

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 786

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DATE	D-PG	OFFICIAL STATUS
02/25/2013	395	Introduction and first reading Referred to Environment and Energy
02/28/2013	418a	Comm report: To pass as amended and re-refer to State and Local Government
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A bill for an act

1.1 relating to environment; allowing the creation of a joint powers board related to
 1.2 silica sand mining in southeastern Minnesota; providing for silica sand extraction
 1.3 taxing authority; allowing an extension or renewal of interim ordinances for new
 1.4 permits for silica sand mining and facilities; requiring a generic environmental
 1.5 impact statement report; modifying environmental review; providing criminal
 1.6 penalties; appropriating money; amending Minnesota Statutes 2012, section
 1.7 116D.04, subdivisions 2a, 2b; proposing coding for new law in Minnesota
 1.8 Statutes, chapter 298; proposing coding for new law as Minnesota Statutes,
 1.9 chapter 116Y.
 1.10

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

1.12 Section 1. Minnesota Statutes 2012, section 116D.04, subdivision 2a, is amended to
 1.13 read:

1.14 Subd. 2a. **When prepared.** Where there is potential for significant environmental
 1.15 effects resulting from any major governmental action, the action shall be preceded by a
 1.16 detailed environmental impact statement prepared by the responsible governmental unit.
 1.17 The environmental impact statement shall be an analytical rather than an encyclopedic
 1.18 document which describes the proposed action in detail, analyzes its significant
 1.19 environmental impacts, discusses appropriate alternatives to the proposed action and
 1.20 their impacts, and explores methods by which adverse environmental impacts of an
 1.21 action could be mitigated. The environmental impact statement shall also analyze those
 1.22 economic, employment, and sociological effects that cannot be avoided should the action
 1.23 be implemented. To ensure its use in the decision-making process, the environmental
 1.24 impact statement shall be prepared as early as practical in the formulation of an action.

1.25 (a) The board shall by rule establish categories of actions for which environmental
 1.26 impact statements and for which environmental assessment worksheets shall be prepared
 1.27 as well as categories of actions for which no environmental review is required under this

2.1 section. A mandatory environmental assessment worksheet shall not be required for the
2.2 expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph
2.3 (b), or the conversion of an ethanol plant to a biobutanol facility or the expansion of a
2.4 biobutanol facility as defined in section 41A.105, subdivision 1a, based on the capacity
2.5 of the expanded or converted facility to produce alcohol fuel, but must be required if
2.6 the ethanol plant or biobutanol facility meets or exceeds thresholds of other categories
2.7 of actions for which environmental assessment worksheets must be prepared. The
2.8 responsible governmental unit for an ethanol plant or biobutanol facility project for which
2.9 an environmental assessment worksheet is prepared shall be the state agency with the
2.10 greatest responsibility for supervising or approving the project as a whole.

2.11 A mandatory environmental impact statement shall not be required for a facility
2.12 or plant located outside the seven-county metropolitan area that produces less than
2.13 125,000,000 gallons of ethanol, biobutanol, or cellulosic biofuel annually, if the facility
2.14 or plant is: an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph
2.15 (b); a biobutanol facility, as defined in section 41A.105, subdivision 1a, clause (1); or a
2.16 cellulosic biofuel facility, as defined in section 41A.10, subdivision 1, paragraph (d).

2.17 (b) The responsible governmental unit shall promptly publish notice of the
2.18 completion of an environmental assessment worksheet by publishing the notice in at least
2.19 one newspaper of general circulation in the geographic area where the project is proposed,
2.20 by posting the notice on a Web site that has been designated as the official publication site
2.21 for publication of proceedings, public notices, and summaries of a political subdivision in
2.22 which the project is proposed, or in any other manner determined by the board and shall
2.23 provide copies of the environmental assessment worksheet to the board and its member
2.24 agencies. Comments on the need for an environmental impact statement may be submitted
2.25 to the responsible governmental unit during a 30-day period following publication of the
2.26 notice that an environmental assessment worksheet has been completed. The responsible
2.27 governmental unit's decision on the need for an environmental impact statement shall be
2.28 based on the environmental assessment worksheet and the comments received during the
2.29 comment period, and shall be made within 15 days after the close of the comment period.
2.30 The board's chair may extend the 15-day period by not more than 15 additional days upon
2.31 the request of the responsible governmental unit. If, within 30 days after the end of the
2.32 comment period, the board determines that the decision on the need for an environmental
2.33 impact statement was made in error, the board may reject the decision of the responsible
2.34 governmental unit and require further deliberation by the responsible governmental unit.
2.35 Amended decisions of the responsible governmental unit are subject to the requirements
2.36 of this paragraph.

