolitan area and a city must have a population  
14.2 of less than 45,000.

14.3 Sec. 15. Minnesota Statutes 2020, section 115B.421, is amended to read:

14.4 **115B.421 CLOSED LANDFILL INVESTMENT FUND.**

14.5 (a) The closed landfill investment fund is established in the state treasury. The fund  
14.6 consists of money credited to the fund, and interest and other earnings on money in the  
14.7 fund. Beginning July 1, 2003, funds must be deposited as described in section 115B.445.  
14.8 The fund shall be managed to maximize long-term gain through the State Board of  
14.9 Investment. Money in the fund is appropriated to the commissioner and may be spent by  
14.10 the commissioner after fiscal year 2020 in accordance with sections 115B.39 to 115B.444.

14.11 (b) The commissioner of management and budget must allocate the amounts available  
14.12 in any biennium to the commissioner for the purposes provided in sections 115B.39 to  
14.13 115B.444 based on work plans submitted by the commissioner and may adjust the allocations  
14.14 if the commissioner submits revised work plans. The commissioner must submit copies of  
14.15 the work plans to the chairs of the senate and house of representatives committees and  
14.16 divisions having jurisdiction over environment policy and finance. The commissioner may  
14.17 submit one work plan for the landfill cleanup program covering all funding sources to meet  
14.18 the work plan requirements under section 116.155 and this section.

14.19 Sec. 16. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to  
14.20 read:

14.21 Subd. 6a. **Commissioner.** "Commissioner" means the commissioner of the Minnesota  
14.22 Pollution Control Agency.

14.23 Sec. 17. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to  
14.24 read:

14.25 Subd. 6b. **Community of color.** "Community of color" means a geographically distinct  
14.26 population with a substantial number of individuals who identify as Black, African American,  
14.27 Hispanic, Latinx, Asian, Pacific Islander, or any other nonwhite race.

14.28 Sec. 18. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to  
14.29 read:

14.30 Subd. 6c. **Cumulative impacts.** "Cumulative impacts" means the potential public health  
14.31 and environmental impacts from combined pollutant exposures and risks, incorporating the

15.1 context of community vulnerabilities, assessed from publicly accessible data based on the  
 15.2 past, present, and reasonably foreseeable future levels, emissions, and discharges affecting  
 15.3 the geographical area.

15.4 Sec. 19. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to  
 15.5 read:

15.6 Subd. 10a. **Environmental justice.** "Environmental justice" means that communities  
 15.7 of color, indigenous communities, and low-income communities have a healthy environment  
 15.8 and are treated fairly when environmental statutes, rules, and policies are developed, adopted,  
 15.9 implemented, and enforced.

15.10 Sec. 20. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to  
 15.11 read:

15.12 Subd. 10b. **Environmental justice area of concern.** "Environmental justice area of  
 15.13 concern" means a census tract or tracts:

15.14 (1) wherein at least 40 percent of people reported income less than 200 percent of the  
 15.15 federal poverty level;

15.16 (2) wherein at least 45 percent of the people identify as people of color in the most recent  
 15.17 data from the United States Census Bureau; or

15.18 (3) that are in Indian country, as defined in United States Code, title 18, section 1151.

15.19 Sec. 21. **[116.065] ENVIRONMENTAL JUSTICE AREAS OF CONCERN.**

15.20 (a) When a new facility or a proposed expansion of an existing facility is located in an  
 15.21 environmental justice area of concern, the owner or operator of the facility must conduct  
 15.22 an analysis of the cumulative impacts that the facility or expansion would cause or contribute  
 15.23 to in the environmental justice area of concern.

15.24 (b) An owner or operator of a facility or project that requires a state permit under chapters  
 15.25 115 to 116 and that is located in an environmental justice area of concern must hold at least  
 15.26 one public meeting in the area of concern before the commissioner issues or denies a permit.

