A bill for an act relating to taxation; providing for an assessment on environmental emissions; providing for refundable FICA and income tax credits; authorizing loans to improve energy efficiency; providing rulemaking authority; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 290; proposing coding for new law as Minnesota Statutes, chapter 216E.

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

Section 1. [CITATION.]
This act may be cited as the "Economic Efficiency and Pollution Reduction Act (EEPRA)."

Sec. 2. [216E.01] [DEFINITIONS.]
Subdivision 1. [SCOPE.] The definitions in this section apply to this chapter.
Subd. 2. [COAL.] "Coal" means bituminous coal, subbituminous coal, lignite, and coke.
Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of revenue.
Subd. 4. [LIQUID FUELS.] "Liquid fuels" means gasoline, liquefied petroleum gas, aviation gasoline, fuel oil and kerosene, diesel fuel, methanol from nonplant sources, and kerosene.
Subd. 5. [NATURAL GAS.] "Natural gas" means a naturally occurring mixture of hydrocarbons and nonhydrocarbon gases found in porous geologic formations beneath the earth's surface, the principal constituent of which is methane.
Subd. 6. [PERSON.] "Person" includes an individual, partnership, corporation, limited liability company, association, governmental unit or agency, or other public or private organization.
Subd. 7. [PRIMARY CARBON-BASED FUELS.] "Primary carbon-based fuels" means coal, mixed municipal solid waste and refuse-derived fuel, natural gas, and liquid fuels.

Sec. 3. [216E.02] [ENVIRONMENTAL EMISSIONS ASSESSMENT.]
Subdivision 1. [ASSESSED FUELS.] (a) The use of primary carbon-based fuels and the sale of electricity to provide for in-state energy consumption are subject to an environmental emissions assessment under this section.
(b) Ethanol, methanol from plant materials, wood, wood wastes, agricultural crops, crop residues, sludge, solvents, waste oil, hazardous waste, medical waste, and hydro-electricity are not subject to the assessment under this chapter.
(c) The assessment does not apply to:
(1) the use of coal, natural gas, or a petroleum product for combustion in the generating facility of an electric utility; or
(2) the use of liquid fuel as a physical component of a manufactured product.

Subd. 2. [CALCULATION OF ASSESSMENT.] (a) The environmental emissions assessment applies to carbon content of the fuel prior to burning. Calculation of the amount of carbon must be based on the estimated carbon content of the fuel according to fuel type or subtype. The department of public service shall set the estimates of carbon content to be used in the calculation. Subject to subdivision 3, the final assessment rates at the end of the five-year period are $50 per ton of carbon content of the fuel.

(b) The interim assessments for the period beginning January 1, 1998, for gasoline, fuel oil, natural gas, coal, and electricity are:

1. (1) gasoline 2.6 cents/gallon
2. (2) fuel oil
   (including diesel fuel) 2.9 cents/gallon
3. (3) natural gas .15 cents/thousand cubic feet;
4. (4) coal having a heating value over 11,500 BTU per pound $6.00/ton of coal;
5. (5) coal having a heat value less than 11,500 BTU per pound $4.60/ton;
6. (6) coal fired electricity .361 cents per kwh;
7. (7) gas fired electricity .157 cents per kwh.

(c) The assessment rate for electricity sold for consumption within the state shall be determined by the commissioner for each electric utility in mills per kilowatt hour of electricity sold. Each utility’s final assessment rate is based on the total mix of fuels used in the generating facilities of the utility, or in the generating facilities of the power plants from which the Minnesota utility purchases electricity. The assessment on each fuel equals the assessments provided under paragraphs (a) and (b).

For the purposes of this paragraph, the generating facilities of a utility include facilities that are owned in whole or in part by the utility, or provide firm capacity or energy by contract to the utility for a term of at least one year.

If a utility shares a generating facility, the utility’s share of the fuel used in and kilowatt hours of electricity produced by the facility must be calculated in proportion to the utility’s share of ownership or use of the facility.

The assessment rate determined under this paragraph is applied to all electricity sold by a utility for consumption in the state, whether or not the electricity was generated at facilities of the utility.

(d) The assessment rate for nuclear generated electricity equals the average assessment on all assessable nonnuclear generated electricity sold to Minnesota customers.

