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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3190

04/03/2023 Authored by Hornstein and Kraft

The bill was read for the first time and referred to the Committee on Transportation Finance and Policy

1.1 A bill for an act

1.2 relating to transportation; rail safety; providing for emergency incident preparedness

1.3 for rail transport of oil and other hazardous substances; establishing railroad training

1.4 requirements; expanding training requirements to emergency managers and incident

1.5 response teams; requiring incident reports; amending data provisions; modifying

1.6 assessment of railroads; transferring money; appropriating money; amending

1.7 Minnesota Statutes 2022, sections 13.6905, by adding a subdivision; 115E.042,

1.8 subdivisions 2, 3, 4, 5, 6; 219.015, subdivision 2; 219.1651; 299A.55; proposing

1.9 coding for new law in Minnesota Statutes, chapter 219.

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

1.11 Section 1. Minnesota Statutes 2022, section 13.6905, is amended by adding a subdivision

1.12 to read:

1.13 Subd. 37. Oil and other hazardous substances transportation data. (a) Certain data

1.14 on oil and other hazardous substances transported by railroads are governed by section

1.15 219.055, subdivision 8.

1.16 (b) Certain data on oil and other hazardous substances transportation incident reviews

1.17 are governed by section 299A.55, subdivision 5.

1.18 Sec. 2. Minnesota Statutes 2022, section 115E.042, subdivision 2, is amended to read:

1.19 Subd. 2. **Training.** (a) Each railroad must offer training to each fire department and

1.20 each local organization for emergency management under section 12.25 having jurisdiction

1.21 along the route of unit trains. Initial training under this subdivision must be offered to each

1.22 fire department by June 30, 2016, and routes over which the railroad transports oil or other

1.23 hazardous substances. Refresher training must be offered to each fire department and local

2.1 organization for emergency management at least once every three years thereafter after
 2.2 initial training under this subdivision.

2.3 (b) The training must address ~~the general hazards of oil and hazardous substances,~~
 2.4 ~~techniques to assess hazards to the environment and to the safety of responders and the~~
 2.5 ~~public, factors an incident commander must consider in determining whether to attempt to~~
 2.6 ~~suppress a fire or to evacuate the public and emergency responders from an area, and other~~
 2.7 ~~strategies for initial response by local emergency responders. The training must include~~
 2.8 ~~suggested protocol or practices for local responders to safely accomplish these tasks~~ methods
 2.9 to identify rail cars and hazardous substance contents, responder safety issues, rail response
 2.10 tactics, public notification and evacuation considerations, environmental contamination
 2.11 response, railroad response personnel and resources coordination at an incident, and other
 2.12 protocols and practices for safe initial local response as required under subdivision 4,
 2.13 including the notification requirements and the responsibilities of an incident commander
 2.14 during a rail incident involving oil or other hazardous substances, as provided in subdivisions
 2.15 3 and 4.

2.16 Sec. 3. Minnesota Statutes 2022, section 115E.042, subdivision 3, is amended to read:

2.17 Subd. 3. **Emergency response planning; coordination.** ~~Beginning June 30, 2015, (a)~~
 2.18 Each railroad must communicate at least annually with each ~~county or city~~ applicable
 2.19 emergency manager, safety representatives of railroad employees governed by the Railway
 2.20 Labor Act, and ~~a senior~~ each applicable fire department officer ~~of each fire department~~
 2.21 ~~having jurisdiction~~ along the route of a unit train routes over which oil or other hazardous
 2.22 substances are transported, in order to:

2.23 (1) ensure coordination of emergency response activities between the railroad and local
 2.24 responders;

2.25 (2) assist emergency managers in identifying and assessing local rail-specific threats,
 2.26 hazards, and risks; and

2.27 (3) assist railroads in obtaining information from emergency managers regarding specific
 2.28 local natural and technical hazards and threats in the local area that may impact rail operations
 2.29 or public safety.

2.30 (b) The coordination under paragraph (a), clauses (2) and (3), must include identification
 2.31 of increased risks and potential special responses due to high population concentration,
 2.32 critical local infrastructure, key facilities, significant venues, sensitive natural environments,
 2.33 and other factors identified by railroads, emergency managers, and fire departments.