3.1 (c) An environmental assessment worksheet shall also be prepared for a proposed
3.2 action whenever material evidence accompanying a petition by not less than 100
3.3 individuals who reside or own property in the state, submitted before the proposed
3.4 project has received final approval by the appropriate governmental units, demonstrates
3.5 that, because of the nature or location of a proposed action, there may be potential for
3.6 significant environmental effects. Petitions requesting the preparation of an environmental
3.7 assessment worksheet shall be submitted to the board. The chair of the board shall
3.8 determine the appropriate responsible governmental unit and forward the petition to it.
3.9 A decision on the need for an environmental assessment worksheet shall be made by
3.10 the responsible governmental unit within 15 days after the petition is received by the
3.11 responsible governmental unit. The board's chair may extend the 15-day period by not
3.12 more than 15 additional days upon request of the responsible governmental unit.

3.13 (d) Except in an environmentally sensitive location where Minnesota Rules, part
3.14 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental
3.15 review under this chapter and rules of the board, if:

3.16 (1) the proposed action is:

3.17 (i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

3.18 (ii) an expansion of an existing animal feedlot facility with a total cumulative
3.19 capacity of less than 1,000 animal units;

3.20 (2) the application for the animal feedlot facility includes a written commitment by
3.21 the proposer to design, construct, and operate the facility in full compliance with Pollution
3.22 Control Agency feedlot rules; and

3.23 (3) the county board holds a public meeting for citizen input at least ten business
3.24 days prior to the Pollution Control Agency or county issuing a feedlot permit for the
3.25 animal feedlot facility unless another public meeting for citizen input has been held with
3.26 regard to the feedlot facility to be permitted. The exemption in this paragraph is in
3.27 addition to other exemptions provided under other law and rules of the board.

3.28 (e) The board may, prior to final approval of a proposed project, require preparation
3.29 of an environmental assessment worksheet by a responsible governmental unit selected
3.30 by the board for any action where environmental review under this section has not been
3.31 specifically provided for by rule or otherwise initiated.

3.32 (f) An early and open process shall be utilized to limit the scope of the environmental
3.33 impact statement to a discussion of those impacts, which, because of the nature or location
3.34 of the project, have the potential for significant environmental effects. The same process
3.35 shall be utilized to determine the form, content and level of detail of the statement as well
3.36 as the alternatives which are appropriate for consideration in the statement. In addition,

4.1 the permits which will be required for the proposed action shall be identified during the
4.2 scoping process. Further, the process shall identify those permits for which information
4.3 will be developed concurrently with the environmental impact statement. The board
4.4 shall provide in its rules for the expeditious completion of the scoping process. The
4.5 determinations reached in the process shall be incorporated into the order requiring the
4.6 preparation of an environmental impact statement.

4.7 (g) The responsible governmental unit shall, to the extent practicable, avoid
4.8 duplication and ensure coordination between state and federal environmental review
4.9 and between environmental review and environmental permitting. Whenever practical,
4.10 information needed by a governmental unit for making final decisions on permits
4.11 or other actions required for a proposed project shall be developed in conjunction
4.12 with the preparation of an environmental impact statement. When an environmental
4.13 impact statement is prepared for a project requiring multiple permits for which two or
4.14 more agencies' decision processes include either mandatory or discretionary hearings
4.15 before a hearing officer prior to the agencies' decision on the permit, the agencies
4.16 may, notwithstanding any law or rule to the contrary, conduct the hearings in a single
4.17 consolidated hearing process if requested by the proposer. All agencies having jurisdiction
4.18 over a permit that is included in the consolidated hearing shall participate. The responsible
4.19 governmental unit shall establish appropriate procedures for the consolidated hearing
4.20 process, including procedures to ensure that the consolidated hearing process is consistent
4.21 with the applicable requirements for each permit regarding the rights and duties of parties to
4.22 the hearing, and shall utilize the earliest applicable hearing procedure to initiate the hearing.
4.23 The procedures of section 116C.28, subdivision 2, apply to the consolidated hearing.

