

HF2170 - 0 - Buy Clean and Buy Fair Minnesota Act

Chief Author: **Kaela Berg**
 Committee: **Climate And Energy Finance And Policy**
 Date Completed: **3/17/2023 10:14:54 PM**
 Lead Agency: **Administration Dept**
 Other Agencies:
 Administrative Hearings Transportation Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administration Dept						
General Fund	-	522	367	367	367	367
Administrative Hearings	-	-	-	-	-	-
Administrative Hearings	-	-	-	-	-	-
Transportation Dept						
Trunk Highway	-	410	410	410	410	410
State Total						
General Fund	-	522	367	367	367	367
Administrative Hearings	-	-	-	-	-	-
Trunk Highway	-	410	410	410	410	410
Total	-	932	777	777	777	777
Biennial Total			1,709			1,554

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Administration Dept						
General Fund	-	2	2	2	2	2
Administrative Hearings	-	-	-	-	-	-
Administrative Hearings	-	-	-	-	-	-
Transportation Dept						
Trunk Highway	-	3	3	3	3	3
Total	-	5	5	5	5	5

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Susan Nelson **Date:** 3/17/2023 10:14:54 PM

Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administration Dept						
General Fund	-	522	367	367	367	367
Administrative Hearings						
Administrative Hearings	-	-	-	-	-	-
Transportation Dept						
Trunk Highway	-	410	410	410	410	410
Total	-	932	777	777	777	777
Biennial Total			1,709			1,554
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administration Dept						
General Fund	-	522	367	367	367	367
Administrative Hearings						
Administrative Hearings	-	2	-	-	-	-
Transportation Dept						
Trunk Highway	-	410	410	410	410	410
Total	-	934	777	777	777	777
Biennial Total			1,711			1,554
2 - Revenues, Transfers In*						
Administration Dept						
General Fund	-	-	-	-	-	-
Administrative Hearings						
Administrative Hearings	-	2	-	-	-	-
Transportation Dept						
Trunk Highway	-	-	-	-	-	-
Total	-	2	-	-	-	-
Biennial Total			2			-

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Chief Author: **Kaela Berg**
 Committee: **Climate And Energy Finance And Policy**
 Date Completed: **3/17/2023 10:14:54 PM**
 Agency: **Administration Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	522	367	367	367
Total		-	522	367	367	367
Biennial Total				889		734

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	2	2	2	2
Total		-	2	2	2	2

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Susan Nelson **Date:** 3/3/2023 9:21:22 AM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium		Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	522	367	367	367
Total	-	522	367	367	367
Biennial Total			889		734
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	522	367	367	367
Total	-	522	367	367	367
Biennial Total			889		734
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

Subd. 3 requires the Commissioner to establish and publish a maximum acceptable global warming potential for certain construction materials used in an eligible project. Three years after establishing the maximum global warming potential for an eligible material and every three years thereafter, the Commissioner shall review the maximum acceptable global warming potential for each eligible material and adjust values downward if warranted.

Subd. 4 requires the Department of Administration and the Department of Transportation to require a specification for bids for an eligible project that the global warming potential reported by a bidder in the environmental product declaration for any eligible material must not exceed the maximum acceptable global warming potential for that eligible material. The Departments may, when evaluating proposals, 1) award higher scores to proposals whose products have a global warming potential below the maximum acceptable level established by the commissioner; 2) select a vendor whose product is below the established maximum acceptable global warming potential level if price of the product is no more than percent above that of the next most preferred vendor; and 3) elect to pay a vendor whose product is significantly below the established maximum acceptable global warming potential level a premium amount, up to an additional percent.

Subd. 5 - No later than July 1, 2024, the Departments of Administration and Transportation must establish a pilot program. The Department of Administration is required to construct a publicly accessible database to post data from the pilot program.

Subd. 6 requires the Commissioner to establish a process and administrative procedures for manufacturers to obtain waivers based on technical considerations or financial hardship.

Subd. 7 requires the Commissioner to design and implement a program to award grants to assist manufacturers of eligible materials located in Minnesota to obtain environmental product declarations.

Subd. 8 No later than October 1, 2023, the Commissioners of Administration and Transportation must establish an environmental standards procurement task force. The Commissioner of Administration shall summarize the findings and recommendations of the task force in a report no later than December 1, 2025.