3.1 (c) The commissioner of public safety must compile and make available to railroads a
3.2 list of applicable emergency managers and applicable fire chiefs, which must include contact
3.3 information. The commissioner must make biennial updates to the list of emergency managers
3.4 and fire chiefs and make the list of updated contact information available to railroads.

3.5 Sec. 4. Minnesota Statutes 2022, section 115E.042, subdivision 4, is amended to read:

3.6 Subd. 4. **Response capabilities; time limits.** (a) Following confirmation of a discharge,
3.7 a railroad must deliver and deploy sufficient equipment and trained personnel to (1) contain
3.8 and recover discharged oil or other hazardous substances and to, (2) protect the environment,
3.9 and (3) assist local public safety officials. Within 15 minutes of a rail incident involving oil
3.10 or other hazardous substances being discharged or released, a railroad must contact the
3.11 applicable emergency manager and applicable fire chief having jurisdiction along the route
3.12 where the incident occurred. After learning of the rail incident involving oil or other
3.13 hazardous substances, the applicable emergency manager and applicable fire chief must,
3.14 as soon as practicable, identify and provide contact information of the responsible incident
3.15 commander to the reporting railroad.

3.16 (b) Within 15 minutes of local emergency responder arrival on the scene of a rail incident
3.17 involving oil or other hazardous substances, a railroad must assist the incident commander
3.18 to determine the nature of any hazardous substance known to have been released and
3.19 hazardous substance cargo transported on the train. Assistance must include providing
3.20 information that identifies the chemical content of the hazardous substance, contact
3.21 information for the shipper, and instructions for dealing with the release of the material. A
3.22 railroad may provide information on the hazardous substances transported on the train
3.23 through the train orders on board the train or by facsimile or electronic transmission.

3.24 (c) Within one hour of confirmation of a discharge, a railroad must provide a qualified
3.25 company ~~employee~~ representative to advise the incident commander, assist in assessing the
3.26 situation, initiate railroad response actions as needed, and provide advice and
3.27 recommendations to the incident commander regarding the response. The ~~employee~~
3.28 representative may be made available by telephone, and must be authorized to deploy all
3.29 necessary response resources of the railroad.

3.30 ~~(c)~~ (d) Within three hours of confirmation of a discharge, a railroad must be capable of
3.31 delivering monitoring equipment and a trained operator to assist in protection of responder
3.32 and public safety. A plan to ensure delivery of monitoring equipment and an operator to a
3.33 discharge site must be provided each year to the commissioner of public safety.

4.1 ~~(d)~~ (e) Within three hours of confirmation of a discharge, a railroad must provide (1)
4.2 qualified personnel at a discharge site to assess the discharge and to advise the incident
4.3 commander, and (2) resources to assist the incident commander with ongoing public safety
4.4 and scene stabilization.

4.5 ~~(e)~~ (f) A railroad must be capable of deploying containment boom from land across
4.6 sewer outfalls, creeks, ditches, and other places where oil or other hazardous substances
4.7 may drain, in order to contain leaked material before it reaches those resources. The
4.8 arrangement to provide containment boom and staff may be made by:

4.9 (1) training and caching equipment with local jurisdictions;

4.10 (2) training and caching equipment with a fire mutual-aid group;

4.11 (3) means of an industry cooperative or mutual-aid group;

4.12 (4) deployment of a contractor;

4.13 (5) deployment of a response organization under state contract; or

4.14 (6) other dependable means acceptable to the Pollution Control Agency.

4.15 ~~(f)~~ (g) Each arrangement under paragraph ~~(e)~~ (f) must be confirmed each year. Each
4.16 arrangement must be tested by drill at least once every five years.

4.17 ~~(g)~~ (h) Within eight hours of confirmation of a discharge, a railroad must be capable of
4.18 delivering and deploying containment boom, boats, oil recovery equipment, trained staff,
4.19 and all other materials needed to provide:

4.20 (1) on-site containment and recovery of a volume of oil equal to ten percent of the
4.21 calculated worst case discharge at any location along the route; and

4.22 (2) protection of listed sensitive areas and potable water intakes within one mile of a
4.23 discharge site and within eight hours of water travel time downstream in any river or stream
4.24 that the right-of-way intersects.

