

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 5099

(SENATE AUTHORS: MORRISON)

DATE	D-PG	OFFICIAL STATUS
03/20/2024	12446	Introduction and first reading Referred to Transportation

1.1

A bill for an act

1.2

relating to transportation; modifying requirements governing assessment of trunk

1.3

highway projects for impacts on greenhouse gas emissions and vehicle miles

1.4

traveled; establishing a technical advisory committee; appropriating money;

1.5

amending Minnesota Statutes 2022, section 161.045, subdivision 1; Minnesota

1.6

Statutes 2023 Supplement, sections 161.045, subdivision 3; 161.178; proposing

1.7

coding for new law in Minnesota Statutes, chapter 161.

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

1.9

ARTICLE 1

1.10

TRANSPORTATION IMPACT ASSESSMENT; POLICY

1.11

Section 1. Minnesota Statutes 2023 Supplement, section 161.178, is amended to read:

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161.178 TRANSPORTATION GREENHOUSE GAS EMISSIONS IMPACT

1.13

ASSESSMENT.

1.14

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have

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the meanings given.

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(b) "Applicable entity" means the commissioner with respect to a ~~capacity expansion~~

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project or portfolio for inclusion in the state transportation improvement program or a

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metropolitan planning organization with respect to a ~~capacity expansion~~ project or portfolio

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for inclusion in the appropriate metropolitan transportation improvement program.

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(c) "Assessment" means the ~~capacity expansion~~ impact assessment under this section.

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(d) "Capacity expansion project" means a project for trunk highway construction or

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reconstruction that:

(1) is a major highway project, as defined in section 174.56, subdivision 1, paragraph (b); and

(2) adds highway traffic capacity or provides for grade separation of motor vehicle traffic at an intersection, excluding auxiliary lanes with a length of less than 2,500 feet.

(e) "Greenhouse gas emissions" includes those emissions described in section 216H.01, subdivision 2.

Subd. 2. **Project or portfolio assessment.** (a) Prior to inclusion of a ~~capacity expansion~~ project or portfolio in the state transportation improvement program or in a metropolitan transportation improvement program, the applicable entity must perform ~~a capacity expansion~~ an impact assessment of the project or portfolio. Following the assessment, the applicable entity must determine if the project or portfolio conforms with:

(1) the greenhouse gas emissions reduction targets under section 174.01, subdivision 3; and

(2) the vehicle miles traveled reduction targets established in the statewide multimodal transportation plan under section 174.03, subdivision 1a.

(b) If the applicable entity determines that the ~~capacity expansion~~ project or portfolio is not in conformance with paragraph (a), the applicable entity must:

(1) alter the scope or design of the project or any number of projects, and subsequently perform a revised assessment that meets the requirements under this section;

(2) interlink sufficient impact mitigation as provided in subdivision 4; or

(3) halt project development and disallow inclusion of the project or portfolio in the appropriate transportation improvement program.

Subd. 2a. **Applicable projects.** (a) For purposes of this section, a "project or portfolio" has the meaning given in this subdivision.

(b) Prior to the date established under paragraph (d), "project or portfolio" means each capacity expansion project.

(c) On and after the date established under paragraph (d), "project or portfolio" means a capacity expansion project or the collection of trunk highway projects for a fiscal year and specific region that are in any of the program categories of construction, major construction, reconstruction, reconditioning, or bridge replacement.

(d) The commissioner must establish a date to implement impact assessment on the basis of assessing a portfolio or program of projects instead of on a project-by-project basis. The date must be the earlier of:

(1) January 1, 2030; or

(2) as specified by the commissioner following consultation with metropolitan planning organizations and a determination that tools and models are sufficient.

Subd. 3. **Assessment requirements.** (a) The commissioner must establish a process to perform ~~capacity expansion~~ impact assessments. An assessment must provide for the determination under subdivision 2.

(b) Analysis under an assessment must include but is not limited to estimates resulting from ~~the~~ a project or portfolio for the following:

(1) greenhouse gas emissions over a period of 20 years; ~~and~~

(2) a net change in vehicle miles traveled for the affected network; and

(3) analysis of trunk highways and related impacts to local road systems, on a local, regional, or statewide basis, as appropriate.

Subd. 4. **Impact mitigation; interlinking.** (a) To provide for impact mitigation, the applicable entity must interlink the ~~capacity expansion~~ project or portfolio as provided in this subdivision.

(b) Impact mitigation is sufficient under subdivision 2, paragraph (b), if the ~~capacity expansion~~ project or portfolio is interlinked to ~~mitigation offset~~ actions such that the total greenhouse gas emissions reduction from the ~~mitigation offset~~ actions, after accounting for the greenhouse gas emissions otherwise resulting from the ~~capacity expansion~~ project or portfolio, is consistent with meeting the targets specified under subdivision 2, paragraph

(a). Each comparison under this paragraph must be performed over equal comparison periods.