15.27 (c) The commissioner may require a permitted facility located in an environmental justice  
 15.28 area of concern to hold in-person meetings with neighbors to share information and discuss  
 15.29 community concerns. The commissioner may set the number and frequency of required  
 15.30 meetings as permit conditions.

16.1 (d) The commissioner may deny permits in an environmental justice area of concern if  
 16.2 the commissioner finds that a new facility that requires a permit from the agency would  
 16.3 cause or contribute to adverse cumulative impacts. The commissioner may consider other  
 16.4 compelling public interests in the decision to issue permits according to this section.

16.5 (e) The commissioner must adopt rules according to chapter 14 to implement this section.

16.6 Sec. 22. Minnesota Statutes 2020, section 116.07, subdivision 6, is amended to read:

16.7 Subd. 6. **Pollution Control Agency; exercise of powers.** In exercising all its powers,  
 16.8 the commissioner of the Pollution Control Agency shall give due consideration to must:

16.9 (1) consider the establishment, maintenance, operation and expansion of business,  
 16.10 commerce, trade, industry, traffic, and other economic factors and other material matters  
 16.11 affecting the feasibility and practicability of any proposed action, including, but not limited  
 16.12 to, the burden on a municipality of any tax which may result therefrom, and shall must take  
 16.13 or provide for such action as may be reasonable, feasible, and practical under the  
 16.14 circumstances; and

16.15 (2) to the extent reasonable, feasible, and practical under the circumstances:

16.16 (i) ensure that actions or programs that have a direct, indirect, or cumulative impact on  
 16.17 environmental justice areas of concern incorporate community-focused practices and  
 16.18 procedures in agency processes, including communication, outreach, engagement, and  
 16.19 education to enhance meaningful, timely, and transparent community access;

16.20 (ii) collaborate with other state agencies to identify, develop, and implement means to  
 16.21 eliminate and reverse environmental and health inequities and disparities;

16.22 (iii) promote the utility and availability of environmental data and analysis for  
 16.23 environmental justice areas of concern, other agencies, federally recognized tribal  
 16.24 governments, and the public;

16.25 (iv) encourage coordination and collaboration with residents of environmental justice  
 16.26 areas of concern to address environmental and health inequities and disparities; and

16.27 (v) ensure environmental justice values are represented to the agency from a  
 16.28 commissioner-appointed environmental justice advisory committee that is composed of  
 16.29 diverse members and that is developed and operated in a manner open to the public and in  
 16.30 accordance with the duties described in the bylaws and charter adopted and maintained by  
 16.31 the commissioner.

17.1 Sec. 23. Minnesota Statutes 2020, section 116.07, subdivision 9, is amended to read:

17.2 Subd. 9. **Orders; investigations.** ~~The agency shall have~~ commissioner has the following  
17.3 powers and duties for ~~the enforcement of~~ enforcing any provision of this chapter and chapter  
17.4 114C, relating to air contamination or waste:

17.5 (1) to adopt, issue, reissue, modify, deny, revoke, reopen, enter into or enforce reasonable  
17.6 orders, schedules of compliance and stipulation agreements;

17.7 (2) to require the owner or operator of any emission facility, air contaminant treatment  
17.8 facility, potential air contaminant storage facility, or any system or facility related to the  
17.9 storage, collection, transportation, processing, or disposal of waste to establish and maintain  
17.10 records; to make reports; to install, use, and maintain monitoring equipment or methods;  
17.11 and to make tests, including testing for odor where a nuisance may exist, in accordance with  
17.12 methods, at locations, at intervals, and in a manner as the agency shall prescribe; and to  
17.13 provide other information as the agency may reasonably require;

17.14 (3) to conduct investigations, issue notices, public and otherwise, and order hearings as  
17.15 it may deem necessary or advisable for the discharge of its duties under this chapter and  
17.16 chapter 114C, including but not limited to the issuance of permits; and to authorize any  
17.17 member, employee, or agent appointed by it to conduct the investigations and issue the  
17.18 notices; and