4.25 ~~(h)~~ (i) Within 60 hours of confirmation of a discharge, a railroad must be capable of
4.26 delivering and deploying additional containment boom, boats, oil recovery equipment,
4.27 trained staff, and all other materials needed to provide containment and recovery of a worst
4.28 case discharge and to protect listed sensitive areas and potable water intakes at any location
4.29 along the route.

5.1 Sec. 5. Minnesota Statutes 2022, section 115E.042, subdivision 5, is amended to read:

5.2 Subd. 5. **Railroad drills.** (a) Each railroad must conduct at least one oil containment,
 5.3 recovery, and sensitive area protection drill exercises involving oil or other hazardous
 5.4 substances as follows: (1) at least one tabletop exercise every year; and (2) at least one
 5.5 full-scale exercise every three years. Each exercise must be at a location, date, and time
 5.6 and in the manner chosen by the Pollution Control Agency, and attended by safety
 5.7 representatives of railroad employees governed by the Railway Labor Act.

5.8 (b) To the extent feasible, the commissioner of the Pollution Control Agency must
 5.9 coordinate each exercise with exercises required by federal agencies.

5.10 Sec. 6. Minnesota Statutes 2022, section 115E.042, subdivision 6, is amended to read:

5.11 Subd. 6. **Prevention and response plans; requirements; submission.** (a) By June 30,
 5.12 2015, A railroad shall submit the prevention and response plan required under section
 5.13 115E.04, as necessary to comply with the requirements of this section, to the commissioner
 5.14 of the Pollution Control Agency on a form designated by the commissioner.

5.15 (b) By June 30 of Every third year following a plan submission under this subdivision,
 5.16 or sooner as provided under section 115E.04, subdivision 2, a railroad must update and
 5.17 resubmit the prevention and response plan to the commissioner.

5.18 Sec. 7. Minnesota Statutes 2022, section 219.015, subdivision 2, is amended to read:

5.19 Subd. 2. **Railroad company assessment; account; appropriation.** (a) As provided in
 5.20 this subdivision, the commissioner shall annually assess railroad companies that are (1)
 5.21 defined as common carriers under section 218.011; (2) classified by federal law or regulation
 5.22 as Class I Railroads, Class I Rail Carriers, Class II Railroads, or Class II Rail Carriers; and
 5.23 (3) operating in this state.

5.24 (b) The assessment must be calculated to allocate state rail safety inspection program
 5.25 costs proportionally among carriers based on route miles operated in Minnesota at the time
 5.26 of assessment. The commissioner must include in the assessment calculation all state rail
 5.27 safety inspection program costs to support up to ~~four~~ six rail safety inspector positions,
 5.28 including but not limited to salary, administration, supervision, travel, equipment, training,
 5.29 and ongoing state rail inspector duties.

5.30 (c) The assessments collected under this subdivision must be deposited in a state rail
 5.31 safety inspection account, which is established in the special revenue fund. The account
 5.32 consists of funds provided by this subdivision and any other money donated, allotted,

6.1 transferred, or otherwise provided to the account. Money in the account is appropriated to
6.2 the commissioner to administer the state rail safety inspection program.

6.3 **Sec. 8. [219.055] INCIDENT EMERGENCY RESPONSE; PREPAREDNESS AND**
6.4 **INFORMATION.**

6.5 Subdivision 1. **Definitions.** (a) The definitions in section 115E.01 apply to this section
6.6 except as otherwise provided in this subdivision. For purposes of this section, the following
6.7 terms have the meanings given.

6.8 (b) "Applicable emergency manager" means an emergency manager having jurisdiction
6.9 along the routes over which oil or other hazardous substance cargo is transported by a rail
6.10 carrier.

6.11 (c) "Applicable fire department officer" means a fire chief or other senior officer of a
6.12 fire department having jurisdiction along the routes over which oil or other hazardous
6.13 substance cargo is transported by a rail carrier.

