

1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 897: A bill for an act relating to state lands;
4 modifying landowner's bill of rights for sales to the state;
5 modifying provisions for sale of internal improvement land;
6 modifying land exchange provisions; appropriating money;
7 amending Minnesota Statutes 2004, sections 84.0274, by adding
8 subdivisions; 92.03, subdivision 4; 94.342, subdivisions 1, 3,
9 4, 5; 94.343, subdivisions 1, 3, 7, 8, 10, by adding
10 subdivisions; 94.344, subdivisions 1, 3, 5, 8, 10, by adding a
11 subdivision; 97A.135, subdivision 2a; 103F.535, subdivision 1;
12 repealing Minnesota Statutes 2004, sections 94.343, subdivision
13 6; 94.344, subdivision 6; 94.348; 94.349.

14 Reports the same back with the recommendation that the bill
15 be amended as follows:

16 Page 4, line 17, delete "such" and insert "the" and delete "
17 as" and insert "directed by"

18 Page 4, line 18, delete "may direct"

19 Page 4, line 20, delete "such" and delete "as"

20 Page 4, line 21, after "they" insert "may"

21 And when so amended the bill do pass. Amendments adopted.
22 Report adopted.

23
24 (Committee Chair)

25
26 April 20, 2005.....
27 (Date of Committee recommendation)

1 A bill for an act

2 relating to state lands; modifying landowner's bill of
3 rights for sales to the state; modifying provisions
4 for sale of internal improvement land; modifying land
5 exchange provisions; appropriating money; amending
6 Minnesota Statutes 2004, sections 84.0274, by adding
7 subdivisions; 92.03, subdivision 4; 94.342,
8 subdivisions 1, 3, 4, 5; 94.343, subdivisions 1, 3, 7,
9 8, 10, by adding subdivisions; 94.344, subdivisions 1,
10 3, 5, 8, 10, by adding a subdivision; 97A.135,
11 subdivision 2a; 103F.535, subdivision 1; repealing
12 Minnesota Statutes 2004, sections 94.343, subdivision
13 6; 94.344, subdivision 6; 94.348; 94.349.

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

15 Section 1. Minnesota Statutes 2004, section 84.0274, is
16 amended by adding a subdivision to read:

17 Subd. 9. [EXCEPTION FOR NONPROFIT ORGANIZATIONS AND
18 GOVERNMENTAL ENTITIES.] When the commissioner acquires land or
19 interests in land from a nonprofit organization or governmental
20 entity, any or all of the provisions of this section may be
21 waived by mutual agreement of the commissioner and the nonprofit
22 organization or governmental entity.

23 Sec. 2. Minnesota Statutes 2004, section 84.0274, is
24 amended by adding a subdivision to read:

25 Subd. 10. [RIGHT OF FIRST REFUSAL AGREEMENT.] The
26 commissioner may enter into a right of first refusal agreement
27 with a landowner prior to determining the value of the land. No
28 right of first refusal agreement shall be made for a period of
29 greater than two years and payment to the landowner for entry

1 into the agreement shall not exceed \$5,000.

2 Sec. 3. Minnesota Statutes 2004, section 92.03,
3 subdivision 4, is amended to read:

4 Subd. 4. [INTERNAL IMPROVEMENT LANDS.] When lands donated
5 to the state under the eighth section of an act of Congress
6 entitled "An act to appropriate the proceeds of the sales of the
7 public lands, and to grant preemption rights," approved
8 September 4, 1841, ~~must-be~~ are sold ~~and,~~ the money derived from
9 its sale must be invested, as provided by the Minnesota
10 Constitution, article XI, section 8.

11 Sec. 4. Minnesota Statutes 2004, section 94.342,
12 subdivision 1, is amended to read:

13 Subdivision 1. [CLASS A.] All land owned by the state and
14 controlled or administered by the commissioner or by any
15 division ~~or~~-agency of the Department of Natural Resources shall
16 be known as Class A land for the purposes of sections 94.341 to
17 94.347. Class A land shall include school, swamp, internal
18 improvement, and other land granted to the state by acts of
19 Congress, state forest land, tax-forfeited land held by the
20 state free from any trust in favor of taxing districts, and
21 other land acquired by the state in any manner and controlled or
22 administered as aforesaid; but this enumeration shall not be
23 deemed exclusive.

24 Sec. 5. Minnesota Statutes 2004, section 94.342,
25 subdivision 3, is amended to read:

26 Subd. 3. [~~CLASS-E~~ ADDITIONAL RESTRICTIONS ON RIPARIAN
27 LAND.] Land bordering on or adjacent to any meandered or other
28 public waters and withdrawn from sale by law is ~~Class-E~~ riparian
29 land. ~~Class-E~~ Riparian land may not be given in exchange unless
30 expressly authorized by the legislature or unless through the
31 same exchange the state acquires land on the same or other
32 public waters in the same general vicinity affording at least
33 equal opportunity for access to the waters and other riparian
34 use by the public; provided, that any exchange with the United
35 States or any agency thereof may be made free from this
36 limitation upon condition that the state land given in exchange

1 bordering on public waters shall be subject to reservations by
2 the state for public travel along the shores as provided by
3 section 92.45, unless waived as provided in this subdivision,
4 and that there shall be reserved by the state such additional
5 rights of public use upon suitable portions of such state land
6 as the commissioner of natural resources, with the approval of
7 the Land Exchange Board, may deem necessary or desirable for
8 camping, hunting, fishing, access to the water, and other public
9 uses. In regard to Class B or ~~Class-E~~ riparian land that is
10 contained within that portion of the Superior National Forest
11 that is designated as the Boundary Waters Canoe Area Wilderness,
12 the condition that state land given in exchange bordering on
13 public waters must be subject to the public travel reservations
14 provided in section 92.45, may be waived by the Land Exchange
15 Board upon the recommendation of the commissioner of natural
16 resources and, if the land is Class B land, the additional
17 recommendation of the county board in which the land is located.

18 Sec. 6. Minnesota Statutes 2004, section 94.342,
19 subdivision 4, is amended to read:

20 Subd. 4. [ADDITIONAL RESTRICTIONS ON STATE PARK LAND.]

21 Land specifically designated by law as a state park may not be
22 given in exchange unless the land is school trust land that is
23 exchanged for Class A ~~or-Class-E~~ land located outside a state
24 park.

25 Sec. 7. Minnesota Statutes 2004, section 94.342,
26 subdivision 5, is amended to read:

27 Subd. 5. [ADDITIONAL RESTRICTIONS ON SCHOOL TRUST LAND.]

28 School trust land may be exchanged with other state Class A land
29 only if the Permanent School Fund Advisory Committee is
30 appointed as temporary trustee of the school trust land for
31 purposes of the exchange. The committee shall provide
32 independent legal counsel to review the exchanges.

33 Sec. 8. Minnesota Statutes 2004, section 94.343,
34 subdivision 1, is amended to read:

35 Subdivision 1. [GENERAL EXCHANGE PROVISIONS.] ~~Except-as~~
36 ~~otherwise-herein-provided,~~ (a) Any Class A land may, with the

1 unanimous approval of the board, be exchanged for any publicly
 2 held or privately owned land in the manner and subject to the
 3 conditions herein prescribed. Class A land may be exchanged
 4 only if it meets the requirements of subdivision 3 or 5.

5 (b) The commissioner, with the approval of the board, shall
 6 formulate general programs of exchange of Class A land designed
 7 to serve the best interests of the state in the acquisition,
 8 development, and use of lands for purposes within the province
 9 of the Department of Natural Resources.

10 Sec. 9. Minnesota Statutes 2004, section 94.343, is
 11 amended by adding a subdivision to read:

12 Subd. 2a. [VALUATION OF LAND.] The commissioner shall
 13 cause the state land and the land proposed to be exchanged
 14 therefor to be examined and value determined as provided in
 15 section 84.0272; provided, that in exchanges with the United
 16 States or any agency thereof the examination and value
 17 determination may be made in ^{the} ~~such~~ ^{dictated by} manner as the Land Exchange
 18 Board may direct. The determined values shall not be
 19 conclusive, but shall be taken into consideration by the
 20 commissioner and the board, together with ~~such~~ other matters as
 21 they ^{may} deem material, in determining the values for the purposes
 22 of exchange.

23 Sec. 10. Minnesota Statutes 2004, section 94.343,
 24 subdivision 3, is amended to read:

25 Subd. 3. [EXCHANGING LAND OF SUBSTANTIALLY EQUAL VALUE
 26 REQUIRED OR LOWER VALUE.] (a) Except as otherwise herein
 27 provided, Class A land shall be exchanged only for land of at
 28 least substantially equal value to the state, as determined by
 29 the commissioner, with the approval of the board. For the
 30 purposes of such determination, the commissioner shall cause the
 31 state land and the land proposed to be exchanged therefor to be
 32 examined and appraised by qualified state appraisers as provided
 33 in section 84.0272; provided, that in exchanges with the United
 34 States or any agency thereof the examination and appraisal may
 35 be made in such manner as the Land Exchange Board may direct.
 36 The appraisers shall determine the fair market value of the

~~1 lands-involved, disregarding any minimum value fixed for state
2 land by the state Constitution or by law, and shall make a
3 report thereof, together with such other pertinent information
4 respecting the use and value of the lands to the state as they
5 deem pertinent or as the commissioner or the board may require.
6 Such reports shall be filed and preserved in the same manner as
7 other reports of appraisal of state lands. The appraised values
8 shall not be conclusive, but shall be taken into consideration
9 by the commissioner and the board, together with such other
10 matters as they deem material, in determining the values for the
11 purposes of exchange.~~

12 (b) For the purposes of this subdivision, "substantially
13 equal value" means:

14 (1) where the lands being exchanged are both over 100
15 acres, their values do not differ by more than ten percent; and

16 (2) in other cases, the values of the exchanged lands do
17 not differ by more than 20 percent.

18 (c) Other than school trust land, Class A land may be
19 exchanged for land of lesser value if the other party to the
20 exchange pays to the state the amount of the difference in value.
21 Money received by the commissioner in such cases shall be
22 credited to the same fund as in the case of sale of the land, if
23 such a fund exists, otherwise to the special fund, if any, from
24 which the cost of the land was paid, otherwise to the general
25 fund.

26 Sec. 11. Minnesota Statutes 2004, section 94.343,
27 subdivision 7, is amended to read:

28 Subd. 7. [PUBLIC HEARING.] Before giving final approval to
29 any exchange of Class A land, the ~~board~~ commissioner shall hold
30 a public hearing thereon at the capital city or at some place
31 which it may designate in the general area where the lands
32 involved are situated, ~~provided, that the board may direct such~~
33 ~~hearing to be held in its behalf by any of its members or by the~~
34 ~~commissioner or by a referee appointed by the board.~~ The
35 commissioner shall furnish to the auditor of each county
36 affected a notice of the hearing signed by the ~~state auditor as~~

1 ~~secretary-of-the-board~~ commissioner, together with a list of all
2 the lands proposed to be exchanged and situated in the county,
3 and the county auditor shall post the same in the auditor's
4 office at least two weeks before the hearing. The county
5 ~~auditor~~ commissioner shall also cause a copy of the notice,
6 referring to the list of lands posted, to be published at least
7 two weeks before the hearing in a legal newspaper published in
8 the county. The cost of publication of the notice shall be paid
9 by the ~~state-out-of-any-moneys-appropriated-for-the-expenses-of~~
10 ~~the-board~~ commissioner.

11 Sec. 12. Minnesota Statutes 2004, section 94.343,
12 subdivision 8, is amended to read:

13 Subd. 8. [PROPOSALS FOR EXCHANGE.] The commissioner, with
14 the approval of the board, may submit a proposal for exchange of
15 Class A land to any land owner concerned. Any land owner may
16 submit to the commissioner and the board a proposal for exchange
17 in such form as the commissioner, ~~with the approval of the~~
18 ~~board~~, may prescribe.

19 Sec. 13. Minnesota Statutes 2004, section 94.343, is
20 amended by adding a subdivision to read:

21 Subd. 8a. [FEES.] (a) When a private landowner or
22 governmental unit, except the state, presents to the
23 commissioner an offer to exchange privately or publicly held
24 land for Class A land, the private landowner or governmental
25 unit shall pay to the commissioner a determination of value fee
26 and survey fee of not less than one-half of the cost of the
27 determination of value and survey fees as determined by the
28 commissioner.

29 (b) Except as provided in paragraph (c), any payment made
30 under paragraph (a) shall be credited to the account from which
31 the expenses are paid and is appropriated for expenditure in the
32 same manner as other money in the account.

33 (c) The fees shall be refunded if the land exchange offer
34 is withdrawn by a private landowner or governmental unit before
35 the money is spent.

36 Sec. 14. Minnesota Statutes 2004, section 94.343,

1 subdivision 10, is amended to read:

2 Subd. 10. [CONVEYANCE.] Conveyance of Class A land given
3 in exchange shall be made by deed executed by the commissioner
4 in the name of the state, ~~with a certificate of unanimous~~
5 ~~approval by the board appended.~~ All such deeds received by the
6 state shall be recorded or registered in the county in which the
7 lands lie, ~~and all recorded deeds and certificates of registered~~
8 ~~title shall be filed in the office having custody of the state~~
9 ~~public land records in the Department of Natural Resources.~~

10 Sec. 15. Minnesota Statutes 2004, section 94.344,
11 subdivision 1, is amended to read:

12 Subdivision 1. [GENERAL EXCHANGE PROVISIONS.] ~~Except as~~
13 ~~otherwise provided,~~ Class B land, by resolution of the county
14 board of the county where the land is located and with the
15 unanimous approval of the Land Exchange Board, may be exchanged
16 for any publicly held or privately owned land in the same
17 county. Class B land may be exchanged only if it meets the
18 requirements of subdivision 3 or 5.

19 Sec. 16. Minnesota Statutes 2004, section 94.344, is
20 amended by adding a subdivision to read:

21 Subd. 2a. [VALUATION OF LANDS.] For an exchange involving
22 Class B land for Class A land, the value of the lands shall be
23 determined by the commissioner, with approval of the Land
24 Exchange Board. For purposes of the determination, the
25 commissioner shall determine the value of the state and
26 tax-forfeited land proposed to be exchanged in the same manner
27 as Class A land. For all other purposes, the county board shall
28 appraise the state land and the land in the proposed exchange in
29 the same manner as tax-forfeited land to be offered for sale.
30 The determined values shall not be conclusive, but shall be
31 taken into consideration, together with such other matters as
32 may be deemed material, in determining the values for the
33 purposes of exchange.