17.19 (4) to require parties who enter into a negotiated agreement to settle an enforcement  
17.20 matter with the agency to reimburse the agency according to this clause for oversight costs  
17.21 that are incurred by the agency and associated with implementing the negotiated agreement.  
17.22 The agency may recover oversight costs exceeding \$25,000. Oversight costs include  
17.23 personnel and direct costs associated with inspections, sampling, monitoring, modeling,  
17.24 risk assessment, permit writing, engineering review, economic analysis and review, and  
17.25 other record or document review. Only oversight costs incurred after executing the negotiated  
17.26 agreement are covered by this clause. The agency's legal and litigation costs are not covered  
17.27 by this clause. The commissioner has discretion as to whether to apply this clause in cases  
17.28 where the agency is using schedules of compliance to bring a class of regulated parties into  
17.29 compliance. Reimbursement amounts are appropriated to the commissioner.

17.30 Sec. 24. Minnesota Statutes 2020, section 116.07, is amended by adding a subdivision to  
17.31 read:

17.32 Subd. 9a. **Stipulation agreements.** In exercising enforcement powers over a term of a  
17.33 stipulation agreement when a party asserts a good cause or force majeure claim for an

18.1 extension of time to comply with a stipulated term, the commissioner must not grant the  
18.2 extension if the assertion is based solely on increased costs.

18.3 Sec. 25. Minnesota Statutes 2020, section 116.07, is amended by adding a subdivision to  
18.4 read:

18.5 Subd. 9b. **Compliance when required permit not obtained.** The commissioner may  
18.6 require a person or facility that fails to obtain a required permit to comply with any terms  
18.7 of a permit that would have been issued had the person or facility obtained a permit, including  
18.8 but not limited to reporting, monitoring, controlling pollutant discharge, and creating and  
18.9 implementing operations and maintenance plans. The person or facility is subject to liability  
18.10 and penalties, including criminal liability, for failing to operate in compliance with a permit  
18.11 not obtained beginning at the time a permit should have been obtained.

18.12 Sec. 26. Minnesota Statutes 2020, section 116.11, is amended to read:

18.13 **116.11 EMERGENCY POWERS.**

18.14 Subdivision 1. **Imminent and substantial danger.** If there is imminent and substantial  
18.15 danger to the health and welfare of the people of the state, or of any of them, as a result of  
18.16 the pollution of air, land, or water, the ~~agency~~ commissioner may by emergency order direct  
18.17 the immediate discontinuance or abatement of the pollution without notice and without a  
18.18 hearing or at the request of the ~~agency~~ commissioner, the attorney general may bring an  
18.19 action in the name of the state in the appropriate district court for a temporary restraining  
18.20 order to immediately abate or prevent the pollution. The ~~agency~~ commissioner's order or  
18.21 temporary restraining order ~~shall remain~~ is effective until notice, hearing, and determination  
18.22 pursuant to other provisions of law, or, in the interim, as otherwise ordered. A final order  
18.23 of the ~~agency~~ commissioner in these cases ~~shall be~~ is appealable in accordance with chapter  
18.24 14.

18.25 Subd. 2. **Other acts of concern.** (a) The commissioner may exercise the authority under  
18.26 paragraph (b) when the commissioner has evidence of a pattern of behavior that includes  
18.27 any of the following:

18.28 (1) falsification of records;

18.29 (2) a history of noncompliance with schedules of compliance or terms of a stipulation  
18.30 agreement;

18.31 (3) chronic or substantial permit violations; or

19.1 (4) operating with or without a permit where there is evidence of danger to the health  
 19.2 or welfare of the people of the state or evidence of environmental harm.

19.3 (b) When the commissioner has evidence of a pattern of behavior specified in paragraph  
 19.4 (a), then regardless of the presence of imminent and substantial danger, the commissioner  
 19.5 may investigate and may:

19.6 (1) exercise emergency powers according to subdivision 1;

19.7 (2) suspend or revoke a permit;

19.8 (3) issue an order to cease operation or activities;

19.9 (4) require financial assurances;

19.10 (5) reopen and modify a permit to require additional terms;

19.11 (6) require additional agency oversight; or

19.12 (7) pursue other actions deemed necessary to abate pollution and protect human health.