6.14 (d) "Emergency manager" means the director of a local organization for emergency
6.15 management under section 12.25.

6.16 (e) "Hazardous substance" means any material identified in the definition of hazardous
6.17 substance under section 115B.02, subdivision 8, or Code of Federal Regulations, title 49,
6.18 section 171.8.

6.19 (f) "Incident commander" means the official who has responsibility under National
6.20 Incident Management System guidelines for all aspects of emergency response operations
6.21 at an incident scene, including directing and controlling resources.

6.22 (g) "Rail carrier" means a railroad company that is:

6.23 (1) defined as a common carrier under section 218.011, subdivision 10;

6.24 (2) classified by federal law or regulation as a Class I Railroad, Class I Rail Carrier,
6.25 Class II Railroad, Class II Rail Carrier, Class III Railroad, or Class III Rail Carrier; and

6.26 (3) operating in this state.

6.27 Subd. 2. **Traffic review.** Within ten business days of receiving a written request, a rail
6.28 carrier must provide a traffic review to the commissioner of public safety, a requesting
6.29 emergency manager, or a fire chief having jurisdiction along the routes over which oil or
6.30 other hazardous substances are transported. The traffic review under this subdivision must
6.31 include information on the types and volumes of oil or other hazardous substances transported
6.32 through the requester's jurisdiction during the prior calendar year.

7.1 Subd. 3. **Emergency response planning; information sharing.** Upon written request,
7.2 a rail carrier must provide to the commissioner of public safety, an emergency manager, or
7.3 a fire chief having jurisdiction along the routes over which oil or other hazardous substances
7.4 are transported:

7.5 (1) a complete copy of prevention and response plans submitted under section 115E.042,
7.6 subdivision 6; and

7.7 (2) a copy of the data and information, including risk assessment information, used to
7.8 develop the rail carrier's route analysis as required under Code of Federal Regulations, title
7.9 49, section 172.820, or successor requirements.

7.10 Subd. 4. **Emergency response planning; coordination meetings.** (a) Within 30 days
7.11 of receiving a written request, a rail carrier must be available to meet with the commissioner
7.12 of public safety, a requesting emergency manager, or a fire chief having jurisdiction along
7.13 the routes over which oil or other hazardous substances are transported concerning emergency
7.14 response planning and coordination.

7.15 (b) At a meeting held under this subdivision, a rail carrier must provide:

7.16 (1) a review of the rail carrier's emergency response planning and capability, including
7.17 railroad response timelines and resources to provide:

7.18 (i) technical advice and recommendations;

7.19 (ii) trained response personnel;

7.20 (iii) specialized equipment; and

7.21 (iv) any other available resources to support an incident commander who conducts a
7.22 public safety emergency response under the National Incident Management System; and

7.23 (2) inventory information on emergency responses involving oil or other hazardous
7.24 substances, consisting of:

7.25 (i) equipment owned by the rail carrier, including equipment type and location;

7.26 (ii) the rail carrier's response personnel, including contact information and location; and

7.27 (iii) resources available to the rail carrier through contractual agreements.

7.28 Subd. 5. **Real-time emergency response information.** (a) The commissioner of public
7.29 safety must, through the Minnesota Fusion Center, receive and disseminate emergency
7.30 response information as provided under section 7302 of the FAST Act of 2015, Public Law
7.31 114-94, and federal regulations adopted under that section.

8.1 (b) On and after July 1, 2024, all rail carriers subject to this section and section 115E.042
8.2 must collectively provide information on the transportation of oil or other hazardous
8.3 substances in a digital format through a wireless communication device application.

8.4 Subd. 6. **Public safety emergency response exercises.** (a) Each rail carrier must conduct
8.5 one tabletop public safety emergency response exercise in each emergency management
8.6 region where the rail carrier transports oil or other hazardous substances. The tabletop
8.7 exercise must be conducted by July 1, 2025, and July 1 every two years thereafter.

8.8 (b) Each rail carrier must conduct one full-scale public safety emergency response
8.9 exercise every four years.