Subd. 9 No later than February 1, 2025, the Commissioner of Administration shall submit a report regarding the elements contained in the bill.

Assumptions

Admin would contract with the University of Minnesota, Center for Sustainable Building Research or other consultant to conduct research and complete activities necessary to establish the maximum acceptable global warming potential for each eligible material.

Admin would hire two FTE to oversee the consultant, coordinate with stakeholders and complete other required activities and reporting.

Subd. 6 would require the small rulemaking procedure to be followed.

Subd. 7 Admin assumes that up to 10% of the value of grants awarded would be available to agencies for administration and implementation of the grants program.

Expenditure and/or Revenue Formula

1 FTE State Program Adm Manager Principal and 1 FTE Management Analyst 4 - Estimated salary, fringe and non-salary costs - \$275,000 - FY 24, \$267,000 ongoing

Contract with UofM, CSBR - \$500,000 - FY24 (\$200,000), FY 25-27 (\$100,000 per year)

Small rulemaking procedure - \$46,605 - FY24

Long-Term Fiscal Considerations

The cost impact to construction projects is unknown.

Local Fiscal Impact

References/Sources

Agency Contact: Wayne Waslaski ph. 651-201-2548

Agency Fiscal Note Coordinator Signature: Ify Onyiah

Phone: 651-201-2387

Date: 3/1/2023 4:15:03 PM

Email: ify.onyiah@state.mn.us

HF2170 - 0 - Buy Clean and Buy Fair Minnesota Act

Chief Author: **Kaela Berg**
 Committee: **Climate And Energy Finance And Policy**
 Date Completed: **3/17/2023 10:14:54 PM**
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Chloe Burns **Date:** 3/5/2023 10:17:56 PM
Phone: 651-297-1423 **Email:** chloe.burns@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings		-	2	-	-	-
Total		-	2	-	-	-
Biennial Total				2		-
2 - Revenues, Transfers In*						
Administrative Hearings		-	2	-	-	-
Total		-	2	-	-	-
Biennial Total				2		-

Bill Description

HF2170/SF2156 requires the Department of Administration (Department) to establish potential global warming impact standards for certain construction materials used in eligible projects.

The Department has determined that a small rulemaking will be necessary to meet the requirements of Sec. 1, Subd. 6, Waiver process.

Assumptions

OAH has used the Department's assumption that a small rulemaking will be required to meet the requirements of Sec. 1, Subd. 6, Waiver process. Based on past practices, OAH assumes that a small rulemaking under chapter 14 will require an estimated 10 hours of administrative law judge (ALJ) time for activity related to rulemaking procedures. Of the estimated rulemaking amount of \$46,605, \$2,450 is for the 10 hours of ALJ time for a small rulemaking.

OAH currently bills ALJ time for rulemaking at the MMB-approved billable rate of \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)).

Expenditure and/or Revenue Formula

Estimated 10 hours of ALJ time for rulemaking activities related to implementing the requirements of Sec. 1, Subd. 6, Waiver process = 10 hours x \$245/hr = \$2,450 charged to the Department in FY2024 pursuant to the requirements of Minn. Stat. § 14.53.

Long-Term Fiscal Considerations

Costs associated with rulemaking activities are a one-time occurrence.

Local Fiscal Impact**References/Sources**

Agency Contact: Denise Collins

Agency Fiscal Note Coordinator Signature: Denise Collins
Phone: 651-3617875

Date: 3/2/2023 9:07:45 AM
Email: denise.collins@state.mn.us

HF2170 - 0 - Buy Clean and Buy Fair Minnesota Act

Chief Author: **Kaela Berg**
 Committee: **Climate And Energy Finance And Policy**
 Date Completed: **3/17/2023 10:14:54 PM**
 Agency: **Transportation Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
Trunk Highway	-	410	410	410	410
Total	-	410	410	410	410
Biennial Total			820		820

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Trunk Highway	-	3	3	3	3
Total	-	3	3	3	3

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Laura Cecko **Date:** 3/17/2023 1:12:16 PM
Phone: 651-284-6543 **Email:** laura.cecko@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Trunk Highway	-	410	410	410	410
Total	-	410	410	410	410
Biennial Total			820		820
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Trunk Highway	-	410	410	410	410
Total	-	410	410	410	410
Biennial Total			820		820
2 - Revenues, Transfers In*					
Trunk Highway	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

The bill establishes, integrates into the procurement process, and provides reporting on global warming impact standards for certain construction materials used in state buildings and roads.