Subd. 3. [PHASE-IN OF RATES.] (a) The department of public service shall set the assessment rates for primary carbon-based fuels as follows:

1. (1) for the first full calendar year, the assessment rates are $10 per ton of carbon content of the fuel;
2. (2) for the second full calendar year, the assessment rates are $20 per ton of carbon content of the fuel;
3. (3) for the third full calendar year, the assessment rates are $30 per ton of carbon content of the fuel;
4. (4) for the fourth full calendar year, the assessment rates are $40 per ton of carbon content of the fuel; and
(5) for the fifth full calendar year, and for all subsequent years, the assessment rates are $50 per ton of carbon content of the fuel.

(b) The department of public service shall set the assessment rates for electricity as follows:

(1) for the first full calendar year, the assessment rates are 20 percent of the final assessment rate for electricity specified in subdivision 2, paragraph (c);
(2) for the second full calendar year, the assessment rates are 40 percent of the final assessment rate for electricity specified in subdivision 2, paragraph (c);
(3) for the third full calendar year, the assessment rates are 60 percent of the final assessment rates for electricity specified in subdivision 2, paragraph (c);
(4) for the fourth full calendar year, the assessment rates are 80 percent of the final assessment rate for electricity specified in subdivision 2, paragraph (c); and
(5) for the fifth full calendar year, and for all subsequent years, the assessment rates are the rate specified in subdivision 2, paragraph (c).

Subd. 4. [DEPOSIT OF ASSESSMENTS.] The assessments collected under this section must be credited to the general fund.

Sec. 4. [216E.03] [ASSESSMENT PROCEDURE.]

Subdivision 1. [COAL.] The carbon content of coal is assessed upon the first receipt of coal in the state for burning. Liability for the assessment is on the person who receives coal for burning. A person who receives coal shipped or brought into Minnesota has the burden of proving that the coal was not received for burning in Minnesota.

Subd. 2. [NATURAL GAS.] The carbon content of natural gas is assessed upon the first receipt of natural gas in the state. Liability for the assessment is on the person in the state who first receives natural gas from outside of the state. A person who receives natural gas piped, shipped, or otherwise brought into Minnesota has the burden of proving that the natural gas was not received for consumption in Minnesota.

Subd. 3. [WASTE AND REFUSE-DERIVED FUEL.] The carbon content of mixed municipal solid waste and refuse-derived fuel is assessed upon incineration of the fuel in the state. Liability for the assessment is on the person who burns mixed municipal solid waste and refuse-derived fuel in the state.

Subd. 4. [LIQUID FUELS.] The carbon content of liquid fuels is assessed when first withdrawn from storage at a pipeline terminal, river terminal, refinery, other storage facility, or otherwise first distributed in this state.

Subd. 5. [ELECTRICITY.] Electricity is assessed at the time of its sale by the electric utility to the consumer billed for the electricity. Liability for the assessment is on the consumer who is billed, but the electric utility is liable for collection and payment of the assessment.

Sec. 5. [216E.04] [REFUNDS.]

Subdivision 1. [HIGH IMPACT REFUND.] (a) A person who is not a utility is allowed a refund equal to the sum of the following amounts determined by multiplying the amount of the assessment determined under percentage of qualified sales column by the specified percentage in the percent of excess column:

The amount of the assessment that exceeds the specified percentage of qualified sales:
For purposes of this paragraph, the following terms mean:

5.33 (1) "assessment" is the environmental emissions assessment the person pays under section 216E.02; and

5.34 (2) "qualifying sales" are the person's total sales wherever made in connection with the person's trade or business conducted in this state, as determined under section 290.191.

5.35 (b) A person qualifies for a refund under this subdivision if, for the first year when the person is subject to the assessment, the person provides a report to the commissioner of revenue in the form required by the commissioner on the results of a study of the person's operations and facilities. The study must identify capital improvements that will result in energy savings over five years or less that are equal to or greater than the cost of the improvements. The report must include a detailed plan for implementation of the improvements over a period that does not exceed five years from the last day of the first calendar year when the person became subject to the assessment. The report must also state the current level of carbon emissions related to the person's Minnesota operations, and the estimated level of emissions upon completion of the improvements. On the fifth annual application for a refund under this subdivision, the person must provide evidence satisfactory to the commissioner that the improvements described in the initial refund application have been completed. If the person has not completed the improvements by the end of the fifth calendar year during which the person has been subject to the assessment, the person is subject to recapture of all amounts previously paid to the person as refunds under this subdivision, plus interest on each refund computed from the date each refund was paid to the person, at the rate specified in section 270.75. The amount of the recapture must be paid no later than 90 days after the person has received notice from the commissioner of revenue that it is due, and is an assessable penalty for purposes of chapter 289A.