34 Sec. 17. Minnesota Statutes 2004, section 94.344,
35 subdivision 3, is amended to read:

36 Subd. 3. [EXCHANGING LAND OF SUBSTANTIALLY EQUAL VALUE

1 ~~REQUIRED OR LOWER VALUE.]~~ (a) Except as otherwise provided,
 2 Class B land may be exchanged only for land of substantially
 3 equal value ~~or greater value~~ to the state, as determined by the
 4 county board, with the approval of the commissioner and the Land
 5 Exchange Board. ~~For an exchange involving Class B land for~~
 6 ~~Class A or Class C land, the value of the lands shall be~~
 7 ~~determined by the commissioner, with approval of the Land~~
 8 ~~Exchange Board. For purposes of the determination, the~~
 9 ~~commissioner shall appraise the state and tax forfeited land~~
 10 ~~proposed to be exchanged in the same manner as Class A land.~~
 11 ~~For all other purposes, the county board shall appraise the~~
 12 ~~state land and the land in the proposed exchange in the same~~
 13 ~~manner as tax forfeited land to be offered for sale. The~~
 14 ~~appraised values shall not be conclusive, but shall be taken~~
 15 ~~into consideration, together with such other matters as may be~~
 16 ~~deemed material, in determining the values for the purposes of~~
 17 ~~exchange.~~

18 (b) For the purposes of this subdivision, "substantially
 19 equal value" means:

20 (1) where the lands being exchanged are both over 100
 21 acres, their values do not differ by more than ten percent; and

22 (2) in other cases, the values of the exchanged lands do
 23 not differ by more than 20 percent.

24 (c) Class B land may be exchanged for land of lesser value
 25 if the other party to the exchange pays to the state the amount
 26 of the difference in value. Money received by the county
 27 treasurer shall be disposed of in like manner as the proceeds of
 28 a sale of tax-forfeited land.

29 Sec. 18. Minnesota Statutes 2004, section 94.344,
 30 subdivision 5, is amended to read:

31 Subd. 5. [~~OBTAINING EXCHANGING~~ EXCHANGING LAND OF GREATER VALUE.] (a)
 32 Class B land may be exchanged for land of greater value ~~only in~~
 33 ~~case if~~ if the other party to the exchange ~~shall waive~~ waives
 34 payment for the difference.

35 (b) Except for Class A school trust land, Class B land may
 36 be exchanged for Class A land of greater value if the county

1 pays to the state the difference in value.

2 (c) Class B land may be exchanged for United States-owned
3 land of greater value if the county agrees to pay the difference
4 in value.

5 Sec. 19. Minnesota Statutes 2004, section 94.344,
6 subdivision 8, is amended to read:

7 Subd. 8. [PROPOSALS FOR EXCHANGE.] By direction of the
8 county board, the county auditor may submit a proposal for
9 exchange of Class B land to any land owner concerned. Any land
10 owner may file with the county auditor a proposal for exchange
11 for consideration by the county board. ~~Forms-fer-such-proposals~~
12 ~~shall-be-prescribed-by-the-commissioner.~~

13 Sec. 20. Minnesota Statutes 2004, section 94.344,
14 subdivision 10, is amended to read:

15 Subd. 10. [APPROVAL; CONVEYANCE.] After approval by the
16 county board, every proposal for the exchange of Class B land
17 shall be transmitted to the commissioner in such form and with
18 such information as the commissioner may prescribe for
19 consideration by the commissioner and by the board. The county
20 attorney's opinion on the title, with the abstract and other
21 evidence of title, if any, shall accompany the proposal. If the
22 proposal be is approved by the commissioner and the board and
23 the title be is approved by the attorney general, the same shall
24 be certified to the commissioner of revenue, who shall execute a
25 deed in the name of the state conveying the land given in
26 exchange, ~~with-a-certificate-of-unanimous-approval-by-the-board~~
27 ~~appended,~~ and transmit the deed to the county auditor to be
28 delivered upon receipt of a deed conveying to the state the land
29 received in exchange, approved by the county attorney; provided,
30 that if any amount is due the state under the terms of the
31 exchange, the deed from the state shall not be executed or
32 delivered until such amount is paid in full and a certificate
33 thereof by the county auditor is filed with the commissioner of
34 revenue. The county auditor shall cause all deeds received by
35 the state in such exchanges to be recorded or registered, ~~and~~
36 ~~thereafter-shall-file-the-deeds-or-the-certificates-of~~

1 ~~registered-title-in-the-auditor's-office.~~ If the land received
2 by the county in the exchange is either Class A ~~or-Class-E~~ land,
3 the commissioner of revenue shall deliver the deed for the Class
4 B land to the commissioner of natural resources and following
5 the recording of this deed, the commissioner of natural
6 resources shall deliver to the county auditor a deed conveying
7 the Class A ~~or-Class-E~~ land to the county auditor to be recorded
8 or registered, ~~and-afterwards-file-the-deeds-or-the-certificate~~
9 ~~of-registered-title-in-the-auditor's-office.~~

10 Sec. 21. Minnesota Statutes 2004, section 97A.135,
11 subdivision 2a, is amended to read:

12 Subd. 2a. [DISPOSAL OF LAND IN WILDLIFE MANAGEMENT AREAS.]

13 (a) The commissioner may sell or exchange land in a wildlife
14 management area authorized by designation under section 86A.07,
15 subdivision 3, 97A.133, or 97A.145 if the commissioner vacates
16 the designation before the sale or exchange in accordance with
17 this subdivision. The designation may be vacated only if the
18 commissioner finds, after a public hearing, that the disposal of
19 the land is in the public interest.

20 (b) A sale under this subdivision is subject to sections
21 94.09 to 94.16. An exchange under this subdivision is subject
22 to sections 94.341 to ~~94.348~~ 94.347.

23 (c) Revenue received from a sale authorized under paragraph
24 (a) is appropriated to the commissioner for acquisition of
25 replacement wildlife management lands.

26 (d) Land acquired by the commissioner under this
27 subdivision must meet the criteria in section 86A.05,
28 subdivision 8, and as soon as possible after the acquisition
29 must be designated as a wildlife management area under section
30 86A.07, subdivision 3, 97A.133, or 97A.145.

31 (e) In acquiring land under this subdivision, the
32 commissioner must give priority to land within the same
33 geographic region of the state as the land conveyed.

34 Sec. 22. Minnesota Statutes 2004, section 103F.535,
35 subdivision 1, is amended to read:

36 Subdivision 1. [RESERVATION OF MARGINAL LAND AND

1 WETLANDS.] (a) Marginal land and wetlands are withdrawn from
2 sale or exchange unless:

3 (1) notice of the existence of the nonforested marginal
4 land or wetlands, in a form prescribed by the Board of Water and
5 Soil Resources, is provided to prospective purchasers; and

6 (2) the deed contains a restrictive covenant, in a form
7 prescribed by the Board of Water and Soil Resources, that
8 precludes enrollment of the land in a state-funded program
9 providing compensation for conservation of marginal land or
10 wetlands.

11 (b) This section does not apply to transfers of land by the
12 Board of Water and Soil Resources to correct errors in legal
13 descriptions under section 103F.515, subdivision 8, or to
14 transfers by the commissioner of natural resources for:

15 (1) land that is currently in nonagricultural commercial
16 use if a restrictive covenant would interfere with the
17 commercial use;

18 (2) land in platted subdivisions;

19 (3) conveyances of land to correct errors in legal
20 descriptions under section 84.0273;

21 (4) exchanges of nonagricultural land with the federal
22 government, or exchanges of Class A, Class B, and ~~Class-E~~
23 riparian nonagricultural land with local units of government
24 under sections 94.342, 94.343, and 94.344~~7--and-94-349~~;

25 (5) land transferred to political subdivisions for public
26 purposes under sections 84.027, subdivision 10, and 94.10; and

27 (6) land not needed for trail purposes that is sold to
28 adjacent property owners and lease holders under section 85.015,
29 subdivision 1, paragraph (b).

30 (c) This section does not apply to transfers of land by the
31 commissioner of administration or transportation or by the
32 Minnesota Housing Finance Agency, or to transfers of
33 tax-forfeited land under chapter 282 if:

34 (1) the land is in platted subdivisions; or

35 (2) the conveyance is a transfer to correct errors in legal
36 descriptions.

1 (d) This section does not apply to transfers of land by the
2 commissioner of administration or by the Minnesota Housing
3 Finance Agency for:

4 (1) land that is currently in nonagricultural commercial
5 use if a restrictive covenant would interfere with the
6 commercial use; or

7 (2) land transferred to political subdivisions for public
8 purposes under sections 84.027, subdivision 10, and 94.10.

9 Sec. 23. [REPEALER.]

10 Minnesota Statutes 2004, sections 94.343, subdivision 6;
11 94.344, subdivision 6; 94.348; and 94.349, are repealed.

APPENDIX
Repealed Minnesota Statutes for S0897-1

94.343 CLASS A LAND EXCHANGED; CONDITIONS.

Subd. 6. Obtaining land of less value. Class A land may be exchanged for land of less value in any case where disposal of the state land is not limited by the state Constitution to public sale, provided the other party to the exchange shall pay to the state the amount of the difference in value either upon consummation of the exchange or by deferred payment, as the commissioner, with the approval of the board, may direct. In case of deferred payment, a certificate of sale of the state land shall be issued to the other party as in case of sale of state public land, crediting the value of the land received by the state in exchange as an initial payment, and providing for payment of the balance upon like terms and subject to like conditions as in case of such sale; provided, that the commissioner, with the approval of the board, may require a further initial cash payment and may shorten the time for payment of the balance. Money received in such cases shall be credited to the same fund as in case of sale of the land, if such fund exists, otherwise to the special fund, if any, from which the cost of the land was paid, otherwise to the general fund.

94.344 CLASS B LAND EXCHANGED; CONDITIONS.

Subd. 6. Obtaining land of less value. Class B land may be exchanged for land of less value, provided the other party to the exchange shall pay the amount of the difference to the county treasurer either upon consummation of the exchange or by deferred payment, as the county board may direct. In case of deferred payment, a certificate of sale of the state land shall be issued to the other party in like manner as in the case of sale of tax-forfeited land, crediting the value of the land received by the state in exchange as an initial payment, and providing for payment of the balance upon like terms and subject to like conditions as in case of such sale; provided, that the county board may require a further initial cash payment and may shorten the time for payment of the balance. Money received in such cases shall be disposed of in like manner as the proceeds of sale of tax-forfeited land.

94.348 EXCHANGES OF STATE-OWNED LAND, APPRAISAL FEE.

Subdivision 1. Appraisal and survey fee. Whenever a private land owner or governmental unit, except the state, presents to the Minnesota Land Exchange Board an offer to exchange private or publicly held land for Class A state-owned land as defined in section 94.342, the private land owner or governmental unit shall pay to the board an appraisal and survey fee of not less than \$25 nor more than one-half of the cost of appraisal and survey determined by the commissioner.

Subd. 2. Disposition and appropriation of fee. (a) Except as provided in paragraph (b), the appraisal and survey fee shall be credited to the account from which the expenses of appraisal and survey were paid and is appropriated for expenditure in the same manner as other money in the account.

(b) The appraisal and survey fee shall be refunded if:

(1) the land exchange offer is withdrawn by a private land owner or a governmental unit before money is spent for the appraisal and survey; or

(2) the board refuses to accept the land exchange offer.

APPENDIX
Repealed Minnesota Statutes for S0897-1

94.349 TRANSFERS OF TITLE INVOLVING THE STATE AND GOVERNMENTAL SUBDIVISIONS OF THE STATE.

Subdivision 1. **Proposal submission.** For the purpose of consolidating ownership or for any other public purpose, the state, acting through the commissioner of natural resources, or a local unit of government of the state may submit a proposal involving transfer of titles of land of the state and the local unit of government to the Land Exchange Board, for review and recommendation of the board.

Subd. 2. **Procedures.** The procedures relating to appraisal, title examination, and hearings set forth in sections 94.341 to 94.348 for land exchanges shall be followed, insofar as applicable, in matters relating to transfers of land titles under this section, subject to such further limitations as may be provided in this section.

Subd. 3. **Classes of state land.** The classes of state land which may be involved in a transfer of title are the same as those which may be exchanged under land exchange laws and are subject to the same limitations as are applied to state lands under land exchange laws.

Subd. 4. **Tax-forfeited land.** For the purposes of this section, lands acquired through tax-forfeiture, held subject to a trust in favor of taxing districts, and under the control of county authorities for classification, appraisal and sale may be considered as land of a local unit of government for the purposes of this section. This land is subject to the same limitations as are applied to the same lands under land exchange laws.

Subd. 5. **Recommended legislation.** The land exchange board shall recommend such legislation as may be necessary to complete the transfer of titles under this section.

Subd. 6. **Conveyance.** Upon satisfaction of the requirements of this section, and upon the unanimous approval of the Land Exchange Board, the commissioner of natural resources, as to the state land involved in the transfer of titles, and the governing body of the local unit of government, as to the local government land involved in the transfer of titles, shall execute deeds in the name of the respective government involved in the transfer, which deeds shall be executed and recorded in the same manner as deeds in land exchanges.

Subd. 7. **Land status.** The commissioner of natural resources, with the approval of the board, shall determine the status of each tract of land received by the state in the transfer of titles. The county board, in a situation where the land given in a transfer is that type of land described in subdivision 4, shall proceed as required in section 94.344, subdivision 11.

Subd. 8. **Reservations.** State land involved in a transfer of title shall be subject to the provisions of section 94.343, subdivision 4. Tax-forfeited land under the control of a county involved in a title transfer shall be subject to the provisions of section 94.344, subdivision 4.

Subd. 9. **Relation to other law.** The provisions of this section shall be supplementary to other laws relating to transfer of title of land or interests in land involving the state and local units of government.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Sams,

4 Chair of the Environment, Agriculture and Economic
5 Development Budget Division, to which was referred

6 S.F. No. 897: A bill for an act relating to state lands;
7 modifying landowner's bill of rights for sales to the state;
8 modifying provisions for sale of internal improvement land;
9 modifying land exchange provisions; appropriating money;
10 amending Minnesota Statutes 2004, sections 84.0274, by adding
11 subdivisions; 92.03, subdivision 4; 94.342, subdivisions 1, 3,
12 4, 5; 94.343, subdivisions 1, 3, 7, 8, 10, by adding
13 subdivisions; 94.344, subdivisions 1, 3, 5, 8, 10, by adding a
14 subdivision; 97A.135, subdivision 2a; 103F.535, subdivision 1;
15 repealing Minnesota Statutes 2004, sections 94.343, subdivision
16 6; 94.344, subdivision 6; 94.348; 94.349.

17 Reports the same back with the recommendation that the bill
18 do pass and be referred to the full committee.

19

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.....
(Division Chair)

April 7, 2005.....
(Date of Division action)

Fiscal Note – 2005-06 Session

Bill #: S0897-1E Complete Date: 03/15/05

Chief Author: BAKK, THOMAS

Title: STATE LAND PROVISIONS

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

Agency Name: Natural Resources Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
Miscellaneous Agency Fund		1	1	2	2
Net Cost <Savings>					
Miscellaneous Agency Fund		(1)	(1)	(2)	(2)
Total Cost <Savings> to the State		(1)	(1)	(2)	(2)

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

This bill is primarily a technical and housekeeping bill regarding the exchange of DNR administered and tax forfeited state-owned land with other publicly and privately-held land. The bill also contains two modifications as to DNR land acquisitions and modification of the mandate to sell the remaining internal improvement lands.