(c) ~~A mitigation~~ An offset action consists of a project, program, ~~or~~ operations modification, or mitigation plan in one or more of the following areas:

(1) transit expansion, including but not limited to regular route bus, arterial bus rapid transit, highway bus rapid transit, rail transit, and intercity passenger rail;

(2) transit service improvements, including but not limited to increased service level, transit fare reduction, and transit priority treatments;

(3) active transportation infrastructure;

(4) micromobility infrastructure and service, including but not limited to shared vehicle services;

(5) transportation demand management, including but not limited to vanpool and shared vehicle programs, remote work, and broadband access expansion;

(6) parking management, including but not limited to parking requirements reduction or elimination and parking cost adjustments;

(7) land use, including but not limited to residential and other density increases, mixed-use development, and transit-oriented development;

(8) infrastructure improvements related to traffic operations, including but not limited to roundabouts and reduced conflict intersections; and

(9) ~~natural systems, including but not limited to prairie restoration, reforestation, and urban green space~~ as specified by the commissioner in the manner provided under paragraph (e).

(d) ~~A mitigation~~ An offset action may be identified as interlinked to the ~~capacity expansion~~ project or portfolio if:

(1) there is a specified project, program, ~~or~~ modification, or mitigation plan;

(2) the necessary funding sources are identified and sufficient amounts are committed;

(3) the mitigation is localized as provided in subdivision 5; and

(4) procedures are established to ensure that the mitigation action remains in substantially the same form or a revised form that continues to meet the calculation under paragraph (b).

(e) The commissioner may authorize additional offset actions under paragraph (c) if:

(1) the offset action is reviewed and recommended by the technical advisory committee under section 161.1782; and

(2) the commissioner determines that the offset action is directly related to reduction in the transportation sector of greenhouse gas emissions or vehicle miles traveled.

Subd. 5. **Impact mitigation; localization.** (a) ~~A mitigation~~ An offset action under subdivision 4 must be localized in the following priority order:

(1) if the offset action is for one project, within or associated with at least one of the communities impacted by the ~~capacity expansion~~ project;

(2) if clause (1) does not apply or there is not a reasonably feasible location under clause (1), in areas of persistent poverty or historically disadvantaged communities, as measured and defined in federal law, guidance, and notices of funding opportunity;

(3) if there is not a reasonably feasible location under clauses (1) and (2), in the region of the ~~capacity expansion~~ project or portfolio; or

(4) if there is not a reasonably feasible location under clauses (1) to (3), on a statewide basis.

(b) The applicable entity must include an explanation regarding the feasibility and rationale for each mitigation action located under paragraph (a), clauses (2) to (4).

Subd. 6. **Public information.** The commissioner must publish information regarding ~~capacity expansion~~ impact assessments on the department's website. The information must include:

(1) for each project evaluated separately under this section, identification of ~~capacity expansion projects~~ the project; and

(2) for each project evaluated separately, a summary that includes an overview of the ~~expansion impact~~ assessment, the impact determination by the commissioner, and project disposition, including a review of any ~~mitigation offset~~ actions;

(3) for each portfolio of projects, an overview of the projects, the impact determination by the commissioner, and a summary of any offset actions;

(4) a review of any interpretation of or additions to offset actions under subdivision 4;

(5) identification of the date established by the commissioner under subdivision 2a, paragraph (d); and

(6) a summary of the activities of the technical advisory committee under section 161.1782, including but not limited to any findings or recommendations made by the advisory committee.

Subd. 7. **Safety and well-being.** The requirements of this section are in addition to and must not supplant the safety and well-being goals established under section 174.01, subdivision 2, clauses (1) and (2).

EFFECTIVE DATE. This section is effective is effective February 1, 2025. This section does not apply to a capacity expansion project that was either included in the state transportation improvement program or has been submitted for approval of the geometric layout before February 1, 2025.

6.1 Sec. 2. **[161.1782] TRANSPORTATION IMPACT ASSESSMENT; TECHNICAL**
6.2 **ADVISORY COMMITTEE.**

6.3 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
6.4 the meanings given.

6.5 (b) "Advisory committee" means the technical advisory committee established in this
6.6 section.

6.7 (c) "Project or portfolio" has the meaning provided in section 161.178.

6.8 Subd. 2. Establishment. The commissioner must establish a technical advisory committee
6.9 to assist in implementation review related to the requirements under section 161.178.

6.10 Subd. 3. Membership; appointments. (a) The advisory committee is composed of the
6.11 following members:

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6.13 (b) The commissioner may appoint additional individuals to the advisory committee
6.14 who are not employees of the state or a political subdivision if the commissioner determines
6.15 that particular expertise or perspective would be beneficial to the advisory committee in the
6.16 performance of its duties.

6.17 Subd. 4. Membership; requirements. (a) To be eligible for appointment to the advisory
6.18 committee, an individual must have experience or expertise sufficient to provide assistance
6.19 in implementation or technical review related to the requirements under section 161.178.
6.20 Each appointing authority must consider appointment of individuals with expertise in travel
6.21 demand modeling, traffic forecasting, land use planning, or transportation-related greenhouse
6.22 gas emissions assessment and analysis.

6.23 (b) Members of the advisory committee serve at the pleasure of the appointing authority.
6.24 Vacancies must be filled by the appointing authority.