4.24 (h) An environmental impact statement shall be prepared and its adequacy
4.25 determined within 280 days after notice of its preparation unless the time is extended by
4.26 consent of the parties or by the governor for good cause. The responsible governmental
4.27 unit shall determine the adequacy of an environmental impact statement, unless within 60
4.28 days after notice is published that an environmental impact statement will be prepared,
4.29 the board chooses to determine the adequacy of an environmental impact statement. If an
4.30 environmental impact statement is found to be inadequate, the responsible governmental
4.31 unit shall have 60 days to prepare an adequate environmental impact statement.

4.32 (i) The proposer of a specific action may include in the information submitted to the
4.33 responsible governmental unit a preliminary draft environmental impact statement under
4.34 this section on that action for review, modification, and determination of completeness and
4.35 adequacy by the responsible governmental unit. A preliminary draft environmental impact
4.36 statement prepared by the project proposer and submitted to the responsible governmental

5.1 unit shall identify or include as an appendix all studies and other sources of information
 5.2 used to substantiate the analysis contained in the preliminary draft environmental impact
 5.3 statement. The responsible governmental unit shall require additional studies, if needed,
 5.4 and obtain from the project proposer all additional studies and information necessary for
 5.5 the responsible governmental unit to perform its responsibility to review, modify, and
 5.6 determine the completeness and adequacy of the environmental impact statement.

5.7 Sec. 2. Minnesota Statutes 2012, section 116D.04, subdivision 2b, is amended to read:

5.8 Subd. 2b. **Project prerequisites.** If an environmental assessment worksheet or an
 5.9 environmental impact statement is required for a governmental action under subdivision
 5.10 2a, a project may not be started and a final governmental decision may not be made to
 5.11 grant a permit, approve a project, or begin a project, until:

- 5.12 (1) a petition for an environmental assessment worksheet is dismissed;
- 5.13 (2) a negative declaration has been issued on the need for an environmental impact
 5.14 statement and the board has not rejected the decision;
- 5.15 (3) the environmental impact statement has been determined adequate; or
- 5.16 (4) a variance has been granted from making an environmental impact statement by
 5.17 the environmental quality board.

5.18 Sec. 3. **[116Y.01] APPLICABILITY.**

5.19 This chapter applies to the counties of Blue Earth, Dakota, Dodge, Faribault,
 5.20 Fillmore, Goodhue, Houston, LeSueur, Mower, Nicollet, Olmsted, Rice, Scott, Steele,
 5.21 Wabasha, Waseca, Washington, and Winona.

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

5.23 Sec. 4. **[116Y.02] DEFINITIONS.**

5.24 The definitions in this section apply to this chapter.

5.25 (a) "Board" means the Southeastern Minnesota Silica Sand Board.

5.26 (b) "Extraction site" means a pit, quarry, or deposit containing silica sand and
 5.27 any contiguous property to the pit, quarry, or deposit that is used by the operator for
 5.28 stockpiling the silica sand.

5.29 (c) "Importer" means any person who buys silica sand excavated from an area where
 5.30 the tax under section 116Y.06 is not imposed, or another state and causes the silica sand
 5.31 to be imported into a local unit of government in this state that imposes a tax on silica
 5.32 sand under section 116Y.06.

6.1 (d) "Local unit of government" means a county, statutory or home rule charter city,
6.2 or town that is within the counties listed in section 116Y.01.

6.3 (e) "Operator" means any person engaged in the business of removing silica sand
6.4 from the surface or subsurface of the soil, for the purpose of sale, either directly or
6.5 indirectly, through the use of the sand in a marketable product or service.

6.6 (f) "Silica sand" means naturally existing high quartz level sand used, among
6.7 several industrial uses, as a proppant for the hydraulic fracturing of shale for oil and gas
6.8 production. Silica sand does not include common rock, stone, aggregate, gravel, and sand
6.9 with a low quartz level.