The land exchange fee to the landowner for exchanging land with the DNR is changed from "not less than \$25 nor more than one-half of the cost of the appraisal and survey" (repeal of Section 94.348) to "not less than one-half of the determination of value fee and survey fee." (See Sec. 13 of the First Engrossment).

Assumptions

Currently the DNR is assessing landowners one-half of the appraisal and survey fees for land exchanges. Most land exchanges do not involve survey fees. In recent years, some landowners with trespasses have volunteered to pay the full appraisal fee. If this bill is passed, the DNR will assess the full appraisal fee to landowners when the exchange is for the primary benefit of the private party such as due to a trespass situation.

In fiscal year 2005 to-date, four Class A land exchanges have been completed (one quarter of the year remains). The DNR has incurred appraisal costs in FY05 of \$17,400 and has collected \$9,600. One exchange partner volunteered to pay the entire \$1,800 of appraisal costs since the exchange was to resolve their trespass situation. Otherwise the DNR collected one-half of the appraisal costs. There has been no survey costs incurred in FY05 to-date for land exchanges.

Expenditure and/or Revenue Formula

It is anticipated that there will be one to two cases per year when the landowner will be required to pay for the total cost of the appraisal. The increase in revenue is estimated to be from \$1,000 to \$2,000 per year and will be deposited in the account from which the expenses were paid.

This bill has no fiscal impact on expenditures for appraisals and surveys.

Long-Term Fiscal Considerations

This bill has minimal long-term fiscal impact.

Local Government Costs

The change in statutory language for fees will not increase costs for local governments from current practices.

Agency Contact Name: Kathy Lewis, Lands and Minerals (651) 296-9564
FN Coord Signature: BRUCE NASLUND
Date: 03/15/05 Phone: 297-4909

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: MARSHA BATTLES-JENKS
Date: 03/15/05 Phone: 296-8510

1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 1368: A bill for an act relating to energy;
4 providing for expedited cost recovery for certain transmission
5 investments; authorizing and regulating transmission companies;
6 permitting the transfer of transmission assets and operation to
7 transmission companies; providing for expedited regulatory
8 approval of transmission projects related to renewable
9 generation; providing new criteria to analyze the need for
10 transmission projects; establishing the framework for a wind
11 energy tariff related to community development; requiring a wind
12 integration study; transferring generation plant siting and
13 transmission line routing authority from the Minnesota
14 Environmental Quality Board to the Public Utilities Commission;
15 providing for technical corrections to the energy assistance
16 program; providing for a sustainably managed woody biomass
17 generation project to satisfy the biomass mandate; providing for
18 an electronic mail filing system at the Public Utilities
19 Commission and Department of Commerce; making changes to the
20 conservation investment program recommended by the legislative
21 auditor; authorizing the creation of energy quality zones;
22 regulating eligibility of biogas projects for the renewable
23 energy production incentive; providing for the recovery of
24 certain infrastructure investments by gas utilities; requiring a
25 study of compensation of landowners for transmission easements;
26 providing for a geothermal rebate program under the conservation
27 investment program; promoting the use of soy-diesel; providing
28 for the adjustment of power purchase agreements to account for
29 production tax payments; promoting the use of hydrogen as an
30 energy source; amending Minnesota Statutes 2004, sections
31 13.681, by adding a subdivision; 116C.52, subdivisions 2, 4;
32 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c, by adding a
33 subdivision; 116C.575, subdivision 5; 116C.577; 116C.58;
34 116C.61, subdivision 3; 116C.69, subdivisions 2, 2a; 119A.15,
35 subdivision 5a; 216B.02, by adding a subdivision; 216B.16,
36 subdivision 6d, by adding subdivisions; 216B.1645, subdivision
37 1; 216B.241, subdivisions 1b, 2; 216B.2421, subdivision 2;
38 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a subdivision;
39 216B.2425, subdivisions 2, 7; 216B.243, subdivisions 3, 4, 5, 6,
40 7, 8; 216B.50, subdivision 1; 216B.62, subdivision 5, by adding
41 a subdivision; 216B.79; 216C.052; 216C.09; 216C.41, subdivision
42 1; 462A.05, subdivisions 21, 23; proposing coding for new law in
43 Minnesota Statutes, chapters 216B; 216C.

44 Reports the same back with the recommendation that the bill
45 be amended as follows:

46 Page 38, line 20, delete "agree to" and insert "shall" and
47 after "funding" insert "from non state sources"

48 Page 43, line 27, delete "commission" and insert
49 "commissioner of commerce" and delete "to"

50 Page 43, line 28, delete "regulated utilities," and insert "
51 of"

52 Page 43, line 31, after "proportionately" insert "to the
53 amount assessed"

54 Page 43, lines 32 and 33, delete "municipal utility,
55 electric cooperative association,"

56 Page 43, line 36, after "gross" insert "jurisdictional" and
57 delete "retail"

1 Page 44, line 3, delete "commission" and insert
2 "commissioner of commerce"

3 Page 44, line 4, after "documents" insert "filed with the
4 Public Utilities Commission"

5 Page 44, line 8, after "system" insert "described in
6 section 1"

7 Page 60, line 26, after the period, insert "The assessments
8 are subject to the assessment caps specified in section 216C.052.
9 Sums assessed under this section are appropriated to the
10 commissioner of commerce for the purpose of this section."

11 Page 67, line 11, delete "APPROPRIATION" and insert
12 "ALLOCATION"

13 Page 67, line 13, delete "appropriated" and insert
14 "allocated"

15 Page 67, line 15, after "from" insert "available funds in"

16 Page 67, line 22, delete "up"

17 Page 67, line 23, delete "to" and delete everything after
18 "grant" and insert "in three consecutive fiscal years"

19 And when so amended the bill do pass. Amendments adopted.
20 Report adopted.

21
22 (Committee Chair)

23
24 April 20, 2005.....
25 (Date of Committee recommendation)



SENATE
STATE OF MINNESOTA
EIGHTY-FOURTH LEGISLATURE

S.F. No. 1368

(SENATE AUTHORS: ANDERSON, Rosen, Ourada, Metzen and Kubly; Companion to H.F. No. 1344.)

DATE	D-PG	OFFICIAL STATUS
03/03/2005	565	Introduction and first reading
03/03/2005		Referred to Jobs, Energy and Community Development
04/14/2005		Committee report: To pass as amended
04/14/2005		Second reading

A bill for an act

1
2 relating to energy; providing for expedited cost
3 recovery for certain transmission investments;
4 authorizing and regulating transmission companies;
5 permitting the transfer of transmission assets and
6 operation to transmission companies; providing for
7 expedited regulatory approval of transmission projects
8 related to renewable generation; providing new
9 criteria to analyze the need for transmission
10 projects; establishing the framework for a wind energy
11 tariff related to community development; requiring a
12 wind integration study; transferring generation plant
13 siting and transmission line routing authority from
14 the Minnesota Environmental Quality Board to the
15 Public Utilities Commission; providing for technical
16 corrections to the energy assistance program;
17 providing for a sustainably managed woody biomass
18 generation project to satisfy the biomass mandate;
19 providing for an electronic mail filing system at the
20 Public Utilities Commission and Department of
21 Commerce; making changes to the conservation
22 investment program recommended by the legislative
23 auditor; authorizing the creation of energy quality
24 zones; regulating eligibility of biogas projects for
25 the renewable energy production incentive; providing
26 for the recovery of certain infrastructure investments
27 by gas utilities; requiring a study of compensation of
28 landowners for transmission easements; providing for a
29 geothermal rebate program under the conservation
30 investment program; promoting the use of soy-diesel;
31 providing for the adjustment of power purchase
32 agreements to account for production tax payments;
33 promoting the use of hydrogen as an energy source;
34 amending Minnesota Statutes 2004, sections 13.681, by
35 adding a subdivision; 116C.52, subdivisions 2, 4;
36 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c,
37 by adding a subdivision; 116C.575, subdivision 5;
38 116C.577; 116C.58; 116C.61, subdivision 3; 116C.69,
39 subdivisions 2, 2a; 119A.15, subdivision 5a; 216B.02,
40 by adding a subdivision; 216B.16, subdivision 6d, by
41 adding subdivisions; 216B.1645, subdivision 1;
42 216B.241, subdivisions 1b, 2; 216B.2421, subdivision
43 2; 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a
44 subdivision; 216B.2425, subdivisions 2, 7; 216B.243,
45 subdivisions 3, 4, 5, 6, 7, 8; 216B.50, subdivision 1;
46 216B.62, subdivision 5, by adding a subdivision;

1 216B.79; 216C.052; 216C.09; 216C.41, subdivision 1;
2 462A.05, subdivisions 21, 23; proposing coding for new
3 law in Minnesota Statutes, chapters 216B; 216C.

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

5 ARTICLE 1

6 TRANSMISSION COMPANIES

7 Section 1. Minnesota Statutes 2004, section 216B.02, is
8 amended by adding a subdivision to read:

9 Subd. 10. [TRANSMISSION COMPANY.] "Transmission company"
10 means persons, corporations, or other legal entities and their
11 lessees, trustees, and receivers, engaged in the business of
12 owning, operating, maintaining, or controlling in this state
13 equipment or facilities for furnishing electric transmission
14 service in Minnesota, but does not include public utilities,
15 municipal electric utilities, municipal power agencies,
16 cooperative electric associations, or generation and
17 transmission cooperative power associations.

18 Sec. 2. Minnesota Statutes 2004, section 216B.16, is
19 amended by adding a subdivision to read:

20 Subd. 7b. [TRANSMISSION COST ADJUSTMENT.] (a)
21 Notwithstanding any other provision of this chapter, the
22 commission may approve a tariff mechanism for the automatic
23 annual adjustment of charges for the Minnesota jurisdictional
24 costs of new transmission facilities that have been separately
25 filed and reviewed and approved by the commission under section
26 216B.243 or are certified as a priority project or deemed to be
27 a priority transmission project under section 216B.2425.

28 (b) Upon filing by a public utility or utilities providing
29 transmission service, the commission may approve, reject or
30 modify, after notice and comment, a tariff that:

31 (1) allows the utility to recover on a timely basis the
32 costs net of revenues of facilities approved under section
33 216B.243 or certified or deemed to be certified under section
34 216B.2425;

35 (2) allows a return on investment at the level approved in
36 the utility's last general rate case, unless a different return
37 is found to be consistent with the public interest;

1 (3) provides a current return on construction work in
2 progress, provided that recovery from Minnesota retail customers
3 for the allowance for funds used during construction is not
4 sought through any other mechanism;

5 (4) allows for recovery of other expenses if shown to
6 promote a least-cost project option or is otherwise in the
7 public interest;

8 (5) allocates project costs appropriately between wholesale
9 and retail customers;

10 (6) provides a mechanism for recovery above cost, if
11 necessary to improve the overall economics of the project or
12 projects or is otherwise in the public interest; and

13 (7) terminates recovery once costs have been fully
14 recovered or have otherwise been reflected in the utility's
15 general rates.

16 (c) A public utility may file annual rate adjustments to be
17 applied to customer bills paid under the tariff approved in
18 paragraph (b). In its filing, the public utility shall provide:

19 (1) a description of and context for the facilities
20 included for recovery;

21 (2) a schedule for implementation of applicable projects;

22 (3) the utility's costs for these projects;

23 (4) a description of the utility's efforts to ensure the
24 lowest costs to ratepayers for the project; and

25 (5) calculations to establish that the rate adjustment is
26 consistent with the terms of the tariff established in paragraph
27 (b).

28 (d) Upon receiving a filing for a rate adjustment pursuant
29 to the tariff established in paragraph (b), the commission shall
30 approve the annual rate adjustments provided that, after notice
31 and comment, the costs included for recovery through the tariff
32 were or are expected to be prudently incurred and achieve
33 transmission system improvements at the lowest feasible and
34 prudent cost to ratepayers.

35 Sec. 3. Minnesota Statutes 2004, section 216B.16, is
36 amended by adding a subdivision to read:

1 Subd. 7c. [TRANSMISSION ASSETS TRANSFER.] (a) Owners of
2 transmission facilities may transfer operational control or
3 ownership of those assets to a transmission company subject to
4 Federal Energy Regulatory Commission jurisdiction. For asset
5 transfers by a public utility, the Public Utilities Commission
6 may review the request to transfer in the context of a general
7 rate case under this section or may initiate other proceedings
8 it determines provide adequate review of the effect on retail
9 rates of an asset transfer approved under this section
10 sufficient to protect ratepayers. The commission may only
11 approve a transfer sought after the effective date of this
12 section if it finds that the transfer:

13 (1) is consistent with the public interest;

14 (2) facilitates the development of transmission
15 infrastructure necessary to ensure reliability, encourages the
16 development of renewable resources, and accommodates energy
17 transfers within and between states;

18 (3) protects Minnesota ratepayers against the subsidization
19 of wholesale transactions through retail rates; and

20 (4) ensures, in the case of operational control of
21 transmission assets, that the state retains jurisdiction over
22 the transferring utility for all aspects of service under
23 chapter 216B.

24 (b) A transfer of operational control or ownership of
25 assets by a public utility under this subdivision is subject to
26 section 216B.50. The relationship between a public utility
27 transferring operational control of assets to another entity
28 under this subdivision is subject to the provisions of section
29 216B.48. If a public utility transfers ownership of its
30 transmission assets to a transmission provider subject to the
31 jurisdiction of the Federal Energy Regulatory Commission, the
32 Public Utilities Commission may permit the utility to file a
33 rate schedule providing for the automatic adjustment of charges
34 to recover the cost of transmission services purchased under
35 tariff rates approved by the Federal Energy Regulatory
36 Commission.

1 Sec. 4. Minnesota Statutes 2004, section 216B.2421,
2 subdivision 2, is amended to read:

3 Subd. 2. [LARGE ENERGY FACILITY.] "Large energy facility"
4 means:

5 (1) any electric power generating plant or combination of
6 plants at a single site with a combined capacity of 50,000
7 kilowatts or more and transmission lines directly associated
8 with the plant that are necessary to interconnect the plant to
9 the transmission system;

10 (2) any high-voltage transmission line with a capacity of
11 200 kilovolts or more and greater than 1,500 feet in length;

12 (3) any high-voltage transmission line with a capacity of
13 100 kilovolts or more with more than ten miles of its length in
14 Minnesota or that crosses a state line;

15 (4) any pipeline greater than six inches in diameter and
16 having more than 50 miles of its length in Minnesota used for
17 the transportation of coal, crude petroleum or petroleum fuels
18 or oil, or their derivatives;

19 (5) any pipeline for transporting natural or synthetic gas
20 at pressures in excess of 200 pounds per square inch with more
21 than 50 miles of its length in Minnesota;

22 (6) any facility designed for or capable of storing on a
23 single site more than 100,000 gallons of liquefied natural gas
24 or synthetic gas;

25 (7) any underground gas storage facility requiring a permit
26 pursuant to section 103I.681;

27 (8) any nuclear fuel processing or nuclear waste storage or
28 disposal facility; and

29 (9) any facility intended to convert any material into any
30 other combustible fuel and having the capacity to process in
31 excess of 75 tons of the material per hour.