6.25 Subd. 5. Duties. The advisory committee must assist the commissioner in implementation
6.26 of the requirements under section 161.178 by:

6.27 (1) performing technical review and validation of processes and methodologies used for
6.28 impact assessment and impact mitigation;

6.29 (2) reviewing and making recommendations on:

6.30 (i) impact assessment requirements;

6.31 (ii) models and tools for impact assessment;

7.1 (iii) methods to determine sufficiency of impact mitigation;

7.2 (iv) procedures for interlinking a project or portfolio to impact mitigation; and

7.3 (v) reporting and data collection;

7.4 (3) advising on the approach used to determine the area of influence for a project or
7.5 portfolio for a geographic or transportation network area;

7.6 (4) developing recommendations on any clarifications, modifications, or additions to
7.7 the offset actions authorized under section 161.178, subdivision 4; and

7.8 (5) performing other analysis or activities as requested by the commissioner.

7.9 Subd. 6. **Administration.** (a) The commissioner must provide administrative support
7.10 to the advisory committee. Upon request, the commissioner must provide information and
7.11 technical support to the advisory committee.

7.12 (b) Members of the advisory committee are not eligible for compensation under this
7.13 section.

7.14 (c) The advisory committee is subject to the Minnesota Data Practices Act under chapter
7.15 13 and to the Minnesota Open Meeting Law under chapter 13D.

7.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.17 **ARTICLE 2**

7.18 **TRANSPORTATION IMPACT ASSESSMENT; FINANCE**

7.19 Section 1. Minnesota Statutes 2022, section 161.045, subdivision 1, is amended to read:

7.20 Subdivision 1. **Definition.** (a) For purposes of this section, the following terms have the
7.21 meanings given.

7.22 (b) "Commissioner" means any commissioner of a state agency that either proposes to
7.23 spend or spends funds out of the highway user tax distribution fund or the trunk highway
7.24 fund.

7.25 (c) On and after the date established by the commissioner under section 161.178,
7.26 subdivision 2a, paragraph (d), "trunk highway purposes" includes but is not limited to an
7.27 offset action that is interlinked to a project or portfolio under section 161.178, subdivision
7.28 4.

7.29 **EFFECTIVE DATE.** This section is effective July 1, 2025.

8.1 Sec. 2. Minnesota Statutes 2023 Supplement, section 161.045, subdivision 3, is amended
8.2 to read:

8.3 Subd. 3. **Limitations on spending.** (a) A commissioner must not pay for any of the
8.4 following with funds from the highway user tax distribution fund or the trunk highway fund:

8.5 (1) Bureau of Criminal Apprehension laboratory;

8.6 (2) Explore Minnesota Tourism kiosks;

8.7 (3) Minnesota Safety Council;

8.8 (4) driver education programs;

8.9 (5) Emergency Medical Services Regulatory Board;

8.10 (6) Mississippi River Parkway Commission;

8.11 (7) payments to the Department of Information Technology Services in excess of actual
8.12 costs incurred for trunk highway purposes;

8.13 (8) personnel costs incurred on behalf of the governor's office;

8.14 (9) the Office of Aeronautics within the Department of Transportation;

8.15 (10) the Office of Transit and Active Transportation within the Department of
8.16 Transportation;

8.17 (11) the Office of Passenger Rail;

8.18 (12) purchase and maintenance of soft body armor under section 299A.38;

8.19 (13) tourist information centers;

8.20 (14) parades, events, or sponsorships of events;

8.21 (15) the installation, construction, expansion, or maintenance of public electric vehicle
8.22 infrastructure;

8.23 (16) the statewide notification center for excavation services pursuant to chapter 216D;
8.24 and

8.25 (17) manufacturing license plates.

8.26 (b) The prohibition in paragraph (a) includes all expenses for the named entity or program,
8.27 including but not limited to payroll, purchased services, supplies, repairs, and equipment.

8.28 This prohibition on spending applies to any successor entities or programs that are
8.29 substantially similar to the entity or program named in this subdivision.

(c) The prohibition in paragraph (a), clauses (10) and (11), only applies prior to the date established by the commissioner under section 161.178, subdivision 2a, paragraph (d).

EFFECTIVE DATE. This section is effective July 1, 2025.

Sec. 3. **APPROPRIATIONS; TRANSPORTATION IMPACT ASSESSMENT IMPLEMENTATION.**

Subdivision 1. **Trunk highway fund; modeling.** \$..... in fiscal year 2025 is appropriated from the trunk highway fund to the commissioner of transportation for statewide and regional travel demand models related to the requirements under Minnesota Statutes, section 161.178.

Subd. 2. **Trunk highway fund; mitigation.** \$10,000,000 in fiscal year 2025 is appropriated from the trunk highway fund to the commissioner of transportation for impact mitigation under Minnesota Statutes, section 161.178. The base for this appropriation is \$5,000,000 in each of fiscal years 2026 and 2027, and \$0 in fiscal year 2028 and thereafter.

Subd. 3. **General fund; local compliance.** \$4,000,000 in fiscal year 2025 is appropriated from the general fund to the commissioner of transportation for grants to metropolitan planning organizations and local units of government to develop plans and capacity related to the requirements under Minnesota Statutes, section 161.178.