6.10 (g) "Silica sand mining" means the excavation and mining of silica sand by any
6.11 process, including digging, excavating, mining, drilling, blasting, tunneling, dredging,
6.12 stripping, or shafting.

6.13 (h) "Silica sand processing" means the washing, cleaning, screening, crushing,
6.14 filtering, sorting, processing, stockpiling, and storing of silica sand, either at the mining
6.15 site or at any other site.

6.16 (i) "Silica sand transporting" means the hauling and transporting of silica sand,
6.17 by any carrier: (1) from the mining site to a processing or transfer site; or (2) from a
6.18 processing or storage site to a rail, barge, or transfer site for transporting to destinations.

6.19 (j) "Transfer facility" means a facility for transporting silica sand by rail, barge, or
6.20 other means of transportation to destinations.

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

6.22 **Sec. 5. [116Y.03] SOUTHEASTERN MINNESOTA SILICA SAND BOARD.**

6.23 Subdivision 1. **Establishment.** The Southeastern Minnesota Silica Sand Board may
6.24 be established by counties listed in section 116Y.01, pursuant to section 471.59, and
6.25 is established as a permanent board with authority to prepare, adopt, and implement a
6.26 comprehensive land use plan designed to protect and enhance southeastern Minnesota
6.27 from the negative effects of silica sand mining, transportation, and processing.

6.28 Subd. 2. **Membership.** (a) The governing body of each county shall appoint one of
6.29 its members to serve on the board.

6.30 (b) The terms of board members are two years from the date of appointment.

6.31 (c) Vacancies on the board shall be filled for the remainder of the term by the
6.32 governing body that made the original appointment.

6.33 (d) The governing body of a county may designate another member of the governing
6.34 body or a county officer to act as an alternate for the member appointed by that county.

7.1 Subd. 3. **Officers.** (a) The board shall annually appoint from among its members a
7.2 chair, vice-chair, and secretary-treasurer who shall serve for concurrent one-year terms.

7.3 (b) The chair shall preside over all meetings of the board and may call special
7.4 meetings at reasonable times and upon adequate notice when necessary.

7.5 (c) The vice-chair shall preside over the meetings of the board in the absence of
7.6 the chair.

7.7 (d) The secretary-treasurer or the designee of the secretary-treasurer shall keep a
7.8 record of all proceedings of the board. The secretary-treasurer shall provide for the proper
7.9 receipt and disbursement of funds.

7.10 Subd. 4. **Meetings; open.** (a) The regular meetings of the board shall be held at
7.11 times and places prescribed by the board.

7.12 (b) A majority of all members of the board shall constitute a quorum and a majority
7.13 vote of all members shall be required for actions taken by the board.

7.14 (c) Meetings of the board and advisory committees created by the board are subject
7.15 to chapter 13D.

7.16 Subd. 5. **Staff and contracts.** The board may employ staff and contract for goods
7.17 and services as necessary to implement this chapter. Contracts are subject to the statutory
7.18 procedures and restrictions applicable to local unit of government contracts.

7.19 Subd. 6. **Funding.** The board shall annually submit to each member county for the
7.20 county's approval an estimate of the funds the board will need from that county in the
7.21 next fiscal year to prepare and implement the plan under section 116Y.04 and otherwise
7.22 carry out the duties imposed upon it by this chapter. Each member county shall furnish
7.23 the necessary funds to the board. The board may apply for, receive, and disburse federal,
7.24 state, and other grants and donations.

7.25 Subd. 7. **Advisory committee.** The board shall appoint an advisory committee,
7.26 representing a broad geographical area and diverse public interests, including equal
7.27 representation from concerned citizens, local units of government, and the sand mining
7.28 industry.

7.29 Subd. 8. **Contact with government agencies.** The board shall initiate and maintain
7.30 contacts with governmental agencies as necessary to properly prepare the plan under
7.31 section 116Y.04 and may negotiate cooperative management agreements. The board
7.32 shall establish a scientific advisory team with appropriate state agency staff from the
7.33 Departments of Natural Resources, Health, and Transportation, and the Pollution Control
7.34 Agency. The team shall advise the board on developing and implementing the plan
7.35 developed in section 116Y.04.