32 Sec. 5. Minnesota Statutes 2004, section 216B.243,
33 subdivision 3, is amended to read:

34 Subd. 3. [SHOWING REQUIRED FOR CONSTRUCTION.] No proposed
35 large energy facility shall be certified for construction unless
36 the applicant can show that demand for electricity cannot be met

1 more cost effectively through energy conservation and
2 load-management measures and unless the applicant has otherwise
3 justified its need. In assessing need, the commission shall
4 evaluate:

5 (1) the accuracy of the long-range energy demand forecasts
6 on which the necessity for the facility is based;

7 (2) the effect of existing or possible energy conservation
8 programs under sections 216C.05 to 216C.30 and this section or
9 other federal or state legislation on long-term energy demand;

10 (3) the relationship of the proposed facility to overall
11 state energy needs, as described in the most recent state energy
12 policy and conservation report prepared under section 216C.18,
13 or, in the case of a high-voltage transmission line, the
14 relationship of the proposed line to regional energy needs, as
15 presented in the transmission plan submitted under section
16 216B.2425;

17 (4) promotional activities that may have given rise to the
18 demand for this facility;

19 (5) benefits of this facility, including its uses to
20 protect or enhance environmental quality, and to increase
21 reliability of energy supply in Minnesota and the region;

22 (6) possible alternatives for satisfying the energy demand
23 or transmission needs including but not limited to potential for
24 increased efficiency and upgrading of existing energy generation
25 and transmission facilities, load-management programs, and
26 distributed generation;

27 (7) the policies, rules, and regulations of other state and
28 federal agencies and local governments; and

29 (8) any feasible combination of energy conservation
30 improvements, required under section 216B.241, that can (i)
31 replace part or all of the energy to be provided by the proposed
32 facility, and (ii) compete with it economically;

33 (9) with respect to a high-voltage transmission line, the
34 benefits of enhanced regional reliability, access, or
35 deliverability to improve the robustness of the transmission
36 system or to lower costs to electric consumers;

1 (10) whether the applicant or applicants are in compliance
2 with applicable provisions of sections 216B.1691 and 216B.2425,
3 subdivision 7, and have filed or will file by a date certain an
4 application for certificate of need under this section or for
5 certification as a priority electric transmission project under
6 section 216B.2425 for any transmission facilities or upgrades
7 identified under section 216B.2425, subdivision 7;

8 (11) whether the applicant has made the demonstrations
9 required under subdivision 3a; and

10 (12) if the applicant is proposing a nonrenewable
11 generating plant, the applicant's assessment of the risk of
12 environmental costs and regulation on that proposed facility
13 over the expected useful life of the plant, including a proposed
14 means of allocating costs associated with that risk.

15 Sec. 6. Minnesota Statutes 2004, section 216B.243,
16 subdivision 6, is amended to read:

17 Subd. 6. [APPLICATION FEES; RULES.] Any application for a
18 certificate of need shall be accompanied by the application fee
19 required pursuant to this subdivision. The application fee is
20 to be applied toward the total costs reasonably necessary to
21 complete the evaluation of need for the proposed facility. The
22 maximum application fee shall be \$50,000, except for an
23 application for an electric power generating plant as defined in
24 section 216B.2421, subdivision 2, clause (1), or a high-voltage
25 transmission line as defined in section 216B.2421, subdivision
26 2, clause (2), for which the maximum application fee shall be
27 \$100,000. ~~The commission may require an additional fee to~~
28 ~~recover the costs of any rehearing. The fee for a rehearing~~
29 ~~shall not be greater than the actual cost of the rehearing or~~
30 ~~the maximum fee specified above, whichever is less. Costs~~
31 exceeding the application fee and reasonably necessary to
32 complete the evaluation of need for the proposed facility shall
33 be recovered from the applicant. If the applicant is a public
34 utility, a cooperative electric association, a generation and
35 transmission cooperative electric association, a municipal power
36 agency, a municipal electric utility, or a transmission company,

1 the recovery shall be done pursuant to section 216B.62. The
2 commission shall establish by rule pursuant to chapter 14 and
3 sections 216C.05 to 216C.30 and this section, a schedule of fees
4 based on the output or capacity of the facility and the
5 difficulty of assessment of need. Money collected in this
6 manner shall be credited to the general fund of the state
7 treasury.

8 Sec. 7. Minnesota Statutes 2004, section 216B.2425,
9 subdivision 2, is amended to read:

10 Subd. 2. [~~LIST DEVELOPMENT~~; TRANSMISSION PROJECTS REPORT.]

11 (a) By November 1 of each odd-numbered year, each a transmission
12 projects report must be submitted to the commission by each
13 utility, organization, or company that:

14 (1) is a public utility, a municipal utility, and a
15 cooperative electric association, or the generation and
16 transmission organization that serves each utility or
17 association, that or a transmission company; and

18 (2) owns or operates electric transmission lines in
19 Minnesota shall.

20 (b) The report may be submitted jointly or individually
21 submit-a-transmission-projects-report to the commission.

22 (c) The report must:

23 (1) list specific present and reasonably foreseeable future
24 inadequacies in the transmission system in Minnesota;

25 (2) identify alternative means of addressing each
26 inadequacy listed;

27 (3) identify general economic, environmental, and social
28 issues associated with each alternative; and

29 (4) provide a summary of public input ~~the-utilities-and~~
30 ~~associations-have-gathered~~ related to the list of inadequacies
31 and the role of local government officials and other interested
32 persons in assisting to develop the list and analyze
33 alternatives.

34 ~~(b)~~ (d) To meet the requirements of this subdivision,
35 entities reporting parties may rely on available information and
36 analysis developed by a regional transmission organization or

1 any subgroup of a regional transmission organization and may
2 develop and include additional information as necessary.

3 Sec. 8. Minnesota Statutes 2004, section 216B.50,
4 subdivision 1, is amended to read:

5 Subdivision 1. [COMMISSION APPROVAL REQUIRED.] No public
6 utility shall sell, acquire, lease, or rent any plant as an
7 operating unit or system in this state for a total consideration
8 in excess of \$100,000, or merge or consolidate with another
9 public utility or transmission company operating in this state,
10 without first being authorized so to do by the commission. Upon
11 the filing of an application for the approval and consent of the
12 commission ~~thereto~~, the commission shall investigate, with or
13 without public hearing~~7-and-in-case-of~~. The commission shall
14 hold a public hearing, upon such notice as the commission may
15 require7-and-if-it-shall-find. If the commission finds that the
16 proposed action is consistent with the public interest, it shall
17 give its consent and approval by order in writing. In reaching
18 its determination, the commission shall take into consideration
19 the reasonable value of the property, plant, or securities to be
20 acquired or disposed of, or merged and consolidated. ~~The~~
21 ~~provisions-of~~

22 This section ~~shall~~ does not be construed as
23 ~~applicable~~ apply to the purchase of units-of property for
24 ~~replacement-or-to-the-addition~~ to replace or add to the plant of
25 the public utility by construction.

26 Sec. 9. Minnesota Statutes 2004, section 216B.62,
27 subdivision 5, is amended to read:

28 Subd. 5. [ASSESSING COOPERATIVES AND MUNICIPALS.] The
29 commission and department may charge cooperative electric
30 associations, generation and transmission cooperative electric
31 associations, municipal power agencies, and municipal electric
32 utilities their proportionate share of the expenses incurred in
33 the review and disposition of resource plans, adjudication of
34 service area disputes, proceedings under section 216B.1691,
35 216B.2425, or 216B.243, and the costs incurred in the
36 adjudication of complaints over service standards, practices,

1 and rates. Cooperative electric associations electing to become
2 subject to rate regulation by the commission pursuant to section
3 216B.026, subdivision 4, are also subject to this section.
4 Neither a cooperative electric association nor a municipal
5 electric utility is liable for costs and expenses in a calendar
6 year in excess of the limitation on costs that may be assessed
7 against public utilities under subdivision 2. A cooperative
8 electric association, generation and transmission cooperative
9 electric association, municipal power agency, or municipal
10 electric utility may object to and appeal bills of the
11 commission and department as provided in subdivision 4.

12 The department shall assess cooperatives and municipalities
13 for the costs of alternative energy engineering activities under
14 section 216C.261. Each cooperative and municipality shall be
15 assessed in proportion that its gross operating revenues for the
16 sale of gas and electric service within the state for the last
17 calendar year bears to the total of those revenues for all
18 public utilities, cooperatives, and municipalities.

19 Sec. 10. Minnesota Statutes 2004, section 216B.62, is
20 amended by adding a subdivision to read:

21 Subd. 5a. [ASSESSING TRANSMISSION COMPANIES.] The
22 commission and department may charge transmission companies
23 their proportionate share of the expenses incurred in the review
24 and disposition of proceedings under sections 216B.2425,
25 216B.243, 216B.48, 216B.50, and 216B.79. A transmission company
26 is not liable for costs and expenses in a calendar year in
27 excess of the limitation on costs that may be assessed against
28 public utilities under subdivision 2. A transmission company
29 may object to and appeal bills of the commission and department
30 as provided in subdivision 4.

31 Sec. 11. Minnesota Statutes 2004, section 216B.79, is
32 amended to read:

33 216B.79 [PREVENTATIVE MAINTENANCE.]

34 The commission may order public utilities to make adequate
35 infrastructure investments and undertake sufficient preventative
36 maintenance with regard to generation, transmission, and

1 distribution facilities. The commission's authority under this
2 section also applies to any transmission company that owns or
3 operates electric transmission lines in Minnesota.

4 Sec. 12. [STAKEHOLDER PROCESS AND REPORT.]

5 Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the
6 Legislative Electric Energy Task Force shall convene a
7 stakeholder group consisting of one representative from each of
8 the following groups: transmission-owning investor-owned
9 utilities, electric cooperatives, municipal power agencies,
10 energy consumer advocates, business energy consumer advocates,
11 residential energy consumer advocates, environmental
12 organizations, the Minnesota Department of Commerce, the
13 Minnesota Environmental Quality Board, and the Minnesota Public
14 Utilities Commission.

15 Subd. 2. [CHARGE.] (a) The stakeholder group shall explore
16 whether increased efficiencies and effectiveness can be obtained
17 through modifying current state statutes and administrative
18 processes to certify and route high-voltage transmission lines,
19 including modifications to section 216B.243.

20 (b) In developing its recommendations, the stakeholder
21 group shall consider:

22 (1) whether the certification process established under
23 section 216B.2425, subdivision 3, can be modified to encourage
24 utilities to apply for certification under that section;

25 (2) whether alternative certification processes are
26 feasible for different types of transmission facilities; and

27 (3) whether additional cooperation between state agencies
28 is needed to enhance the efficiency of the certification and
29 routing processes, and whether modifications to those processes
30 are appropriate.

31 (c) The stakeholder group shall also consider and make
32 recommendations regarding whether and how to provide
33 compensation above traditional eminent domain payments to
34 landowners over whose property a new transmission facility is
35 constructed.

36 Subd. 3. [REPORT.] By January 15, 2006, the task force

1 shall submit a report to the legislature summarizing the
2 stakeholder group findings and any recommended changes to the
3 certification and routing processes for high-voltage
4 transmission lines.

5 ARTICLE 2

6 C-BED AND RENEWABLE TRANSMISSION

7 Section 1. [216B.1612] [COMMUNITY-BASED ENERGY
8 DEVELOPMENT; TARIFF.]

9 Subdivision 1. [TARIFF ESTABLISHMENT.] A tariff shall be
10 established to optimize local, regional, and state benefits from
11 wind energy development, and to facilitate widespread
12 development of community-based wind energy projects throughout
13 Minnesota.

14 Subd. 2. [DEFINITIONS.] (a) The terms used in this section
15 have the meanings given them in this subdivision.

16 (b) "C-BED tariff" or "tariff" means a community-based
17 energy development tariff.

18 (c) "Qualifying owner" means:

19 (1) a Minnesota resident;

20 (2) a limited liability corporation that is organized under
21 the laws of this state and that is made up of members who are
22 Minnesota residents;

23 (3) a Minnesota nonprofit organization organized under
24 chapter 317A;

25 (4) a Minnesota cooperative association organized under
26 chapter 308A or 308B, other than a rural electric cooperative
27 association or a generation and transmission cooperative;

28 (5) a Minnesota political subdivision or local government
29 other than a municipal electric utility or municipal power
30 agency, including, but not limited to, a county, statutory or
31 home rule charter city, town, school district, or public or
32 private higher education institution or any other local or
33 regional governmental organization such as a board, commission,
34 or association; or

35 (6) a tribal council.

36 (d) "Net present value rate" means a rate equal to the net

1 present value of the nominal payments to a project divided by
2 the total expected energy production of the project over the
3 life of its power purchase agreement.

4 (e) "Standard reliability criteria" means:

5 (1) can be safely integrated into and operated within the
6 utility's grid without causing any adverse or unsafe
7 consequences; and

8 (2) is consistent with the utility's resource needs as
9 identified in its most recent resource plan submitted under
10 section 216B.2422.

11 (f) "Community-based energy project" or "C-BED project"
12 means a new wind energy project that:

13 (1) has no single qualifying owner owning more than 15
14 percent of a C-BED project that consists of more than two
15 turbines; or

16 (2) for C-BED projects of one or two turbines, is owned
17 entirely by one or more qualifying owners, with at least 51
18 percent of the total financial benefits over the life of the
19 project flowing to qualifying owners; and

20 (3) has a resolution of support adopted by the county board
21 of each county in which the project is to be located, or in the
22 case of a project located within the boundaries of a
23 reservation, the tribal council for that reservation.

24 Subd. 3. [TARIFF RATE.] (a) The tariff described in
25 subdivision 4 must have a rate schedule that allows for a rate
26 up to a 2.7 cents per kilowatt hour net present value rate over
27 the 20-year life of the power purchase agreement. The tariff
28 must provide for a rate that is higher in the first ten years of
29 the power purchase agreement than in the last ten years. The
30 discount rate required to calculate the net present value must
31 be the utility's normal discount rate used for its other
32 business purposes.

33 (b) The commission shall consider mechanisms to encourage
34 the aggregation of C-BED projects.

35 (c) The commission shall require that qualifying owners
36 provide sufficient security to secure performance under the

1 power purchase agreement, and shall prohibit the transfer of the
2 C-BED project to a nonqualifying owner during the initial 20
3 years of the contract.

4 Subd. 4. [UTILITIES TO OFFER TARIFF.] By December 1, 2005,
5 each public utility providing electric service at retail shall
6 file for commission approval a community-based energy
7 development tariff consistent with subdivision 3. Within 90
8 days of the first commission approval order under this
9 subdivision, each municipal power agency and generation and
10 transmission cooperative electric association shall adopt a
11 community-based energy development tariff as consistent as
12 possible with subdivision 3.

13 Subd. 5. [PRIORITY FOR C-BED PROJECTS.] (a) A utility
14 subject to section 216B.1691 that needs to construct new
15 generation, or purchase the output from new generation, as part
16 of its plan to satisfy its good faith objective under that
17 section should take reasonable steps to determine if one or more
18 C-BED projects are available that meet the utility's cost and
19 reliability requirements, applying standard reliability
20 criteria, to fulfill some or all of the identified need at
21 minimal impact to customer rates.