Subd. 2. [LIQUID FUEL USED AS MATERIAL COMPONENT.] A person who uses liquid fuel that is exempt from the assessment under section 216E.02, subdivision 1, paragraph (c), may apply for a refund of the assessment paid on the fuel.

Subd. 3. [APPLICATION.] Application for a refund under this section must be made on a form prescribed by the commissioner at the time of filing the annual return under section 216E.05, subdivision 1, and is subject to sections 289A.40 and 289A.50.

Subd. 4. [APPROPRIATION.] An amount sufficient to make refunds required by this section is appropriated to the commissioner from the general fund.

Sec. 6. [216E.05] [ADMINISTRATION AND ENFORCEMENT.] Subdivision 1. [ANNUAL RETURNS.] A person subject to the assessment must file a return relating to the assessment due for the preceding calendar year with the commissioner by April 15 each year on a form prescribed by the commissioner. Payment of the assessment to the extent not paid in full under subdivision 2 must be submitted with the return.

Subd. 2. [DECLARATION OF ESTIMATED ASSESSMENT.] A person required to pay an assessment under this chapter must make a declaration of estimated assessment due for the calendar year if it can reasonably be expected to be in excess of $1,000. The
7.21 amount of estimated assessment with respect to which a
declaration is required must be paid in four equal installments
7.22 on or before the 15th day of March, June, September, and
7.23 December.

7.24 An amendment of a declaration may be filed between
7.25 installment dates but only one amendment may be filed in each
7.26 interval. If an amendment of a declaration is filed, the amount
7.27 of each remaining installment must be determined in a manner
7.28 established by rule.

7.29 The commissioner may grant a reasonable extension of time
7.30 of up to six months for filing a declaration.

7.31 Subd. 3. [FAILURE TO PAY ESTIMATED ASSESSMENT.] Section
7.32 115B.24, subdivision 3, applies to failure of a person to pay an
7.33 estimated assessment due under this chapter.

7.34 Subd. 4. [REFUNDS.] Section 289A.50 applies to the refunds
7.35 claimed and made under this chapter. Refunds of overpayments of
7.36 an estimated assessment must be made as provided in section
7.37 289A.56, subdivision 2.

7.38 Subd. 5. [EXCHANGE OF INFORMATION.] Notwithstanding
7.39 sections 13.68 and 116.075, the department of public service may
7.40 provide the commissioner with information necessary for the
7.41 enforcement of this chapter. The information disclosed must
7.42 retain its nonpublic nature to the extent that it was so
7.43 classified prior to disclosure to the commissioner. Information
7.44 obtained in the course of an audit of the taxpayer by the
7.45 commissioner is nonpublic or private data to the extent it is
7.46 not directly divulged in a return.

7.47 Subd. 6. [DUTIES OF THE COMMISSIONERS.] The commissioner
7.48 of public service shall provide to the commissioner the names
7.49 and addresses of all persons known by them to be subject to
7.50 assessments under this chapter, together with any information
7.51 concerning the amount of carbon to be assessed. Upon request by
7.52 the commissioner, the commissioner of public service shall
7.53 examine returns and reports filed with the commissioner and
7.54 notify the commissioner of any suspected inaccurate or
7.55 fraudulent declaration or return. The commissioner of public
7.56 service may assist in auditing a person subject to the
7.57 assessment under this chapter when requested by the commissioner.

7.58 Subd. 7. [RULES.] The commissioner may adopt rules
7.59 necessary to administer this chapter.

7.60 Subd. 8. [ENFORCEMENT.] The following audit, penalty, and
7.61 enforcement provisions apply to assessments under this chapter:
7.62 sections 289A.35 to 289A.37; 289A.38, subdivisions 1, 2, 5, and
7.63 6; 289A.40, subdivision 1; 289A.41; 289A.42, subdivision 1;
7.64 289A.55; 289A.60, subdivisions 1 to 10, 13, 18, and 19; 289A.63,
7.65 subdivisions 1, 2, and 7 to 10; and 289A.65.