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

8.1 Sec. 6. **[116Y.04] PLAN IMPLEMENTATION.**

8.2 Subdivision 1. **Development and implementation required.** The plan shall be
8.3 developed and implemented by the board as provided in this section.

8.4 Subd. 2. **Plan provides minimum standards.** The standards set forth in the plan
8.5 are the minimum standards that may be adopted by the board and by the local units of
8.6 government for the protection and enhancement of the natural, scientific, historical,
8.7 recreational, and cultural resources from silica sand mining in southeastern Minnesota.
8.8 Silica sand mining, processing, and transport facilities permitted by a local unit of
8.9 government after the effective date of this section must be in conformance with the plan.

8.10 Subd. 3. **Implementation.** The board shall develop and establish a schedule for
8.11 implementation and common administration of the plan by the local units of government.
8.12 The schedule shall be binding upon the local units of government subject to approval by
8.13 the governing bodies of the respective local units of government.

8.14 Subd. 4. **Local land use ordinance must be consistent with plan.** The local units
8.15 of government shall adopt and amend existing land use ordinances to be consistent with
8.16 the plan. Local units of government may adopt ordinances that include the minimum
8.17 standards in the plan. Local units of government may enact ordinances that are stricter
8.18 than the minimum standards.

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

8.20 Sec. 7. **[116Y.05] RESPONSIBILITIES OF OTHER GOVERNMENTAL UNITS.**

8.21 Within jurisdictions subject to the plan, all local and special governmental units,
8.22 councils, commissions, boards, and districts and all state agencies and departments must
8.23 exercise their powers so as to further the purposes of this chapter and the plan. Land
8.24 owned by the state, its agencies, and political subdivisions shall be administered in
8.25 accordance with the plan.

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

8.27 Sec. 8. **[116Y.06] SILICA SAND REMOVAL; PRODUCTION TAX.**

8.28 Subdivision 1. **Applicability.** Only local units of government that have adopted
8.29 at least the minimum standards established in section 116Y.04 may impose the tax
8.30 authorized under this section. The tax imposed under this section is in lieu of the taxing
8.31 authority granted under section 298.75 for silica sand production. When a county imposes
8.32 a production tax under this section, other local units of government shall not apply a
8.33 production tax under this section for the same silica sand production.

9.1 Subd. 2. **Tax imposed.** (a) A local unit of government that imposes the silica sand
9.2 production tax shall impose upon every operator a production tax of ... cents per cubic
9.3 yard or ... cents per ton of silica sand excavated in the local unit of government, except
9.4 that the local unit of government board may decide not to impose this tax if it determines
9.5 that in the previous year operators removed less than 20,000 tons or 14,000 cubic yards
9.6 of silica sand from that local unit of government. The tax shall not be imposed on silica
9.7 sand excavated in the local unit of government until the silica sand is transported from the
9.8 extraction site or sold, whichever occurs first. When silica sand is stored in a stockpile
9.9 within the state and a public highway, road, or street is not used for transporting the
9.10 silica sand, the tax shall not be imposed until the silica sand is sold, transported from the
9.11 stockpile site, or used from the stockpile, whichever occurs first.

9.12 (b) A local unit of government that imposes the silica sand production tax under
9.13 paragraph (a) shall impose upon every importer a production tax of ... cents per cubic yard
9.14 or ... cents per ton of silica sand imported into the local unit of government. The tax
9.15 shall be imposed when the silica sand is imported from the extraction site or sold. When
9.16 imported silica sand is stored in a stockpile within the state and a public highway, road, or
9.17 street is not used for transporting the silica sand, the tax shall be imposed when the silica
9.18 sand is sold, transported from the stockpile site, or used from the stockpile, whichever
9.19 occurs first. The tax shall be imposed on an importer when the silica sand is imported into
9.20 the local unit of government that imposes the tax.

9.21 (c) If the silica sand is transported directly from the extraction site to a waterway,
9.22 railway, or another mode of transportation other than a highway, road, or street, the tax
9.23 imposed by this section shall be apportioned equally between the local unit of government
9.24 where the silica sand is extracted and the local unit of government to which the silica sand is
9.25 originally transported. If that destination is not located in Minnesota, then the local unit of
9.26 government where the silica sand was extracted shall receive all of the proceeds of the tax.