22 Nothing in this section shall be construed to obligate a
23 utility to enter into a power purchase agreement under a C-BED
24 tariff developed under this section.

25 (b) Each utility shall include in its resource plan
26 submitted under section 216B.2422 a description of its efforts
27 to purchase energy from C-BED projects, including a list of the
28 projects under contract and the amount of C-BED energy purchased.

29 (c) The commission shall consider the efforts and
30 activities of a utility to purchase energy from C-BED projects
31 when evaluating its good faith effort towards meeting the
32 renewable energy objective under section 216B.1691.

33 Subd. 6. [PROPERTY OWNER PARTICIPATION.] To the extent
34 feasible, a developer of a C-BED project must provide, in
35 writing, an opportunity to invest in the C-BED project to each
36 property owner on whose property a high voltage transmission

1 line transmitting the energy generated by the C-BED project to
2 market currently exists or is to be constructed and who resides
3 in the county where the C-BED project is located or in an
4 adjacent Minnesota county.

5 Subd. 7. [OTHER C-BED TARIFF ISSUES.] (a) A
6 community-based project developer and a utility shall negotiate
7 the rate and power purchase agreement terms consistent with the
8 tariff established under subdivision 4.

9 (b) At the discretion of the developer, a community-based
10 project developer and a utility may negotiate a power purchase
11 agreement with terms different from the tariff established under
12 subdivision 4.

13 (c) A qualifying owner, or any combination of qualifying
14 owners, may develop a joint venture project with a nonqualifying
15 wind energy project developer. However, the terms of the C-BED
16 tariff may only apply to the portion of the energy production of
17 the total project that is directly proportional to the equity
18 share of the project owned by the qualifying owners.

19 (d) A project that is operating under a power purchase
20 agreement under a C-BED tariff is not eligible for net energy
21 billing under section 216B.164, subdivision 3, or for production
22 incentives under section 216C.41.

23 (e) A public utility must receive commission approval of a
24 power purchase agreement for a C-BED tariffed project. The
25 commission shall provide the utility's ratepayers an opportunity
26 to address the reasonableness of the proposed power purchase
27 agreement. Unless a party objects to a contract within 30 days
28 of submission of the contract to the commission, the contract is
29 deemed approved.

30 Sec. 2. Minnesota Statutes 2004, section 216B.1645,
31 subdivision 1, is amended to read:

32 Subdivision 1. [COMMISSION AUTHORITY.] Upon the petition
33 of a public utility, the Public Utilities Commission shall
34 approve or disapprove power purchase contracts, investments, or
35 expenditures entered into or made by the utility to satisfy the
36 wind and biomass mandates contained in sections 216B.169,

1 216B.2423, and 216B.2424, and to satisfy the renewable energy
2 objectives set forth in section 216B.1691, including reasonable
3 investments and expenditures made to:

4 (1) transmit the electricity generated from sources
5 developed under those sections that is ultimately used to
6 provide service to the utility's retail customers, or-to
7 including studies necessary to identify new transmission
8 facilities needed to transmit electricity to Minnesota retail
9 customers from generating facilities constructed to satisfy the
10 renewable energy objectives, provided that the costs of the
11 studies have not been recovered previously under existing
12 tariffs and the utility has filed an application for a
13 certificate of need or for certification as a priority project
14 under section 216B.2425 for the new transmission facilities
15 identified in the studies; or

16 (2) develop renewable energy sources from the account
17 required in section 116C.779.

18 Sec. 3. Minnesota Statutes 2004, section 216B.2425,
19 subdivision 7, is amended to read:

20 Subd. 7. [TRANSMISSION NEEDED TO SUPPORT RENEWABLE
21 RESOURCES.] Each entity subject to this section shall determine
22 necessary transmission upgrades to support development of
23 renewable energy resources required to meet objectives under
24 section 216B.1691 and shall include those upgrades in its report
25 under subdivision 2. Transmission projects determined by the
26 commission to be necessary to support a utility's plan under
27 section 216B.1691 to meet its obligations under that section
28 must be certified as a priority electric transmission project,
29 satisfying the requirements of section 216B.243. In determining
30 that a proposed transmission project is necessary to support a
31 utility's plan under section 216B.1691, the commission must find
32 that the applicant has met the following factors:

33 (1) that the transmission facility is necessary to allow
34 the delivery of power from renewable sources of energy to retail
35 customers in Minnesota;

36 (2) that the applicant has signed or will sign power

1 purchase agreements, subject to commission approval, for
2 resources to meet the renewable energy objective that are
3 dependent upon or will use the capacity of the transmission
4 facility to serve retail customers in Minnesota;

5 (3) that the installation and commercial operation date of
6 the renewable resources to satisfy the renewable energy
7 objective will match the planned in-service date of the
8 transmission facility; and

9 (4) that the proposed transmission facility is consistent
10 with a least cost solution to the utility's need for additional
11 electricity.

12 Sec. 4. Minnesota Statutes 2004, section 216B.243,
13 subdivision 8, is amended to read:

14 Subd. 8. [EXEMPTIONS.] This section does not apply to:

15 (1) cogeneration or small power production facilities as
16 defined in the Federal Power Act, United States Code, title 16,
17 section 796, paragraph (17), subparagraph (A), and paragraph
18 (18), subparagraph (A), and having a combined capacity at a
19 single site of less than 80,000 kilowatts ~~or to~~; plants or
20 facilities for the production of ethanol or fuel alcohol ~~not in~~;
21 or any case where the commission ~~shall determine~~ has determined
22 after being advised by the attorney general that its application
23 has been preempted by federal law;

24 (2) a high-voltage transmission line proposed primarily to
25 distribute electricity to serve the demand of a single customer
26 at a single location, unless the applicant opts to request that
27 the commission determine need under this section or section
28 216B.2425;

29 (3) the upgrade to a higher voltage of an existing
30 transmission line that serves the demand of a single customer
31 that primarily uses existing rights-of-way, unless the applicant
32 opts to request that the commission determine need under this
33 section or section 216B.2425;

4 (4) a high-voltage transmission line of one mile or less
35 required to connect a new or upgraded substation to an existing,
36 new, or upgraded high-voltage transmission line;

1 (5) conversion of the fuel source of an existing electric
2 generating plant to using natural gas; or

3 (6) the modification of an existing electric generating
4 plant to increase efficiency, as long as the capacity of the
5 plant is not increased more than ten percent or more than 100
6 megawatts, whichever is greater; or

7 (7) a large energy facility that (i) generates electricity
8 from wind energy conversion systems, (ii) will serve retail
9 customers in Minnesota, (iii) is specifically intended to be
10 used to meet the renewable energy objective under section
11 216B.1691 or addresses a resource need identified in a current
12 commission-approved or commission-reviewed resource plan under
13 section 216B.2422; and (iv) derives at least 10 percent of the
14 total nameplate capacity of the proposed project from one or
15 more C-BED projects, as defined under section 216B.1612,
16 subdivision 2, paragraph (f).

17 Sec. 5. [216C.053] [RENEWABLE ENERGY DEVELOPMENT.]

18 The Department of Commerce shall assist utilities,
19 renewable energy developers, regulators, regional transmission
20 grid managers, and the public on issues related to renewable
21 energy development. The department shall work to ensure
22 cost-effective renewable energy development throughout the state.

23 Sec. 6. [WIND INTEGRATION STUDY.]

24 The commission shall order all electric utilities, as
25 defined in Minnesota Statutes, section 216B.1691, subdivision 1,
26 paragraph (b), to participate in a statewide wind integration
27 study. Utilities subject to Minnesota Statutes, section
28 216B.1691, shall jointly contract with an independent firm
29 selected by the reliability administrator to conduct an
30 engineering study of the impacts on reliability and costs
31 associated with increasing wind capacity to 20 percent of
32 Minnesota retail electric energy sales by the year 2020, and to
33 identify and develop options for utilities to use to manage the
34 intermittent nature of wind resources. The contracting
35 utilities shall cooperate with the firm conducting the study by
36 providing data requested. The reliability administrator shall

1 manage the study process and shall appoint a group of
 2 stakeholders with experience in engineering and expertise in
 3 power systems or wind energy to review the study's proposed
 4 methods and assumptions and preliminary data. The study must be
 5 completed by November 30, 2006. Using the study results, the
 6 contracting utilities shall provide the commissioner of commerce
 7 with estimates of the impact on their electric rates of
 8 increasing wind capacity to 20 percent, assuming no reduction in
 9 reliability. Electric utilities shall incorporate the study's
 10 findings into their utility integrated resource plans prepared
 11 under Minnesota Statutes, section 216B.2422. The costs of the
 12 study are recoverable under Minnesota Statutes, section
 13 216C.052, subdivision 2, paragraph (c), clause (2).

14 Sec. 7. [EXPIRATION.]

15 Section 3 expires on January 1, 2010.

16 ARTICLE 3

17 ROUTING AND SITING AUTHORITY TRANSFER

18 Section 1. Minnesota Statutes 2004, section 116C.52,
 19 subdivision 2, is amended to read:

20 Subd. 2. [~~BOARD COMMISSION.~~] "~~Board~~"-~~shall-mean-the~~
 21 ~~Minnesota-Environmental-Quality-Board~~ "Commission" means the
 22 Public Utilities Commission.

23 Sec. 2. Minnesota Statutes 2004, section 116C.52,
 24 subdivision 4, is amended to read:

25 Subd. 4. [HIGH VOLTAGE TRANSMISSION LINE.] "High voltage
 26 transmission line" means a conductor of electric energy and
 27 associated facilities designed for and capable of operation at a
 28 nominal voltage of 100 kilovolts or more and is greater than
 29 1,500 feet in length.

30 Sec. 3. Minnesota Statutes 2004, section 116C.53,
 31 subdivision 2, is amended to read:

32 Subd. 2. [JURISDICTION.] The ~~board~~ commission is hereby
 33 given the authority to provide for site and route selection for
 34 large electric power facilities. The ~~board~~ commission shall
 35 issue permits for large electric power facilities in a timely
 36 fashion.--~~When-the-Public-Utilities-Commission-has-determined~~

1 the and in a manner consistent with the overall determination of
2 need for the project under section 216B.243 or 216B.24257.
3 Questions of need, including size, type, and timing; alternative
4 system configurations; and voltage ~~are-not-within-the-board's~~
5 ~~siting-and-routing-authority-and~~ must not be included in the
6 scope of environmental review conducted under sections 116C.51
7 to 116C.69.

8 Sec. 4. Minnesota Statutes 2004, section 116C.57,
9 subdivision 1, is amended to read:

10 Subdivision 1. [SITE PERMIT.] No person may construct a
11 large electric generating plant without a site permit from the
12 board commission. A large electric generating plant may be
13 constructed only on a site approved by the board commission.
14 The board commission must incorporate into one proceeding the
15 route selection for a high voltage transmission line that is
16 directly associated with and necessary to interconnect the large
17 electric generating plant to the transmission system and whose
18 need is certified ~~as-part-of-the-generating-plant-project-by-the~~
19 ~~Public-Utilities-Commission~~ under section 216B.243.

20 Sec. 5. Minnesota Statutes 2004, section 116C.57,
21 subdivision 2c, is amended to read:

22 Subd. 2c. [ENVIRONMENTAL REVIEW.] The board commissioner
23 of the Department of Commerce shall prepare for the commission
24 an environmental impact statement on each proposed large
25 electric generating plant or high voltage transmission line for
26 which a complete application has been submitted. ~~For-any~~
27 ~~project-that-has-obtained-a-certificate-of-need-from-the-Public~~
28 ~~Utilities-Commission7-the-board~~ The commissioner shall not
29 consider whether or not the project is needed. No other state
30 environmental review documents shall be required. The board
31 commissioner shall study and evaluate any site or route proposed
32 by an applicant and any other site or route the board commission
33 deems necessary that was proposed in a manner consistent with
34 ~~rules adopted-by-the-board~~ concerning the form, content, and
35 timeliness of proposals for alternate sites or routes.

36 Sec. 6. Minnesota Statutes 2004, section 116C.57, is

1 amended by adding a subdivision to read:

2 Subd. 9. [DEPARTMENT OF COMMERCE TO PROVIDE TECHNICAL
3 EXPERTISE AND OTHER ASSISTANCE.] The commissioner of the
4 Department of Commerce shall consult with other state agencies
5 and provide technical expertise and other assistance to the
6 commission for activities and proceedings under this section,
7 sections 116C.51 to 116C.697, and chapter 116I. The
8 commissioner shall periodically report to the commission
9 concerning the Department of Commerce's costs of providing
10 assistance. The report shall conform to the schedule and
11 include the required contents specified by the commission. The
12 commission shall include the costs of the assistance in
13 assessments for activities and proceedings under those sections
14 and reimburse the special revenue fund for those costs.

15 Sec. 7. Minnesota Statutes 2004, section 116C.575,
16 subdivision 5, is amended to read:

17 Subd. 5. [ENVIRONMENTAL REVIEW.] For the projects
18 identified in subdivision 2 and following these procedures, the
19 board commissioner of the Department of Commerce shall prepare
20 for the commission an environmental assessment. The
21 environmental assessment shall contain information on the human
22 and environmental impacts of the proposed project and other
23 sites or routes identified by the board commission and shall
24 address mitigating measures for all of the sites or routes
25 considered. The environmental assessment shall be the only
26 state environmental review document required to be prepared on
27 the project.

28 Sec. 8. Minnesota Statutes 2004, section 116C.577, is
29 amended to read:

30 116C.577 [EMERGENCY PERMIT.]

31 (a) Any utility whose electric power system requires the
32 immediate construction of a large electric power generating
33 plant or high voltage transmission line due to a major
34 unforeseen event may apply to the board commission for an
35 emergency permit after-providing. The application shall provide
36 notice in writing to the Public Utilities Commission of the

1 major unforeseen event and the need for immediate construction.
2 The permit must be issued in a timely manner, no later than 195
3 days after the ~~board's~~ commission's acceptance of the
4 application and upon a finding by the ~~board~~ commission that (1)
5 a demonstrable emergency exists, (2) the emergency requires
6 immediate construction, and (3) adherence to the procedures and
7 time schedules specified in section 116C.57 would jeopardize the
8 utility's electric power system or would jeopardize the
9 utility's ability to meet the electric needs of its customers in
10 an orderly and timely manner.

11 (b) A public hearing to determine if an emergency exists
12 must be held within 90 days of the application. The
13 ~~board~~ commission, after notice and hearing, shall adopt rules
14 specifying the criteria for emergency certification.

15 Sec. 9. Minnesota Statutes 2004, section 116C.58, is
16 amended to read:

17 116C.58 [ANNUAL HEARING.]

18 The ~~board~~ commission shall hold an annual public hearing at
19 a time and place prescribed by rule in order to afford
20 interested persons an opportunity to be heard regarding any
21 matters relating to the siting of large electric generating
22 power plants and routing of high voltage transmission lines. At
23 the meeting, the ~~board~~ commission shall advise the public of the
24 permits issued by the ~~board~~ commission in the past year.
25 The ~~board~~ commission shall provide at least ten days but no more
26 than 45 days' notice of the annual meeting by mailing notice to
27 those persons who have requested notice and by publication in
28 the EQB Monitor and the commission's weekly calendar.