19.13 Sec. 27. Minnesota Statutes 2020, section 325E.046, is amended to read:

19.14 **325E.046 STANDARDS FOR LABELING PLASTIC BAGS, FOOD OR**  
 19.15 **BEVERAGE PRODUCTS, AND PACKAGING.**

19.16 Subdivision 1. **"Biodegradable" label.** ~~A manufacturer, distributor, or wholesaler person~~  
 19.17 ~~may not sell or offer for sale in this state a plastic bag covered product labeled~~  
 19.18 ~~"biodegradable," "degradable," "decomposable," or any form of those terms, or in any way~~  
 19.19 ~~imply that the bag covered product will chemically decompose into innocuous elements in~~  
 19.20 ~~a reasonably short period of time in a landfill, composting, or other terrestrial environment~~  
 19.21 ~~unless a scientifically based standard for biodegradability is developed and the bags are~~  
 19.22 ~~certified as meeting the standard. break down, fragment, degrade, biodegrade, or decompose~~  
 19.23 ~~in a landfill or other environment, unless an ASTM standard specification is adopted for~~  
 19.24 ~~the term claimed and the specification is approved by the legislature.~~

19.25 Subd. 2. **"Compostable" label.** (a) ~~A manufacturer, distributor, or wholesaler person~~  
 19.26 ~~may not sell or offer for sale in this state a plastic bag covered product labeled "compostable"~~  
 19.27 ~~unless, at the time of sale or offer for sale, the bag covered product:~~

19.28 (1) meets the ASTM Standard Specification for Compostable Labeling of Plastics  
 19.29 Designed to be Aerobically Composted in Municipal or Industrial Facilities (D6400). Each  
 19.30 bag must be labeled to reflect that it meets the standard. For purposes of this subdivision,  
 19.31 "ASTM" has the meaning given in section 296A.01, subdivision 6. or its successor or the

20.1 ASTM Standard Specification for Labeling of End Items that Incorporate Plastics and  
 20.2 Polymers as Coatings or Additives with Paper and Other Substrates Designed to be  
 20.3 Aerobically Composted in Municipal or Industrial Facilities (D6868) or its successor, and  
 20.4 the covered product is labeled to reflect that it meets the specification;

20.5 (2) is comprised of only wood without any coatings or additives; or

20.6 (3) is comprised of only paper without any coatings or additives.

20.7 (b) A covered product labeled "compostable" and meeting the criteria under paragraph  
 20.8 (a) must be clearly and prominently labeled on the product, or on the product's smallest unit  
 20.9 of sale, to reflect that it is intended for an industrial or commercial compost facility. The  
 20.10 label required under this paragraph must be in legible text size and font.

20.11 Subd. 2a. **Certification of compostable products.** Beginning January 1, 2023, a person  
 20.12 may not sell or offer for sale a covered product labeled as "compostable" unless the person  
 20.13 obtains certification that the product meets the requirements of subdivision 2 from an entity  
 20.14 that:

20.15 (1) is a nonprofit corporation;

20.16 (2) as its primary focus of operation, promotes the production, use, and appropriate end  
 20.17 of life for materials and products that are designed to fully biodegrade in specific biologically  
 20.18 active environments such as industrial composting; and

20.19 (3) is technically capable of and willing to perform analysis necessary to determine a  
 20.20 product's compliance with subdivision 2.

20.21 Subd. 3. **Enforcement; civil penalty; injunctive relief.** (a) A ~~manufacturer, distributor,~~  
 20.22 ~~or wholesaler~~ person who violates ~~subdivision 1 or 2~~ this section is subject to a civil or  
 20.23 administrative penalty of \$100 for each prepackaged saleable unit sold or offered for sale  
 20.24 up to a maximum of \$5,000 and may be enjoined from those violations.