9.27 (d) A local unit of government that receives revenue under this section is prohibited
9.28 from imposing any additional host community fees on silica sand production within that
9.29 local unit of government.

9.30 Subd. 3. **Report and remittance.** (a) By the 14th day following the last day of each
9.31 calendar quarter, every operator or importer shall make and file with the local unit of
9.32 government in which the silica sand is removed or imported, a correct report under oath, in
9.33 the form and containing information as the local unit of government shall require, relative
9.34 to the quantity of silica sand removed or imported during the preceding calendar quarter.
9.35 The report shall be accompanied by a remittance of the amount of tax due.

10.1 (b) If any of the proceeds of the tax is to be apportioned as provided in subdivision
10.2 2, the operator or importer shall also include on the report any relevant information
10.3 concerning the amount of silica sand transported, the tax, and the local unit of government
10.4 of destination. The local unit of government shall notify the local unit of government
10.5 treasurer of the amount of such tax and the local unit of government to which it is due.
10.6 The local unit of government treasurer shall remit the tax to the appropriate local unit
10.7 of government within 30 days.

10.8 Subd. 4. **Estimate; statement of objections.** If the local unit of government has not
10.9 received the report by the 15th day after the last day of each calendar quarter from the
10.10 operator or importer as required by subdivision 3 or has received an erroneous report, the
10.11 local unit of government shall estimate the amount of tax due and notify the operator or
10.12 importer by registered mail of the amount of tax so estimated within the next 14 days. An
10.13 operator or importer may, within 30 days from the date of mailing the notice, and upon
10.14 payment of the amount of tax determined to be due, file in the office of the local unit of
10.15 government a written statement of objections to the amount of taxes determined to be due.
10.16 The statement of objections shall be deemed to be a petition within the meaning of chapter
10.17 278, and shall be governed by sections 278.02 to 278.13.

10.18 Subd. 5. **Failure to file and pay; penalty.** Failure to file the report and submit
10.19 payment shall result in a penalty of \$5 for each of the first 30 days, beginning on the 15th
10.20 day after the last day of each calendar quarter, for which the report and payment are due
10.21 and no statement of objection has been filed as provided in subdivision 4, and a penalty
10.22 of \$10 for each subsequent day shall be assessed against the operator or importer who is
10.23 required to file the report. The penalties imposed by this subdivision shall be collected as
10.24 part of the tax and credited to the local unit of government revenue fund. If neither the
10.25 report nor a statement of objection has been filed after more than 60 days have elapsed
10.26 from the date when the notice was sent, the operator or importer who is required to file the
10.27 report is guilty of a misdemeanor.

10.28 Subd. 6. **Penalties; removal of aggregate if previous tax not paid; false report.**
10.29 (a) It is a misdemeanor for any operator or importer to remove silica sand from a pit,
10.30 quarry, or deposit or for any importer to import silica sand, unless all taxes due under this
10.31 section for all previous reporting periods have been paid or objections thereto have been
10.32 filed pursuant to subdivision 4.

10.33 (b) It is a misdemeanor for the operator or importer who is required to file a report to
10.34 file a false report with intent to evade the tax.

11.1 Subd. 7. **Proceeds of taxes.** (a) All money collected as taxes under this section
 11.2 on silica sand shall be deposited in the local unit of government treasury and credited
 11.3 according to this subdivision.

11.4 (b) The local unit of government may retain an annual administrative fee of up to
 11.5 five percent of the total taxes collected in any year.

11.6 (c) The balance of the taxes, after any deduction under paragraph (b), shall be
 11.7 credited as follows:

11.8 (1) ... percent to the local unit of government road and bridge fund for expenditure
 11.9 for the maintenance, construction, and reconstruction of county, city, and township roads,
 11.10 highways, streets, and bridges;

11.11 (2) ... percent to the general fund of the local unit of government for environmental
 11.12 protection and economic development purposes, including tourism; and

11.13 (3) ... percent to a special reserve fund that is hereby established, for expenditure
 11.14 for the restoration of abandoned pits, quarries, or deposits located within the local unit of
 11.15 government. If there are no abandoned pits, quarries, or deposits located within the local
 11.16 unit of government, the portion of the tax allocated under this clause shall be used for any
 11.17 other unmet reclamation need or for conservation or other environmental needs.