29 Sec. 10. Minnesota Statutes 2004, section 116C.61,
30 subdivision 3, is amended to read:

31 Subd. 3. [STATE AGENCY PARTICIPATION.] (a) State agencies
32 authorized to issue permits required for construction or
33 operation of large electric power generating plants or high
34 voltage transmission lines shall participate during routing and
35 siting at public hearings and all other activities of the board
36 on specific site or route designations and design considerations

1 of the board, and shall clearly state whether the site or route
2 being considered for designation or permit and other design
3 matters under consideration for approval will be in compliance
4 with state agency standards, rules, or policies.

5 (b) An applicant for a permit under this section or under
6 chapter 116I shall notify the commissioner of agriculture if the
7 proposed project will impact cultivated agricultural land, as
8 that term is defined in section 116I.01, subdivision 4. The
9 commissioner may participate and advise the commission as to
10 whether to grant a permit for the project and the best options
11 for mitigating adverse impacts to agricultural lands if the
12 permit is granted. The Department of Agriculture shall be the
13 lead agency on the development of any agricultural mitigation
14 plan required for the project.

15 Sec. 11. Minnesota Statutes 2004, section 116C.69,
16 subdivision 2, is amended to read:

17 Subd. 2. [SITE APPLICATION FEE.] Every applicant for a
18 site permit shall pay to the board commission a fee ~~in-an-amount~~
19 ~~equal-to-\$500-for-each-\$1,000,000-of-production-plant-investment~~
20 ~~in-the-proposed-installation-as-defined-in-the-Federal-Power~~
21 ~~Commission-Uniform-System-of-Accounts.--The-board-shall-specify~~
22 ~~the-time-and-manner-of-payment-of-the-fee.--If-any-single~~
23 ~~payment-requested-by-the-board-is-in-excess-of-25-percent-of-the~~
24 ~~total-estimated-fee, the-board-shall-show-that-the-excess-is~~
25 ~~reasonably-necessary.--The-applicant-shall-pay-within-30-days-of~~
26 ~~notification-any-additional-fees-reasonably-necessary-for~~
27 ~~completion-of-the-site-evaluation-and-designation-process-by-the~~
28 ~~board.--In-no-event-shall-the-total-fees-required-of-the~~
29 ~~applicant-under-this-subdivision-exceed-an-amount-equal-to-0.001~~
30 ~~of-said-production-plant-investment-(\$1,000-for-each-\$1,000,000)~~
31 to cover the necessary and reasonable costs incurred by the
32 commission in acting on the permit application and carrying out
33 the requirements of sections 116C.51 to 116C.69. The commission
34 may adopt rules providing for the payment of the fee. Section
35 16A.1283 does not apply to establishment of this fee. All money
36 received pursuant to this subdivision shall be deposited in a

1 special account. Money in the account is appropriated to
2 the board commission to pay expenses incurred in processing
3 applications for site permits in accordance with sections
4 116C.51 to 116C.69 and in the event the expenses are less than
5 the fee paid, to refund the excess to the applicant.

6 Sec. 12. Minnesota Statutes 2004, section 116C.69,
7 subdivision 2a, is amended to read:

8 Subd. 2a. [ROUTE APPLICATION FEE.] Every applicant for a
9 transmission line route permit shall pay to the board commission
10 ~~a base fee of \$35,000 plus a fee in an amount equal to \$1,000~~
11 ~~per mile length of the longest proposed route. The board shall~~
12 ~~specify the time and manner of payment of the fee. If any~~
13 ~~single payment requested by the board is in excess of 25 percent~~
14 ~~of the total estimated fee, the board shall show that the excess~~
15 ~~is reasonably necessary. In the event the actual cost of~~
16 ~~processing an application up to the board's final decision to~~
17 ~~designate a route exceeds the above fee schedule, the board may~~
18 ~~assess the applicant any additional fees necessary to cover the~~
19 ~~actual costs, not to exceed an amount equal to \$500 per mile~~
20 ~~length of the longest proposed route~~ fee to cover the necessary
21 and reasonable costs incurred by the commission in acting on the
22 permit application and carrying out the requirements of sections
23 116C.51 to 116C.69. The commission may adopt rules providing
24 for the payment of the fee. Section 16A.1283 does not apply to
25 the establishment of this fee. All money received pursuant to
26 this subdivision shall be deposited in a special account. Money
27 in the account is appropriated to the board commission to pay
28 expenses incurred in processing applications for route permits
29 in accordance with sections 116C.51 to 116C.69 and in the event
30 the expenses are less than the fee paid, to refund the excess to
31 the applicant.

32 Sec. 13. Minnesota Statutes 2004, section 216B.243,
33 subdivision 4, is amended to read:

34 Subd. 4. [APPLICATION FOR CERTIFICATE; HEARING.] Any
35 person proposing to construct a large energy facility shall
36 apply for a certificate of need ~~prior to applying~~ and for a site

1 or route permit under sections 116C.51 to 116C.69 ~~or~~ prior to
2 construction of the facility. The application shall be on forms
3 and in a manner established by the commission. In reviewing
4 each application the commission shall hold at least one public
5 hearing pursuant to chapter 14. The public hearing shall be
6 held at a location and hour reasonably calculated to be
7 convenient for the public. An objective of the public hearing
8 shall be to obtain public opinion on the necessity of granting a
9 certificate of need and, if a joint hearing is held, a site or
10 route permit. The commission shall designate a commission
11 employee whose duty shall be to facilitate citizen participation
12 in the hearing process. ~~If~~ Unless the commission ~~and the~~
13 ~~Environmental Quality Board determine~~ determines that a joint
14 hearing on siting and need under this subdivision and section
15 116C.57, subdivision 2d, is not feasible, or more efficient, and
16 may further or otherwise not in the public interest, a joint
17 hearing under those subdivisions ~~may~~ shall be held.

18 Sec. 14. Minnesota Statutes 2004, section 216B.243,
19 subdivision 5, is amended to read:

20 Subd. 5. [APPROVAL, DENIAL, OR MODIFICATION.] Within
21 ~~six~~ 12 months of the submission of an application, the
22 commission shall approve or deny a certificate of need for the
23 facility. Approval or denial of the certificate shall be
24 accompanied by a statement of the reasons for the decision.
25 Issuance of the certificate may be made contingent upon
26 modifications required by the commission. If the commission has
27 not issued an order on the application within the 12 months
28 provided, the commission may extend the time period upon
29 receiving the consent of the parties or on its own motion, for
30 good cause, by issuing an order explaining the good cause
31 justification for extension.

32 Sec. 15. Minnesota Statutes 2004, section 216B.243,
33 subdivision 7, is amended to read:

34 Subd. 7. [PARTICIPATION BY OTHER AGENCY OR POLITICAL
35 SUBDIVISION.] (a) Other state agencies authorized to issue
36 permits for siting, construction or operation of large energy

1 facilities, and those state agencies authorized to participate
2 in matters before the commission involving utility rates and
3 adequacy of utility services, shall present their position
4 regarding need and participate in the public hearing process
5 prior to the issuance or denial of a certificate of need.
6 Issuance or denial of certificates of need shall be the sole and
7 exclusive prerogative of the commission and these determinations
8 and certificates shall be binding upon other state departments
9 and agencies, regional, county, and local governments and
10 special purpose government districts except as provided in
11 sections 116C.01 to 116C.08 and 116D.04, subdivision 9.

12 (b) An applicant for a certificate of need shall notify the
13 commissioner of agriculture if the proposed project will impact
14 cultivated agricultural land, as that term is defined in section
15 116I.01, subdivision 4. The commissioner may participate in any
16 proceeding on the application and advise the commission as to
17 whether to grant the certificate of need, and the best options
18 for mitigating adverse impacts to agricultural lands if the
19 certificate is granted. The Department of Agriculture shall be
20 the lead agency on the development of any agricultural
21 mitigation plan required for the project.

22 Sec. 16. Minnesota Statutes 2004, section 216C.052, is
23 amended to read:

24 216C.052 [RELIABILITY ADMINISTRATOR.]

25 Subdivision 1. [RESPONSIBILITIES.] (a) There is
26 established the position of reliability administrator in the
27 ~~Department of Commerce~~ Public Utilities Commission. The
28 administrator shall act as a source of independent expertise and
29 a technical advisor to ~~the commissioner,~~ the commission, and the
30 ~~public,~~ ~~and the Legislative Electric Energy Task Force~~ on issues
31 related to the reliability of the electric system. In
32 conducting its work, the administrator shall provide assistance
33 to the commission in administering and implementing the
34 commission's duties under sections 116C.51 to 116C.69; 116C.691
35 to 116C.697; 216B.2422; 216B.2425; 216B.243; chapter 116I; and
36 rules associated with those sections. Subject to resource

1 constraints, the reliability administrator may also:

2 (1) model and monitor the use and operation of the energy
3 infrastructure in the state, including generation facilities,
4 transmission lines, natural gas pipelines, and other energy
5 infrastructure;

6 (2) develop and present to the commission and parties
7 technical analyses of proposed infrastructure projects, and
8 provide technical advice to the commission;

9 (3) present independent, factual, expert, and technical
10 information on infrastructure proposals and reliability issues
11 at public meetings hosted by the task force, the Environmental
12 Quality Board, the department, or the commission.

13 (b) Upon request and subject to resource constraints, the
14 administrator shall provide technical assistance regarding
15 matters unrelated to applications for infrastructure
16 improvements to the task force, the department, or the
17 commission.

18 (c) The administrator may not advocate for any particular
19 outcome in a commission proceeding, but may give technical
20 advice to the commission as to the impact on the reliability of
21 the energy system of a particular project or projects. ~~The
22 administrator-must-not-be-considered-a-party-or-a-participant-in
23 any-proceeding-before-the-commission-~~

24 Subd. 2. [ADMINISTRATIVE ISSUES.] (a) The ~~commissioner~~
25 commission may select the administrator who shall serve for a
26 four-year term. The administrator may not have been a party or
27 a participant in a commission energy proceeding for at least one
28 year prior to selection by the ~~commissioner~~ commission.
29 The ~~commissioner~~ commission shall oversee and direct the work of
30 the administrator, annually review the expenses of the
31 administrator, and annually approve the budget of the
32 administrator. Pursuant to commission approval, the
33 administrator may hire staff and may contract for technical
34 expertise in performing duties when existing state resources are
35 required for other state responsibilities or when special
36 expertise is required. The salary of the administrator is

1 governed by section 15A.0815, subdivision 2.

2 (b) Costs relating to a specific proceeding, analysis, or
3 project are not general administrative costs. For purposes of
4 this section, "energy utility" means public utilities,
5 generation and transmission cooperative electric associations,
6 and municipal power agencies providing natural gas or electric
7 service in the state.

8 (c) The ~~Department of Commerce~~ commission shall pay:

9 (1) the general administrative costs of the administrator,
10 not to exceed \$1,000,000 in a fiscal year, and shall assess
11 energy utilities for those administrative costs. These costs
12 must be consistent with the budget approved by the ~~commissioner~~
13 commission under paragraph (a). The ~~department~~ commission shall
14 apportion the costs among all energy utilities in proportion to
15 their respective gross operating revenues from sales of gas or
16 electric service within the state during the last calendar year,
17 and shall then render a bill to each utility on a regular basis;
18 and

19 (2) costs relating to a specific proceeding analysis or
20 project and shall render a bill to the specific energy utility
21 or utilities participating in the proceeding, analysis, or
22 project directly, either at the conclusion of a particular
23 proceeding, analysis, or project, or from time to time during
24 the course of the proceeding, analysis, or project.

25 (d) For purposes of administrative efficiency, the
26 ~~department~~ commission shall assess energy utilities and issue
27 bills in accordance with the billing and assessment procedures
28 provided in section 216B.62, to the extent that these procedures
29 do not conflict with this subdivision. The amount of the bills
30 rendered by the ~~department~~ commission under paragraph (c) must
31 be paid by the energy utility into an account in the special
32 revenue fund in the state treasury within 30 days from the date
33 of billing and is appropriated to the ~~commissioner~~ commission
34 for the purposes provided in this section. The commission shall
35 approve or approve as modified a rate schedule providing for the
36 automatic adjustment of charges to recover amounts paid by

1 utilities under this section. All amounts assessed under this
2 section are in addition to amounts appropriated to the
3 commission ~~and the department~~ by other law.

4 Subd. 3. [ASSESSMENT AND APPROPRIATION.] In addition to
5 the amount noted in subdivision 2, the ~~commissioner~~ commission
6 may assess utilities, using the mechanism specified in that
7 subdivision, up to an additional \$500,000 annually through June
8 30, 2006. The amounts assessed under this subdivision are
9 appropriated to the ~~commissioner~~ commission, and some or all of
10 the amounts assessed may be transferred to the commissioner of
11 administration, for the purposes specified in section 16B.325
12 and Laws 2001, chapter 212, article 1, section 3, as needed to
13 implement those sections.

14 Subd. 4. [EXPIRATION.] This section expires June 30,
15 ~~2006~~ 2007.

16 Sec. 17. [TRANSFERRING POWER PLANT SITING
17 RESPONSIBILITIES.]

18 To ensure greater public participation in energy
19 infrastructure approval proceedings and to better integrate and
20 align state energy and environmental policy goals with economic
21 decisions involving large energy infrastructure, all
22 responsibilities, as defined in Minnesota Statutes, section
23 15.039, subdivision 1, held by the Environmental Quality Board
24 relating to power plant siting and routing under Minnesota
25 Statutes, sections 116C.51 to 116C.69; wind energy conversion
26 systems under Minnesota Statutes, sections 116C.691 to 116C.697;
27 pipelines under Minnesota Statutes, chapter 116I; and rules
28 associated with those sections are transferred to the Public
29 Utilities Commission under Minnesota Statutes, section 15.039,
30 except that the responsibilities of the Environmental Quality
31 Board under Minnesota Statutes, section 116C.83, subdivision 6,
32 and Minnesota Rules, parts 4400.1700, 4400.2750, and 4410.7010
33 to 4410.7070, are transferred to the commissioner of the
34 Department of Commerce. The power plan siting staff of the
35 Environmental Quality Board are transferred to the Department of
36 Commerce. The department's budget shall be adjusted to reflect

1 the transfer.

2 The Department of Commerce and the Public Utilities Commission
3 shall carry out these duties in accordance with the provisions
4 of Minnesota Statutes, section 116D.03.

5 Sec. 18. [TRANSFERRING RELIABILITY ADMINISTRATOR
6 RESPONSIBILITIES.]

7 All responsibilities, as defined in Minnesota Statutes
8 2004, section 15.039, subdivision 1, held by the Minnesota
9 Department of Commerce relating to the reliability administrator
10 under Minnesota Statutes, section 216C.052, are transferred to
11 the Minnesota Public Utilities Commission under Minnesota
12 Statutes, section 15.039.