8.10 (c) In an emergency management region where more than one rail carrier operates, the
8.11 rail carriers may conduct the tabletop and full-scale exercises jointly or may alternate among
8.12 rail carriers to conduct the exercises.

8.13 (d) The rail carriers must conduct the tabletop and full-scale exercises in full coordination
8.14 with the commissioner of public safety, any interested emergency managers, and fire chiefs
8.15 having jurisdiction within the applicable emergency management region along the routes
8.16 over which oil or other hazardous substances are transported.

8.17 (e) To the extent feasible, the rail carriers must coordinate the tabletop and full-scale
8.18 exercises among each other and with exercises under section 115E.042, subdivision 5.

8.19 Subd. 7. **Incident commander response site exercises.** (a) Each rail carrier must conduct
8.20 one tabletop incident commander emergency exercise in each emergency management
8.21 region where the rail carrier transports oil or other hazardous substances. The tabletop
8.22 exercise must be conducted under the time limits provided in section 115E.042, subdivision
8.23 4, and coordinate the railroad's response actions and recommendations to the incident
8.24 commander regarding the response as provided in section 115E.042, subdivision 3.

8.25 (b) Each rail carrier must conduct one full-scale incident commander response site
8.26 exercise every four years.

8.27 (c) In an emergency management region where more than one rail carrier operates, the
8.28 rail carriers may conduct the incident commander response site tabletop and full-scale
8.29 exercises jointly or may alternate among rail carriers to conduct the exercises.

8.30 (d) The rail carriers must conduct the incident commander response site tabletop and
8.31 full-scale exercises with the commissioner of public safety, any interested emergency
8.32 managers, any interested incident commanders, and fire chiefs having jurisdiction within

9.1 the applicable emergency management region along the routes over which oil or other
 9.2 hazardous substances are transported.

9.3 (e) A rail carrier must provide by telephone a qualified company representative with
 9.4 knowledge of the rail carrier's response resources during the exercises.

9.5 Subd. 8. **Transportation and response planning data.** (a) Any data provided under
 9.6 subdivisions 2 to 7 to an emergency manager, incident commander, emergency first
 9.7 responder, fire chief, or the commissioner of public safety are nonpublic data, as defined
 9.8 under section 13.02, subdivision 9.

9.9 (b) Any prevention and response plan data created under section 115E.042, subdivision
 9.10 6, that is in the possession of an emergency manager, incident commander, emergency first
 9.11 responder, or fire chief are nonpublic data, as defined in section 13.02, subdivision 9. This
 9.12 paragraph does not apply to data in the possession of the commissioner of the Pollution
 9.13 Control Agency.

9.14 Sec. 9. Minnesota Statutes 2022, section 219.1651, is amended to read:

9.15 **219.1651 GRADE CROSSING SAFETY ACCOUNT.**

9.16 A Minnesota grade crossing safety account is created in the special revenue fund,
 9.17 consisting of money credited to the account by law. Money in the account is appropriated
 9.18 to the commissioner of transportation for rail-highway grade crossing safety projects on
 9.19 public streets and highways, including engineering costs and other costs associated with
 9.20 administration and delivery of grade crossing safety projects. At the discretion of the
 9.21 commissioner of transportation, money in the account at the end of each biennium may
 9.22 cancel to the trunk highway fund.

9.23 Sec. 10. Minnesota Statutes 2022, section 299A.55, is amended to read:

9.24 **299A.55 RAILROAD AND PIPELINE SAFETY; OIL AND OTHER HAZARDOUS**
 9.25 **MATERIALS SUBSTANCES.**

9.26 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
 9.27 the meanings given them.

9.28 (b) "Applicable rail carrier" means a railroad company that is subject to an assessment
 9.29 under section 219.015, subdivision 2.

9.30 (c) "Emergency manager" has the meaning given in section 219.055, subdivision 1.

10.1 (d) "Hazardous substance" has the meaning given in section 115B.02, subdivision 8
 10.2 means any material identified in the definition of hazardous substance under section 115B.02,
 10.3 subdivision 8, or Code of Federal Regulations, title 49, section 171.8.