The bill requires that the commissioner of transportation confer with the commissioner of administration on asphalt paving mixtures before January 15, 2027, for the latter commissioner to establish a maximum acceptable global warming potential for carbon steel rebar. This conference must take place every three years.

Together, the commissioners must require specification that bidders for qualifying projects not exceed the potentials for carbon steel rebar, structural steel, concrete, and asphalt paving mixtures. Qualifying projects include:

- New construction of a state building larger than 50,000 gross square feet of occupied or conditioned space
- Renovation whose cost exceeds fifty percent of the building's assessed value
- New construction or reconstruction on two or more lane-miles of a trunk highway

Either commissioner must approve, in writing, that the given material(s) in a proposal meet(s) the requirements. The commissioners may give preference to proposals whose products have a lower potential as long as the price of the product(s) is no more than a set percent above that of the next most preferred vendor. The commissioners may offer a premium to bidders with exceptionally low potentials.

By July 1, 2024, the departments of administration and transportation must establish a pilot program that seeks to obtain from vendors an estimate of the lifecycle greenhouse gas emissions of relevant products selected by the departments. The departments must create a database, publicly accessible on their websites, with the information gleaned from the pilot.

No later than October 1, 2023, the commissioners must establish an environmental standards procurement task force to examine issues surrounding the implementation of a program requiring vendors of certain construction materials purchased by the state to:

- Submit product declarations that assess the lifecycle environmental impacts of those materials as part of the procurement process
- Meet standards established by the commissioner of administration that limit emissions impacts of those materials

The bill outlines specific initiatives, eligible members, and the required meeting consistency for the task force.

By February 1, 2025, the commissioner of transportation must again confer with the commissioner of administration to submit a written report to the chairs and ranking minority members of the legislative committees with primary jurisdiction over climate policy and state government. The bill describes the requirements of the report.

Assumptions

The bill would require vendors or plant operators to expend resources to complete and maintain Environmental Product Declarations (EPDs) which would likely result in increased costs and higher bids.

MnDOT would need to add at least three permanent FTEs, likely including:

- A Principal Engineer to
 - o develop and implement ongoing specifications related to the latest requirements for product-specific Product Category Rules (PCR)
 - o serve on national PCR committees
 - o develop systems to incorporate embodied carbon in planning, programming, scoping, designing and constructing MnDOT facilities
- A Senior Engineer to implement systems that incorporate embodied carbon in planning, programming, scoping, designing and constructing MnDOT facilities
- A Transportation Specialist (TS) to
 - o Work with contract administration personnel (inspectors and engineers) to ensure that required EPDs are provided and placed in the correct database
 - o Maintain the database
 - o Refine knowledge on precision and bias of EPD data to understand accuracy and usefulness

Assume an additional 50% added to each hourly rate to account for related overhead costs, including fringe benefits.

Expenditure and/or Revenue Formula

Principal Engineer: (2,080 hours x \$53.18 per hour) x 150% = **\$165,921.60**

Senior Engineer: (2,080 hrs x \$44.74/hr) x 150% = **\$139,588.80**

TS: (2,080 hrs x \$33.62) x 150% = **\$104,894.40**

-

Activity	2024	2025	2026	2027
Principal Engineer	\$165,921.60	\$165,921.60	\$165,921.60	\$165,921.60
Senior Engineer	\$139,588.80	\$139,588.80	\$139,588.80	\$139,588.80
TS	\$104,894.40	\$104,894.40	\$104,894.40	\$104,894.40
Total (in \$000s)	\$410	\$410	\$410	\$410
FTEs	3.00	3.00	3.00	3.00

Long-Term Fiscal Considerations

The bill is likely to increase the cost of some construction materials through added compliance costs or by limiting competition. These FTEs would be permanent.

Local Fiscal Impact

None.

References/Sources

MnDOT Office of Materials and Road Research

Agency Contact: Sam Brown

Agency Fiscal Note Coordinator Signature: Samuel Brown

Phone: 651-346-8525

Date: 3/17/2023 9:35:56 AM

Email: samuel.brown@state.mn.us