13 Sec. 19. [REVISOR'S INSTRUCTION.]

14 (a) The revisor of statutes shall change the words
15 "Environmental Quality Board," "board," "chair of the board,"
16 "chair," "board's," and similar terms, when they refer to the
17 Environmental Quality Board or chair of the Environmental
18 Quality Board, to the term "Public Utilities Commission,"
19 "commission," or "commission's," as appropriate, where they
20 appear in Minnesota Statutes, sections 13.741, subdivision 3,
21 116C.51 to 116C.697, and chapter 116I. The revisor shall also
22 make those changes in Minnesota Rules, chapters 4400, 4401, and
23 4415, except as specified in paragraph (b).

24 (b) The revisor of statutes shall change the words
25 "Environmental Quality Board," "board," "chair of the board,"
26 "chair," "board's," and similar terms, when they refer to the
27 Environmental Quality Board or chair of the Environmental
28 Quality Board, to the term "commissioner of the Department of
29 Commerce," "commissioner," or "commissioner's," as appropriate,
30 where they appear in Minnesota Statutes, section 116C.83,
31 subdivision 6; and Minnesota Rules, parts 4400.1700, subparts 1
32 to 9, 11, and 12; 4400.2750; and 4410.7010 to 4410.7070.

33 Sec. 20. [EFFECTIVE DATE.]

34 Sections 1 to 18 are effective July 1, 2005.

35 ARTICLE 4

36 ENERGY ASSISTANCE TECHNICAL CORRECTIONS

1 Section 1. Minnesota Statutes 2004, section 13.681, is
2 amended by adding a subdivision to read:

3 Subd. 5. [ENERGY PROGRAMS.] Treatment of data on
4 individuals applying for benefits or services under energy
5 programs is governed by section 216C.266.

6 Sec. 2. Minnesota Statutes 2004, section 119A.15,
7 subdivision 5a, is amended to read:

8 Subd. 5a. [EXCLUDED PROGRAMS.] Programs transferred to the
9 Department of Education from the Department of Employment and
10 Economic Development may not be included in the consolidated
11 funding account and are ineligible for local consolidation. The
12 commissioner may not apply for federal waivers to include these
13 programs in funding consolidation initiatives. The programs
14 include the following:

15 (1) programs for the homeless under sections 116L.365 and
16 119A.43;

17 (2) emergency energy assistance and energy conservation
18 programs under sections ~~119A.40 and 119A.42~~ 216C.263 and
19 216C.265;

20 (3) weatherization programs under section ~~119A.41~~ 216C.264;

21 (4) foodshelf programs under section 119A.44 and the
22 emergency food assistance program; and

23 (5) lead abatement programs under section 119A.45.

24 Sec. 3. Minnesota Statutes 2004, section 216C.09, is
25 amended to read:

26 216C.09 [COMMISSIONER DUTIES.]

27 (a) The commissioner shall:

28 (1) manage the department as the central repository within
29 the state government for the collection of data on energy;

30 (2) prepare and adopt an emergency allocation plan
31 specifying actions to be taken in the event of an impending
32 serious shortage of energy, or a threat to public health,
33 safety, or welfare;

34 (3) undertake a continuing assessment of trends in the
35 consumption of all forms of energy and analyze the social,
36 economic, and environmental consequences of these trends;

1 (4) carry out energy conservation measures as specified by
2 the legislature and recommend to the governor and the
3 legislature additional energy policies and conservation measures
4 as required to meet the objectives of sections 216C.05 to
5 216C.30;

6 (5) collect and analyze data relating to present and future
7 demands and resources for all sources of energy;

8 (6) evaluate policies governing the establishment of rates
9 and prices for energy as related to energy conservation, and
10 other goals and policies of sections 216C.05 to 216C.30, and
11 make recommendations for changes in energy pricing policies and
12 rate schedules;

13 (7) study the impact and relationship of the state energy
14 policies to international, national, and regional energy
15 policies;

16 (8) design and implement a state program for the
17 conservation of energy; this program shall include but not be
18 limited to, general commercial, industrial, and residential, and
19 transportation areas; such program shall also provide for the
20 evaluation of energy systems as they relate to lighting,
21 heating, refrigeration, air conditioning, building design and
22 operation, and appliance manufacturing and operation;

23 (9) inform and educate the public about the sources and
24 uses of energy and the ways in which persons can conserve
25 energy;

26 (10) dispense funds made available for the purpose of
27 research studies and projects of professional and civic
28 orientation, which are related to either energy conservation,
29 resource recovery, or the development of alternative energy
30 technologies which conserve nonrenewable energy resources while
31 creating minimum environmental impact;

32 (11) charge other governmental departments and agencies
33 involved in energy-related activities with specific information
34 gathering goals and require that those goals be met;

35 (12) design a comprehensive program for the development of
36 indigenous energy resources. The program shall include, but not

1 be limited to, providing technical, informational, educational,
2 and financial services and materials to persons, businesses,
3 municipalities, and organizations involved in the development of
4 solar, wind, hydropower, peat, fiber fuels, biomass, and other
5 alternative energy resources. The program shall be evaluated by
6 the alternative energy technical activity; and

7 (13) dispense loans, grants, or other financial aid from
8 money received from litigation or settlement of alleged
9 violations of federal petroleum-pricing regulations made
10 available to the department for that purpose. The commissioner
11 shall adopt rules under chapter 14 for this purpose. Money
12 ~~dispersed under this clause must not include money received as a~~
13 ~~result of the settlement of the parties and order of the United~~
14 ~~States District Court for the District of Kansas in the case of~~
15 ~~In Re Department of Energy Stripper Well Exemption Litigation,~~
16 ~~578 F. Supp. 586 (D. Kan. 1983) and all money received after~~
17 ~~August 17, 1988, by the governor, the commissioner of finance, or~~
18 ~~any other state agency resulting from overcharges by oil~~
19 ~~companies in violation of federal law.~~

20 (b) Further, the commissioner may participate fully in
21 hearings before the Public Utilities Commission on matters
22 pertaining to rate design, cost allocation, efficient resource
23 utilization, utility conservation investments, small power
24 production, cogeneration, and other rate issues. The
25 commissioner shall support the policies stated in section
26 216C.05 and shall prepare and defend testimony proposed to
27 encourage energy conservation improvements as defined in section
28 216B.241.

29 Sec. 4. Minnesota Statutes 2004, section 462A.05,
30 subdivision 21, is amended to read:

31 Subd. 21. [RENTAL PROPERTY LOANS.] The agency may make or
32 purchase loans to owners of rental property that is occupied or
33 intended for occupancy primarily by low- and moderate-income
34 tenants and which does not comply with the standards established
35 in section ~~216E.27~~ 16B.61, subdivision 3 1, for the purpose of
36 energy improvements necessary to bring the property into full or

1 partial compliance with these standards. For property which
2 meets the other requirements of this subdivision, a loan may
3 also be used for moderate rehabilitation of the property. The
4 authority granted in this subdivision is in addition to and not
5 in limitation of any other authority granted to the agency in
6 this chapter. The limitations on eligible mortgagors contained
7 in section 462A.03, subdivision 13, do not apply to loans under
8 this subdivision. Loans for the improvement of rental property
9 pursuant to this subdivision may contain provisions that
10 repayment is not required in whole or in part subject to terms
11 and conditions determined by the agency to be necessary and
12 desirable to encourage owners to maximize rehabilitation of
13 properties.

14 Sec. 5. Minnesota Statutes 2004, section 462A.05,
15 subdivision 23, is amended to read:

16 Subd. 23. [INSURING FINANCIAL INSTITUTION LOANS.] The
17 agency may participate in loans or establish a fund to insure
18 loans, or portions of loans, that are made by any banking
19 institution, savings association, or other lender approved by
20 the agency, organized under the laws of this or any other state
21 or of the United States having an office in this state, to
22 owners of renter occupied homes or apartments that do not comply
23 with standards set forth in section ~~216C.27~~ 16B.61,
24 subdivision 3 1, without limitations relating to the maximum
25 incomes of the owners or tenants. The proceeds of the insured
26 portion of the loan must be used to pay the costs of
27 improvements, including all related structural and other
28 improvements, that will reduce energy consumption.

29 Sec. 6. [RECODIFICATION.]

30 Minnesota Statutes 2004, sections 119A.40; 119A.41;
31 119A.42; 119A.425; and 216C.27, subdivision 8, are recodified as
32 sections 216C.263; 216C.264; 216C.265; 216C.266; and 16B.61,
33 subdivision 8, respectively.

34 ARTICLE 5

35 WOODY BIOMASS MANDATE PROJECT

36 Section 1. Minnesota Statutes 2004, section 216B.2424,

1 subdivision 1, is amended to read:

2 Subdivision 1. [FARM-GROWN CLOSED-LOOP BIOMASS.] (a) For
3 the purposes of this section, "farm-grown closed-loop biomass"
4 means biomass, as defined in section 216C.051, subdivision 7,
5 that:

6 (1) is intentionally cultivated, harvested, and prepared
7 for use, in whole or in part, as a fuel for the generation of
8 electricity;

9 (2) when combusted, releases an amount of carbon dioxide
10 that is less than or approximately equal to the carbon dioxide
11 absorbed by the biomass fuel during its growing cycle; and

12 (3) is fired in a new or substantially retrofitted electric
13 generating facility that is:

14 (i) located within 400 miles of the site of the biomass
15 production; and

16 (ii) designed to use biomass to meet at least 75 percent of
17 its fuel requirements.

18 (b) The legislature finds that the negative environmental
19 impacts within 400 miles of the facility resulting from
20 transporting and combusting the biomass are offset in that
21 region by the environmental benefits to air, soil, and water of
22 the biomass production.

23 (c) Among the biomass fuel sources that meet the
24 requirements of paragraph (a), ~~clause~~ clauses (1) and (2) are
25 poplar, aspen, willow, switch grass, sorghum, alfalfa, and
26 cultivated prairie grass and sustainably managed woody biomass.

27 (d) For the purpose of this section, "sustainably managed
28 woody biomass" means:

29 (1) brush, trees, and other biomass harvested from within
30 designated utility, railroad, and road rights-of-way;

31 (2) upland and lowland brush harvested from lands
32 incorporated into brushland habitat management activities of the
33 Minnesota Department of Natural Resources;

34 (3) upland and lowland brush harvested from lands managed
35 in accordance with Minnesota Department of Natural Resources
36 "Best Management Practices for Managing Brushlands";

1 (4) logging slash or waste wood that is created by harvest,
2 precommercial timber stand improvement to meet silvicultural
3 objectives, or by fire, disease, or insect control treatments,
4 and that is managed in compliance with the Minnesota Forest
5 Resources Council's "Sustaining Minnesota Forest Resources:
6 Voluntary Site-Level Forest Management Guidelines for
7 Landowners, Loggers and Resource Managers" as modified by the
8 requirement of this subdivision; and

9 (5) trees or parts of trees that do not meet the
10 utilization standards for pulpwood, posts, bolts, or sawtimber
11 as described in the Minnesota Department of Natural Resources
12 Division of Forestry Timber Sales Manual, 1998, as amended as of
13 May 1, 2005, and the Minnesota Department of Natural Resources
14 Timber Scaling Manual, 1981, as amended as of May 1, 2005,
15 except as provided in paragraph (a), clause (1), and this
16 paragraph, clauses (1) to (3).

17 Sec. 2. Minnesota Statutes 2004, section 216B.2424, is
18 amended by adding a subdivision to read:

19 Subd. 1a. [MUNICIPAL WASTE-TO-ENERGY PROJECT.] (a) This
20 subdivision applies only to a biomass project owned or
21 controlled, directly or indirectly, by two municipal utilities
22 as described in subdivision 5a, paragraph (b).

23 (b) Woody biomass from state-owned land must be harvested
24 in compliance with an adopted management plan and a program of
25 ecologically based third-party certification.

26 (c) The project must prepare a fuel plan on an annual basis
27 after commercial operation of the project as described in the
28 power contract between the project and the public utility, and
29 must also prepare annually certificates reflecting the types of
30 fuel used in the preceding year by the project, as described in
31 the power contract. The fuel plans and certificates shall also
32 be filed with the Minnesota Department of Natural Resources and
33 the Minnesota Department of Commerce within 30 days after being
34 provided to the public utility, as provided by the power
35 contract. Any person who believes the fuel plans, as amended,
36 and certificates show that the project does not or will not

1 comply with the fuel requirements of this subdivision may file a
2 petition with the commission seeking such a determination.

3 (d) The wood procurement process must utilize third-party
4 audit certification systems to verify that applicable best
5 management practices were utilized in the procurement of the
6 sustainably managed biomass. If there is a failure to so verify
7 in any two consecutive years during the original contract term,
8 the farm-grown closed-loop biomass requirements of subdivision 2
9 must be increased to 50 percent for the remaining contract term
10 period; however, if in two consecutive subsequent years after
11 the increase has been implemented, it is verified that the
12 conditions in this subdivision have been met, then for the
13 remaining original contract term the closed-loop biomass mandate
14 reverts to 25 percent. If there is a subsequent failure to
15 verify in a year after the first failure and implementation of
16 the 50 percent requirement, then the closed-loop percentage
17 shall remain at 50 percent for each remaining year of the
18 contract term.

19 (e) In the closed-loop plantation, no transgenic plants may
20 be used.

21 (f) No wood may be harvested from any lands identified by
22 the final or preliminary Minnesota County Biological Survey as
23 having statewide significance as native plant communities, large
24 populations or concentrations of rare species, or critical
25 animal habitat.

26 (g) A wood procurement plan must be prepared every five
27 years and public meetings must be held and written comments
28 taken on the plan and documentation must be provided on why or
29 why not the public inputs were used.

30 (h) Guidelines or best management practices for sustainably
31 managed woody biomass must be adopted by:

32 (1) the Minnesota Department of Natural Resources for
33 managing and maintaining brushland and open land habitat on
34 public and private lands, including, but not limited to,
35 provisions of sections 84.941, 84.942, and 97A.125; and

36 (2) the Minnesota Forest Resources Council for logging

1 slash, using the most recent available scientific information
2 regarding the removal of woody biomass from forest lands, to
3 sustain the management of forest resources as defined by section
4 89.001, subdivisions 8 and 9, with particular attention to soil
5 productivity, biological diversity as defined by section 89A.01,
6 subdivision 3, and wildlife habitat.

7 These guidelines must be completed by July 1, 2007, and the
8 process of developing them must incorporate public notification
9 and comment.

10 (i) The University of Minnesota Initiative for Renewable
11 Energy and the Environment is encouraged to solicit and fund
12 high-quality research projects to develop and consolidate
13 scientific information regarding the removal of woody biomass
14 from forest and brush lands, with particular attention to the
15 environmental impacts on soil productivity, biological
16 diversity, and sequestration of carbon. The results of this
17 research shall be made available to the public.

18 (j) The two utilities owning or controlling, directly or
19 indirectly, the biomass project described in subdivision 5a,
20 paragraph (b), agree to fund or obtain funding of up to \$150,000
21 to complete the guidelines or best management practices
22 described in paragraph (h). The expenditures to be funded under
23 this paragraph do not include any of the expenditures to be
24 funded under paragraph (i).