10.4 ~~(d)~~ (e) "Incident compelling a significant response" means an event involving rail carrier
 10.5 or pipeline company operations and a derailment, collision, discharge, or other similar
 10.6 activity resulting in applicable response actions performed by firefighters, peace officers,
 10.7 incident commanders, emergency managers, or emergency first responders. For purposes
 10.8 of this paragraph, "applicable response actions" consist of one or more of the following: a
 10.9 request for mutual aid or special response resources, establishment of an exclusion zone,
 10.10 an order for evacuation or shelter in place, or emergency notification to the general public.

10.11 (f) "Oil" has the meaning given in section 115E.01, subdivision 8.

10.12 ~~(e)~~ (g) "Pipeline company" means any individual, partnership, association, or public or
 10.13 private corporation who owns and operates pipeline facilities and is required to show specific
 10.14 preparedness under section 115E.03, subdivision 2.

10.15 **Subd. 2. Railroad and pipeline safety account.** (a) A railroad and pipeline safety
 10.16 account is created in the special revenue fund. The account consists of funds collected under
 10.17 subdivision 4 and funds donated, allotted, transferred, or otherwise provided to the account.

10.18 (b) ~~\$104,000~~ \$140,000 is annually appropriated from the railroad and pipeline safety
 10.19 account to the commissioner of the Pollution Control Agency for environmental protection
 10.20 activities related to railroad discharge preparedness under chapter 115E.

10.21 (c) ~~\$600,000 in fiscal year 2018 and \$600,000 in fiscal year 2019 are appropriated~~
 10.22 \$750,000 in fiscal year 2024 and \$1,500,000 in each subsequent fiscal year are transferred
 10.23 from the railroad and pipeline safety account to the commissioner of transportation for
 10.24 improving safety at railroad grade crossings grade crossing safety account under section
 10.25 219.1651.

10.26 (d) Following the appropriation in ~~paragraphs~~ paragraph (b) and the transfer in paragraph
 10.27 (c), the remaining money in the account is annually appropriated to the commissioner of
 10.28 public safety for the purposes specified in subdivision 3.

10.29 **Subd. 3. Allocation of funds.** (a) Subject to funding appropriated for this subdivision,
 10.30 the commissioner shall provide funds for training and response preparedness related to (1)
 10.31 derailments, discharge incidents, or spills involving trains carrying oil or other hazardous
 10.32 substances, and (2) pipeline discharge incidents or spills involving oil or other hazardous
 10.33 substances.

11.1 (b) The commissioner shall allocate available funds as follows:

11.2 (1) \$100,000 annually for emergency response teams; and

11.3 (2) the remaining amount to the Board of Firefighter Training and Education under
11.4 section 299N.02 and the Division of Homeland Security and Emergency Management.

11.5 (c) Prior to making allocations under paragraph (b), the commissioner shall consult with
11.6 the Fire Service Advisory Committee under section 299F.012, subdivision 2.

11.7 (d) The commissioner and the entities identified in paragraph (b), clause (2), shall
11.8 prioritize uses of funds based on:

11.9 (1) ~~firefighter~~ training needs for firefighters, emergency managers, incident commanders,
11.10 and emergency first responders;

11.11 (2) community risk from discharge incidents or spills;

11.12 (3) geographic balance;

11.13 (4) risks to the general public; and

11.14 (5) recommendations of the Fire Service Advisory Committee.

11.15 (e) The following are permissible uses of funds provided under this subdivision:

11.16 (1) training costs, which may include, but are not limited to, training curriculum, trainers,
11.17 trainee overtime salary, other personnel overtime salary, and tuition;

11.18 (2) costs of gear and equipment related to hazardous materials readiness, response, and
11.19 management, which may include, but are not limited to, original purchase, maintenance,
11.20 and replacement;

11.21 (3) supplies related to the uses under clauses (1) and (2); ~~and~~

11.22 (4) emergency preparedness planning and coordination;

11.23 (5) emergency response team costs;

11.24 (6) public safety emergency response exercises under section 219.055, subdivision 6;

11.25 (7) incident commander and response site response exercises under section 219.055,
11.26 subdivision 7;

11.27 (8) postincident review and analysis under subdivision 5, based on costs incurred to state
11.28 agencies and local units of government; and

11.29 (9) public education and outreach, including but not limited to:

12.1 (i) informing and engaging the public regarding hazards of derailments and discharge
 12.2 incidents;

12.3 (ii) assisting the development of evacuation readiness;

12.4 (iii) undertaking public information campaigns; and

12.5 (iv) providing accurate information to the media on likelihood and consequences of
 12.6 derailments and discharge incidents.