11.18 Subd. 8. **Examination and maintenance of records.** The local unit of government
 11.19 or its duly authorized agent may examine records, including computer records, maintained
 11.20 by an importer or operator. The term "record" includes, but is not limited to, all
 11.21 accounts of an importer or operator. The local unit of government must have access at
 11.22 all reasonable times to inspect and copy all business records related to an importer's or
 11.23 operator's collection, transportation, and disposal of aggregate to the extent necessary to
 11.24 ensure that all silica sand production taxes required to be paid have been remitted to the
 11.25 local unit of government. The records must be maintained by the importer or operator
 11.26 for no less than six years.

11.27 Sec. 9. **[298.76] STATE SILICA SAND PRODUCTION TAX.**

11.28 Subdivision 1. **Tax imposed.** (a) A silica sand production tax of ... cents per cubic
 11.29 yard or ... cents per ton of silica sand, as defined in section 116Y.02, excavated in the
 11.30 state is imposed upon every operator, as defined in section 116Y.02. The tax shall not be
 11.31 imposed on silica sand excavated in the state until the silica sand is transported from the
 11.32 extraction site or sold, whichever occurs first. When silica sand is stored in a stockpile
 11.33 within the state and a public highway, road, or street is not used for transporting the
 11.34 silica sand, the tax shall not be imposed until the silica sand is sold, transported from the
 11.35 stockpile site, or used from the stockpile, whichever occurs first.

12.1 (b) A silica sand production tax of ... cents per cubic yard or ... cents per ton of silica
12.2 sand imported into the state is imposed upon every importer as defined under section
12.3 116Y.04. The tax shall be imposed when the silica sand is imported from the extraction
12.4 site or sold. When imported silica sand is stored in a stockpile within the state and a
12.5 public highway, road, or street is not used for transporting the silica sand, the tax shall be
12.6 imposed when the silica sand is sold, transported from the stockpile site, or used from the
12.7 stockpile, whichever occurs first. The tax shall be imposed on an importer when the silica
12.8 sand is imported into the local unit of government that imposes the tax.

12.9 Subd. 2. **Report and remittance.** By the 14th day following the last day of each
12.10 calendar quarter, every operator or importer shall make and file with the commissioner
12.11 of revenue a correct report under oath, in such form and containing such information as
12.12 the local unit of government shall require, relative to the quantity of silica sand removed
12.13 or imported during the preceding calendar quarter. The report shall be accompanied
12.14 by a remittance of the amount of tax due.

12.15 Subd. 3. **Estimate; statement of objections.** If the commissioner of revenue has
12.16 not received the report by the 15th day after the last day of each calendar quarter from the
12.17 operator or importer as required by subdivision 2 or has received an erroneous report, the
12.18 commissioner shall estimate the amount of tax due and notify the operator or importer by
12.19 registered mail of the amount of tax so estimated within the next 14 days. An operator or
12.20 importer may, within 30 days from the date of mailing the notice, and upon payment of the
12.21 amount of tax determined to be due, file in the office of the local unit of government a
12.22 written statement of objections to the amount of taxes determined to be due. The statement
12.23 of objections shall be deemed to be a petition within the meaning of chapter 278, and shall
12.24 be governed by sections 278.02 to 278.13.

12.25 Subd. 4. **Failure to file and pay; penalty.** Failure to file the report and submit
12.26 payment shall result in a penalty of \$5 for each of the first 30 days, beginning on the 15th
12.27 day after the last day of each calendar quarter, for which the report and payment are due and
12.28 no statement of objection has been filed as provided in subdivision 3, and a penalty of \$10
12.29 for each subsequent day shall be assessed against the operator or importer who is required
12.30 to file the report. The penalties imposed by this subdivision shall be collected as part of
12.31 the tax and credited to the general fund. If neither the report nor a statement of objection
12.32 has been filed after more than 60 days have elapsed from the date when the notice was
12.33 sent, the operator or importer who is required to file the report is guilty of a misdemeanor.