7.66 Sec. 7. [216E.06] [USE OF ASSESSMENT REVENUES.]
7.67 (a) Revenue from the environmental emissions assessments
7.68 must be used as provided by this section. By August 1 of each
7.69 year, the commissioner of public service shall estimate the
7.70 amount of revenues to be collected in the next calendar year
7.71 from the assessment, less the refund under section 216E.04. In
7.72 addition, the commissioner of public service shall estimate the
7.73 respective proportions of the tax that are remitted or directly
7.74 paid (1) by individuals and households and (2) by business firms.

7.75 (b) The revenues must be divided in proportion to the
7.76 shares determined under paragraph (a), clauses (1) and (2):
7.77 (1) Revenues remitted or directly paid by individuals must
7.78 be used for a refundable income tax credit as provided by
7.79 section 290.0672.
(2) Revenues remitted or directly paid by business firms must be used for a refundable payroll tax rebate as provided in section 290.98.

Sec. 8. [216E.07] [ENERGY EFFICIENCY LOANS.]
Subdivision 1. [ESTABLISHMENT OF PROGRAM.] The commissioner shall establish an energy efficiency loan program to make low interest loans to businesses. The commissioner may make loans for this purpose using moneys in the energy and conservation account under section 216B.241, subdivision 2a, that are appropriated for the loan program under this section or other law.

Subd. 2. [COMMISSIONER.] For purposes of this section, "commissioner" means the commissioner of trade and economic development.

Subd. 3. [USE OF LOAN PROCEEDS.] Borrowers may use the loan proceeds to pay for improvements recommended by audits obtained to comply with section 216E.04, subdivision 1, paragraph (b), clause (3).

Subd. 4. [UNDERWRITING STANDARDS.] The commissioner may establish application forms, application procedures, underwriting standards, and other rules for processing and originating loans under this program.

Subd. 5. [LOAN TERMS.] (a) The commissioner shall specify the provisions governing the loans, including whether they are secured or unsecured, the terms, principal repayment schedules, and any other provisions the commissioner deems appropriate.
(b) The commissioner may set and require that an application fee be paid by applicants for loans under the program.
(c) The loans must bear interest at no less than the interest rate on Minnesota state general obligation, tax exempt bonds. Higher interest rates may be charged, based on the loans' security.

Subd. 6. [DEPOSIT OF REPAYMENT.] Repayments of loans made under this program are deposited in the general fund and credited to the loan subaccount of the energy and conservation account for purposes of the loan program.

Subd. 7. [RULE MAKING.] The commissioner may adopt administrative rules under chapter 14 to implement the provisions of this section.

Subd. 8. [SEPARATE REVOLVING LOAN SUBACCOUNT.] A loan subaccount is established as a separate bookkeeping account in the energy and conservation account. This subaccount is a revolving fund for the loan program under this section. All appropriations for the loan program, repayment of loans, loan fees, investment earnings, and other income of the program must be credited to the subaccount. Upon termination of the program under this section, any money in the loan subaccount cancels to the general fund.

Subd. 9. [APPROPRIATION.] Amounts appropriated to the energy and conservation account for purposes of the loan program are appropriated to the commissioner to carry out the program's functions, including the commissioner's administrative costs and overhead. In addition, loan repayments and investment income of the loan subaccount are appropriated to the commissioner for these purposes.

Subd. 10. [EXPIRATION.] The authority to make loans under this section expires on December 31, 2004.

Sec. 9. [290.0672] [EEPRA REFUND.]
Subdivision 1. [CREDIT ALLOWED.] An individual is allowed
a credit against the tax imposed by this chapter equal to the
allowable dollar amount, determined under subdivision 3, for
each of the following:
(1) the taxpayer,
(2) the taxpayer's spouse for a credit claimed on a joint
return, and
(3) each qualified dependent of the taxpayer.

Subd. 2. [DEFINITIONS.] (a) For purposes of this section,
the following terms have the meanings given.
(b) A "dependent" means a dependent as defined in section
152 of the Internal Revenue Code.
(c) A "qualified dependent" means a dependent who has
attained the age of 16 by the close of the taxable year.