12.7 (f) Notwithstanding paragraph (b), clause (2), from funds in the railroad and pipeline
 12.8 safety account provided for the purposes under this subdivision, the commissioner may
 12.9 retain a balance in the account for budgeting in subsequent fiscal years.

12.10 **Subd. 4. Assessments.** (a) The commissioner of public safety shall annually assess
 12.11 ~~\$2,500,000~~ \$4,000,000 to railroad and pipeline companies based on the formula specified
 12.12 in paragraph (b). The commissioner shall deposit funds collected under this subdivision in
 12.13 the railroad and pipeline safety account under subdivision 2.

12.14 (b) The assessment for each railroad is ~~50~~ 70 percent of the total annual assessment
 12.15 amount, divided in equal proportion between applicable rail carriers based on route miles
 12.16 operated in Minnesota. The assessment for each pipeline company is ~~50~~ 30 percent of the
 12.17 total annual assessment amount, divided in equal proportion between companies based on
 12.18 the yearly aggregate gallons of oil and other hazardous ~~substance~~ substances transported
 12.19 by pipeline in Minnesota.

12.20 ~~(c) The assessments under this subdivision expire July 1, 2017~~ In addition to the amount
 12.21 identified in paragraph (a), the commissioner must assess the rail carrier or pipeline company
 12.22 involved in an incident compelling a significant response for all postincident review and
 12.23 analysis costs under subdivision 5 incurred by the state and local units of government. This
 12.24 paragraph applies regardless of whether an assessment is imposed under paragraph (a) in a
 12.25 fiscal year.

12.26 **Subd. 5. Postincident review and analysis; legislative report; data.** (a) After an
 12.27 incident compelling a significant response, or upon request of a fire chief or emergency
 12.28 manager after an incident, the commissioner must ensure a postincident review and analysis
 12.29 is performed in a timely manner. The review and analysis must be undertaken under an
 12.30 agreement with an entity having relevant knowledge and experience that is fully independent
 12.31 of the state, any local units of government involved in the incident, rail carriers, and pipeline
 12.32 companies.

13.1 (b) The review and analysis process must include an after action review and must
13.2 evaluate, at a minimum, processes occurring during the incident for emergency assessment,
13.3 hazard operations, population protection, and incident management. The review and analysis
13.4 must be designed to minimize duplication of topics and issues addressed in any federal
13.5 review of the incident.

13.6 (c) By March 1 following any calendar year in which one or more postincident reviews
13.7 and analyses are performed, the commissioner must submit a report to the chairs and ranking
13.8 minority members of the legislative committees with jurisdiction over transportation and
13.9 public safety policy and finance. The report must:

13.10 (1) provide a summary of the incidents;

13.11 (2) identify findings, lessons learned, and process changes; and

13.12 (3) make recommendations for legislative changes, if any.

13.13 (d) Except for the report under paragraph (c), any data under this subdivision are
13.14 nonpublic data, as defined under section 13.02, subdivision 9.

13.15 **Sec. 11. REVISOR INSTRUCTION.**

13.16 The revisor of statutes shall recodify Minnesota Statutes, section 115E.042, subdivision
13.17 2, as Minnesota Statutes, section 219.055, subdivision 2a, and Minnesota Statutes, section
13.18 115E.042, subdivision 3, as Minnesota Statutes, section 219.055, subdivision 3a. The revisor
13.19 shall correct any cross-references made necessary by this recodification.

13.20 **Sec. 12. EFFECTIVE DATE.**

13.21 This act is effective the day following final enactment.