12.34 Subd. 5. **Penalties; removal of aggregate if previous tax not paid; false report.**
12.35 (a) It is a misdemeanor for any operator or importer to remove silica sand from a pit,
12.36 quarry, or deposit, or for any importer to import silica sand unless all taxes due under this

13.1 section for all previous reporting periods have been paid or objections thereto have been
 13.2 filed pursuant to subdivision 3.

13.3 (b) It is a misdemeanor for the operator or importer who is required to file a report to
 13.4 file a false report with intent to evade the tax.

13.5 Subd. 6. **Proceeds of taxes.** All money collected as taxes under this section shall
 13.6 be deposited in the general fund.

13.7 Subd. 7. **Examination and maintenance of records.** The commissioner of revenue
 13.8 may examine records, including computer records, maintained by an importer or operator.
 13.9 The term "record" includes, but is not limited to, all accounts of an importer or operator.
 13.10 The local unit of government must have access at all reasonable times to inspect and copy
 13.11 all business records related to an importer's or operator's collection, transportation, and
 13.12 disposal of aggregate to the extent necessary to ensure that all silica sand production taxes
 13.13 required to be paid have been remitted to the local unit of government. The records must
 13.14 be maintained by the importer or operator for no less than six years.

13.15 Sec. 10. **GENERIC ENVIRONMENTAL IMPACT STATEMENT; SILICA**
 13.16 **SAND MINING, TRANSPORTING, AND FACILITIES.**

13.17 Subdivision 1. **Generic environmental impact statement required.** By May 1,
 13.18 2014, the Environmental Quality Board shall complete a generic environmental impact
 13.19 statement on silica sand mining, transporting, and related facilities. Except as provided
 13.20 in subdivision 2, the generic environmental impact statement shall be conducted under
 13.21 rules of the Environmental Quality Board.

13.22 Subd. 2. **Scoping.** (a) Notwithstanding the environmental review rules of the
 13.23 Environmental Quality Board, the scope of the generic environmental impact statement
 13.24 required in subdivision 1 shall be the impact of silica sand mining, transporting,
 13.25 processing, and transfer facilities on:

13.26 (1) water resources, including but not limited to surface water and groundwater
 13.27 quantity and quality;

13.28 (2) other natural resources, including but not limited to protected forest lands, rivers,
 13.29 streams, and fish hatcheries and habitat;

13.30 (3) air quality from air particulate and other emissions;

13.31 (4) existing agricultural, recreational, tourist, and other existing businesses; and

13.32 (5) state and local roads and bridges.

13.33 (b) In addition to the items listed under paragraph (a), the generic environmental
 13.34 impact statement shall address:

14.1 (1) guidance for local units of government in addressing phased and connected
 14.2 actions, as defined in rules of the Environmental Quality Board, for silica sand mining,
 14.3 processing, and transfer facilities; and

14.4 (2) necessary law and rule changes to address the issues identified in paragraph (a).

14.5 By March 1, 2015, state agencies shall adopt the rule changes identified in clause (2).

14.6 (c) By July 1, 2013, the Environmental Quality Board shall select the agencies and
 14.7 consultants for the preparation of the generic environmental impact statement.

14.8 Subd. 3. **State and local permits.** All state and local permits issued after the
 14.9 effective date of this section shall be modified to be consistent with the conclusions of the
 14.10 generic environmental impact statement.

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

14.12 Sec. 11. **INTERIM ORDINANCE EXTENSION OR RENEWAL.**

14.13 Notwithstanding Minnesota Statutes, sections 394.34 and 462.355, subdivision 4,
 14.14 until March 1, 2015, a local unit of government may extend interim ordinances or renew
 14.15 an expired ordinance prohibiting new or expanded silica sand mining, processing, or
 14.16 transfer facilities, as defined in Minnesota Statutes, section 116Y.02.

14.17 **EFFECTIVE DATE.** This section is effective retroactively to March 1, 2013.

14.18 Sec. 12. **APPROPRIATION; REPORT ON SILICA SAND MINING,**
 14.19 **TRANSPORTING, AND FACILITIES.**

14.20 \$..... is appropriated in fiscal year 2013 from the general fund to the Pollution
 14.21 Control Agency for the Environmental Quality Board to conduct the generic environmental
 14.22 impact statement required under section 10. This is a onetime appropriation.

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