Subd. 3. [DETERMINATION OF ALLOWABLE AMOUNT.] (a) By
August 31 of each year, the commissioner shall estimate the
total number of filers, spouses, and qualified dependents in the
next tax year.
(b) The allowable amount for taxable years beginning in the
next calendar year equals the amount revenues estimated by the
commissioner of public service under section 216E.06 that are
remitted or paid directly by individuals or households, divided
by the number estimated under paragraph (a).

Subd. 4. [CREDIT REFUNDABLE.] If the claimant is eligible
to receive a credit that is larger than the claimant's tax
liability under this chapter, the commissioner shall refund the
excess to the claimant.

Subd. 5. [DEPENDENT BARRED FROM CLAIMING OWN CREDIT.] No
credit may be paid to an individual claimed as a dependent on
the federal tax return of another individual.

Subd. 6. [APPROPRIATION.] An amount sufficient to pay the
refunds required by this section is appropriated to the
commissioner from the general fund.

Sec. 10. [290.98] [REBATE OF PAYROLL TAXES.]
Subdivision 1. [REBATE TO EMPLOYERS.] (a) Subject to
subdivision 3, the amount determined under section 216E.06
paragraph (b), clause (2), must be paid as a rebate to employers
who make payments of Federal Insurance Contributions Act taxes
under section 3111 of the Internal Revenue Code.
(b) The rebate is determined for each employer as follows:
(1) multiply the amount of the tax paid by an employer
under section 3111 of the Internal Revenue Code by a percentage
equal to the percentage of the employer's total payroll that is
determined to be Minnesota payroll for purposes of section
290.191; and
(2) multiply the amount determined under clause (1) by a
percentage determined by dividing the amount specified in
paragraph (a) by the sum of the amounts
determined under clause (1) for all employers who apply for the
rebate for the taxable year and one-half of the self-employment
tax paid by Minnesota residents who apply for a rebate under
subdivision 2 for the taxable year.

Subd. 2. [REBATE TO INDIVIDUALS PAYING SELF-EMPLOYMENT
TAXES.] The rebate for a Minnesota resident who pays
self-employment tax under section 1401 of the Internal Revenue
Code is determined by multiplying one-half of tax paid during
the calendar year by a percentage determined under subdivision
1, paragraph (b), clause (2).

Subd. 3. [PAYMENT OF REBATES.] The rebate must be claimed
in the form provided on the income tax return and paid by the
commissioner.
Subd. 4. [APPROPRIATION.] The amount necessary to pay the rebates provided in this section is appropriated from the general fund to the commissioner.

Sec. 11. [APPROPRIATION.]

Subdivision 1. [APPROPRIATION.] The following amounts are appropriated from the general fund for fiscal year 1998 for the purposes designated:

1. $20,000,000 to the commissioner of public service for deposit in the energy and conservation account established under Minnesota Statutes, section 216B.241, subdivision 2a, to be used for weatherization grants and loans to be made by the commissioner of economic security to low income persons;

2. $20,000,000 to the commissioner of economic security for deposit in the statewide fuel account, established under Minnesota Statutes, section 268.371, for energy assistance to low income households;

3. $14,000,000 to the metropolitan council for transit operations;

4. $16,000,000 to the commissioner of transportation for bridge repair;

5. $50,000,000 to the commissioner of public service for deposit in the energy and conservation account established under Minnesota Statutes, section 216B.241, subdivision 2a, to fund a revolving loan fund to make energy efficiency loans to businesses under section 8.

Subd. 2. [CARRYFORWARD.] Notwithstanding the provisions of Minnesota Statutes, section 16A.28, the appropriations under this section do not lapse and may be carried forward until spent or June 30, 2001, whichever occurs first.

Sec. 12. [EFFECTIVE DATE.]

Sections 2 to 6 are effective January 1, 1998, and apply to coal and natural gas first received, mixed municipal solid waste, and refuse-derived fuel first burned and liquid fuels first withdrawn or distributed in this state on and after that date and to electricity sold after that date. Sections 7 to 10 are effective July 1, 1998.

Please direct all comments concerning issues or legislation to your House Member or State Senator.

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General questions or comments.

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