20.25 (b) The attorney general may bring an action in the name of the state in a court of  
 20.26 competent jurisdiction for recovery of civil penalties or for injunctive relief as provided in  
 20.27 this subdivision. The attorney general may accept an assurance of discontinuance of acts  
 20.28 in violation of ~~subdivision 1 or 2~~ this section in the manner provided in section 8.31,  
 20.29 subdivision 2b.

20.30 (c) The commissioner of the Pollution Control Agency may enforce this section under  
 20.31 sections 115.071 and 116.072.

21.1 (d) When requested by the attorney general or the commissioner of the Pollution Control  
 21.2 Agency, a person selling or offering for sale a covered product labeled as compostable must  
 21.3 furnish to the attorney general or the commissioner any information that the person may  
 21.4 have or may reasonably obtain that is relevant to show compliance with this section.

21.5 Subd. 4. **Definitions.** For purposes of this section, the following terms have the meanings  
 21.6 given them:

21.7 (1) "ASTM" has the meaning given in section 296A.01, subdivision 6;

21.8 (2) "covered product" means a bag, food or beverage product, or packaging;

21.9 (3) "food or beverage product" means a product that is used to wrap, package, contain,  
 21.10 serve, store, prepare, or consume a food or beverage, such as plates, bowls, cups, lids, trays,  
 21.11 straws, utensils, and hinged or lidded containers; and

21.12 (4) "packaging" has the meaning given in section 115A.03, subdivision 22b.

21.13 **EFFECTIVE DATE.** This section is effective January 1, 2022.

21.14 Sec. 28. **APPROPRIATION; CLIMATE RESILIENCY PROGRAM.**

21.15 \$1,358,000 in fiscal year 2022 and \$1,606,000 in fiscal year 2023 are appropriated to  
 21.16 the commissioner of the Pollution Control Agency to establish and implement a climate  
 21.17 resiliency program providing technical assistance and grants to local governmental units  
 21.18 and Tribal Governments. Climate resiliency technical assistance and grants may fund climate  
 21.19 risk assessment, planning, and pre-design necessary for infrastructure bond funding to  
 21.20 address issues of community flooding and wastewater treatment system overflows caused  
 21.21 by inadequate stormwater or sanitary sewer infrastructure.

21.22 Sec. 29. **REPEALER.**

21.23 Minnesota Statutes 2020, section 115.44, subdivision 9, is repealed.

**115.44 CLASSIFICATION OF WATERS; STANDARDS OF QUALITY AND PURITY.**

Subd. 9. **Annual report.** (a) By January 15 each year, the commissioner shall post on the Pollution Control Agency's website a report on the agency's activities the previous calendar year to implement standards and classification requirements into national pollutant discharge elimination system and state disposal system permits held by municipalities. The report must include:

- (1) a summary of permits issued or reissued over the previous calendar year, including any changes to permitted effluent limits due to water quality standards adopted or revised during the previous permit term;
- (2) highlights of innovative approaches employed by the agency and municipalities to develop and achieve permit requirements in a cost-effective manner;
- (3) a summary of standards development and water quality rulemaking activities over the previous calendar year, including economic analyses;
- (4) a summary of standards development and water quality rulemaking activities anticipated for the next three years, including economic analyses;
- (5) a process and timeframe for municipalities to provide input to the agency regarding their needs based on the information provided in the report; and
- (6) a list of anticipated permitting initiatives in the next calendar year that may impact municipalities and the agency's plan for involving the municipalities throughout the planning and decision-making process. The plan must include opportunities for input and public comment from municipalities on rulemaking initiatives prior to preparation of a statement of need and reasonableness required under section 14.131. The commissioner must ensure the agency's plan under this clause is implemented.

(b) For the purposes of this section, "economic analyses" must include assessments of the potential costs to regulated municipalities associated with water quality standards or rules proposed by the agency.