25 Sec. 3. Minnesota Statutes 2004, section 216B.2424,
26 subdivision 2, is amended to read:

27 Subd. 2. [INTERIM EXEMPTION.] (a) A biomass project
28 proposing to use, as its primary fuel over the life of the
29 project, short-rotation woody crops, may use as an interim fuel
30 agricultural waste and other biomass which is not farm-grown
31 closed-loop biomass for up to six years after the project's
32 electric generating facility becomes operational; provided, the
33 project developer demonstrates the project will use the
34 designated short-rotation woody crops as its primary fuel after
35 the interim period and provided the location of the interim fuel
36 production meets the requirements of subdivision 1, paragraph

1 (a), clause (3).

2 (b) A biomass project proposing to use, as its primary fuel
3 over the life of the project, short-rotation woody crops, may
4 use as an interim fuel agricultural waste and other biomass
5 which is not farm-grown closed-loop biomass for up to three
6 years after the project's electric generating facility becomes
7 operational; provided, the project developer demonstrates the
8 project will use the designated short-rotation woody crops as
9 its primary fuel after the interim period.

10 (c) A biomass project that uses an interim fuel under the
11 terms of paragraph (b) may, in addition, use an interim fuel
12 under the terms of paragraph (a) for six years less the number
13 of years that an interim fuel was used under paragraph (b).

14 (d) A project developer proposing to use an exempt interim
15 fuel under paragraphs (a) and (b) must demonstrate to the public
16 utility that the project will have an adequate supply of
17 short-rotation woody crops which meet the requirements of
18 subdivision 1 to fuel the project after the interim period.

19 (e) If a biomass project using an interim fuel under this
20 subdivision is or becomes owned or controlled, directly or
21 indirectly, by two municipal utilities as described in
22 subdivision 5a, paragraph (b), the project is deemed to comply
23 with the requirement under this subdivision to use as its
24 primary fuel farm-grown closed-loop biomass if farm-grown
25 closed-loop biomass comprises no less than 25 percent of the
26 fuel used over the life of the project. For purposes of this
27 subdivision, "life of the project" means 20 years from the date
28 the project becomes operational or the term of the applicable
29 power purchase agreement between the project owner and the
30 public utility, whichever is longer.

31 Sec. 4. Minnesota Statutes 2004, section 216B.2424,
32 subdivision 5a, is amended to read:

33 Subd. 5a. [REDUCTION OF BIOMASS MANDATE.] (a)
34 Notwithstanding subdivision 5, the biomass electric energy
35 mandate ~~shall~~ must be reduced from 125 megawatts to 110
36 megawatts.

1 (b) The Public Utilities Commission shall approve a request
2 pending before the Public-Utilities commission as of May 15,
3 2003, for ~~an amendment~~ amendments to and assignment of a
4 ~~contract-for-power-from~~ power purchase agreement with the owner
5 of a facility that uses short-rotation, woody crops as its
6 primary fuel previously approved to satisfy a portion of the
7 biomass mandate if the developer owner of the project agrees to
8 reduce the size of its project from 50 megawatts to 35
9 megawatts, while maintaining a an average price for energy at-or
10 below-the-current-contract-price- in nominal dollars measured
11 over the term of the power purchase agreement at or below \$104
12 per megawatt-hour, exclusive of any price adjustments that may
13 take effect subsequent to commission approval of the power
14 purchase agreement, as amended. The commission shall also
15 approve, as necessary, any subsequent assignment or sale of the
16 power purchase agreement or ownership of the project to an
17 entity owned or controlled, directly or indirectly, by two
18 municipal utilities located north of Constitutional Route No. 8,
19 as described in section 161.114, which currently own electric
20 and steam generation facilities using coal as a fuel and which
21 propose to retrofit their existing municipal electrical
22 generating facilities to utilize biomass fuels in order to
23 perform the power purchase agreement.

24 (c) If the power purchase agreement described in paragraph
25 (b) is assigned to an entity that is, or becomes, owned or
26 controlled, directly or indirectly, by two municipal entities as
27 described in paragraph (b), and the power purchase agreement
28 meets the price requirements of paragraph (b), the commission
29 shall approve any amendments to the power purchase agreement
30 necessary to reflect the changes in project location and
31 ownership and any other amendments made necessary by those
32 changes. The commission shall also specifically find that:

33 (1) the power purchase agreement complies with and fully
34 satisfies the provisions of this section to the full extent of
35 its 35-megawatt capacity;

36 (2) all costs incurred by the public utility and all

1 amounts to be paid by the public utility to the project owner
2 under the terms of the power purchase agreement are fully
3 recoverable pursuant to section 216B.1645;

4 (3) subject to prudence review by the commission, the
5 public utility may recover from its Minnesota retail customers
6 the Minnesota jurisdictional portion of the amounts that may be
7 incurred and paid by the public utility during the full term of
8 the power purchase agreement; and

9 (4) if the purchase power agreement meets the requirements
10 of this subdivision, it is reasonable and in the public interest.

11 (d) The commission shall specifically approve recovery by
12 the public utility of any and all Minnesota jurisdictional costs
13 incurred by the public utility to improve, construct, install,
14 or upgrade transmission, distribution, or other electrical
15 facilities owned by the public utility or other persons in order
16 to permit interconnection of the retrofitted biomass-fueled
17 generating facilities or to obtain transmission service for the
18 energy provided by the facilities to the public utility pursuant
19 to section 216B.1645, and shall disapprove any provision in the
20 power purchase agreement that requires the developer or owner of
21 the project to pay the jurisdictional costs or that permit the
22 public utility to terminate the power purchase agreement as a
23 result of the existence of those costs or the public utility's
24 obligation to pay any or all of those costs.

25 Sec. 5. Minnesota Statutes 2004, section 216B.2424,
26 subdivision 6, is amended to read:

27 Subd. 6. [REMAINING MEGAWATT COMPLIANCE PROCESS.] (a) If
28 there remain megawatts of biomass power generating capacity to
29 fulfill the mandate in subdivision 5 after the commission has
30 taken final action on all contracts filed by September 1, 2000,
31 by a public utility, as amended and assigned, this subdivision
32 governs final compliance with the biomass energy mandate in
33 subdivision 5 subject to the requirements of subdivisions 7 and
34 8.

35 (b) To the extent not inconsistent with this subdivision,
36 the provisions of subdivisions 2, 3, 4, and 5 apply to proposals

1 subject to this subdivision.

2 (c) A public utility must submit proposals to the
3 commission to complete the biomass mandate. The commission
4 shall require a public utility subject to this section to issue
5 a request for competitive proposals for projects for electric
6 generation utilizing biomass as defined in paragraph (f) of this
7 subdivision to provide the remaining megawatts of the mandate.
8 The commission shall set an expedited schedule for submission of
9 proposals to the utility, selection by the utility of proposals
10 or projects, negotiation of contracts, and review by the
11 commission of the contracts or projects submitted by the utility
12 to the commission.

13 (d) Notwithstanding the provisions of subdivisions 1 to 5
14 but subject to the provisions of subdivisions 7 and 8, a new or
15 existing facility proposed under this subdivision that is fueled
16 either by biomass or by co-firing biomass with nonbiomass may
17 satisfy the mandate in this section. Such a facility need not
18 use biomass that complies with the definition in subdivision 1
19 if it uses biomass as defined in paragraph (f) of this
20 subdivision. Generating capacity produced by co-firing of
21 biomass that is operational as of April 25, 2000, does not meet
22 the requirements of the mandate, except that additional
23 co-firing capacity added at an existing facility after April 25,
24 2000, may be used to satisfy this mandate. Only the number of
25 megawatts of capacity at a facility which co-fires biomass that
26 are directly attributable to the biomass and that become
27 operational after April 25, 2000, count toward meeting the
28 biomass mandate in this section.

29 (e) Nothing in this subdivision precludes a facility
30 proposed and approved under this subdivision from using fuel
31 sources that are not biomass in compliance with subdivision 3.

32 (f) Notwithstanding the provisions of subdivision 1, for
33 proposals subject to this subdivision, "biomass" includes
34 farm-grown closed-loop biomass; agricultural wastes, including
35 animal, poultry, and plant wastes; and waste wood, including
36 chipped wood, bark, brush, residue wood, and sawdust.

1 (g) Nothing in this subdivision affects in any way
2 contracts entered into as of April 25, 2000, to satisfy the
3 mandate in subdivision 5.

4 (h) Nothing in this subdivision requires a public utility
5 to retrofit its own power plants for the purpose of co-firing
6 biomass fuel, nor is a utility prohibited from retrofitting its
7 own power plants for the purpose of co-firing biomass fuel to
8 meet the requirements of this subdivision.

9 Sec. 6. Minnesota Statutes 2004, section 216B.2424,
10 subdivision 8, is amended to read:

11 Subd. 8. [AGRICULTURAL BIOMASS REQUIREMENT.] Of the 125
12 megawatts mandated in subdivision 5, or 110 megawatts mandated
13 in subdivision 5a, at least 75 megawatts of the generating
14 capacity must be generated by facilities that use agricultural
15 biomass as the principal fuel source. For purposes of this
16 subdivision, agricultural biomass includes only farm-grown
17 closed-loop biomass and agricultural waste, including animal,
18 poultry, and plant wastes. For purposes of this subdivision,
19 "principal fuel source" means a fuel source that satisfies at
20 least 75 percent of the fuel requirements of an electric power
21 generating facility. Nothing in this subdivision is intended to
22 expand the fuel source requirements of subdivision 5.

23 ARTICLE 6

24 E-FILING

25 Section 1. [ESTABLISHMENT OF FUND.]

26 The Department of Commerce's e-filing account is
27 established. The commission shall make a onetime assessment to
28 regulated utilities, no more than \$300,000 to cover the actual
29 cost of implementing this section. The funds assessed must be
30 deposited in the account. Any excess funds in the account upon
31 completion must be refunded to the utilities proportionately.
32 Each public utility, municipal utility, electric cooperative
33 association, generation and transmission cooperative electric
34 association, municipal power agency, telephone company, and
35 telecommunications carrier must be assessed in proportion to its
36 respective gross operating revenues for retail sales of gas,

1 electric, or telecommunications service in the state in the last
2 calendar year. Revenue in the account is appropriated to the
3 commission for the costs associated with establishing an
4 e-filing system that allows documents to be filed and retrieved
5 via the Internet. Revenue in the account remains available
6 until expended.

7 Sec. 2. [COMPLETION DATE.]

8 The e-filing system must be operational by July 1, 2006.

9 Sec. 3. [EFFECTIVE DATE.]

10 Sections 1 and 2 are effective the day following final
11 enactment.

12 ARTICLE 7

13 CIP TECHNICAL CORRECTIONS

14 Section 1. Minnesota Statutes 2004, section 216B.241,
15 subdivision 1b, is amended to read:

16 Subd. 1b. [CONSERVATION IMPROVEMENT BY COOPERATIVE
17 ASSOCIATION OR MUNICIPALITY.] (a) This subdivision applies to:

18 (1) a cooperative electric association that provides retail
19 service to its members;

20 (2) a municipality that provides electric service to retail
21 customers; and

22 (3) a municipality with gross operating revenues in excess
23 of \$5,000,000 from sales of natural gas to retail customers.

24 (b) Each cooperative electric association and municipality
25 subject to this subdivision shall spend and invest for energy
26 conservation improvements under this subdivision the following
27 amounts:

28 (1) for a municipality, 0.5 percent of its gross operating
29 revenues from the sale of gas and 1.5 percent of its gross
30 operating revenues from the sale of electricity, excluding gross
31 operating revenues from electric and gas service provided in the
32 state to large electric customer facilities; and

33 (2) for a cooperative electric association, 1.5 percent of
34 its gross operating revenues from service provided in the state,
35 excluding gross operating revenues from service provided in the
36 state to large electric customer facilities indirectly through a

1 distribution cooperative electric association.

2 (c) Each municipality and cooperative electric association
3 subject to this subdivision shall identify and implement energy
4 conservation improvement spending and investments that are
5 appropriate for the municipality or association, except that a
6 municipality or association may not spend or invest for energy
7 conservation improvements that directly benefit a large electric
8 customer facility for which the commissioner has issued an
9 exemption under subdivision 1a, paragraph (b).

10 (d) Each municipality and cooperative electric association
11 subject to this subdivision may spend and invest annually up to
12 ten percent of the total amount required to be spent and
13 invested on energy conservation improvements under this
14 subdivision on research and development projects that meet the
15 definition of energy conservation improvement in subdivision 1
16 and that are funded directly by the municipality or cooperative
17 electric association.

18 (e) Load-management activities that do not reduce energy
19 use but that increase the efficiency of the electric system may
20 be used to meet ~~the following percentage~~ 50 percent of the
21 conservation investment and spending requirements of this
22 subdivision:

23 ~~(1)-2002---90-percent;~~

24 ~~(2)-2003---80-percent;~~

25 ~~(3)-2004---65-percent; and~~

26 ~~(4)-2005-and-thereafter---50-percent.~~

27 (f) A generation and transmission cooperative electric
28 association that provides energy services to cooperative
29 electric associations that provide electric service at retail to
30 consumers may invest in energy conservation improvements on
31 behalf of the associations it serves and may fulfill the
32 conservation, spending, reporting, and energy savings goals on
33 an aggregate basis. A municipal power agency or other
34 not-for-profit entity that provides energy service to municipal
35 utilities that provide electric service at retail may invest in
36 energy conservation improvements on behalf of the municipal

1 utilities it serves and may fulfill the conservation, spending,
2 reporting, and energy savings goals on an aggregate basis, under
3 an agreement between the municipal power agency or
4 not-for-profit entity and each municipal utility for funding the
5 investments.

6 (g) At least every two four years, on a schedule determined
7 by the commissioner, each municipality or cooperative shall file
8 an overview of its conservation improvement plan with the
9 commissioner. With this overview, the municipality or
10 cooperative shall also provide an evaluation to the commissioner
11 detailing its energy conservation improvement spending and
12 investments for the previous period. The evaluation must
13 briefly describe each conservation program and must specify the
14 energy savings or increased efficiency in the use of energy
15 within the service territory of the utility or association that
16 is the result of the spending and investments. The evaluation
17 must analyze the cost-effectiveness of the utility's or
18 association's conservation programs, using a list of baseline
19 energy and capacity savings assumptions developed in
20 consultation with the department. The commissioner shall review
21 each evaluation and make recommendations, where appropriate, to
22 the municipality or association to increase the effectiveness of
23 conservation improvement activities. Up to three percent of a
24 utility's conservation spending obligation under this section
25 may be used for program pre-evaluation, testing, and monitoring
26 and program evaluation. The overview and evaluation filed by a
27 municipality with less than 60,000,000 kilowatt hours in annual
28 retail sales of electric service may consist of a letter from
29 the governing board of the municipal utility to the department
30 providing the amount of annual conservation spending required of
31 that municipality and certifying that the required amount has
32 been spent on conservation programs pursuant to this subdivision.

33 (h) The commissioner shall also review each evaluation for
34 whether a portion of the money spent on residential conservation
35 improvement programs is devoted to programs that directly
36 address the needs of renters and low-income persons unless an

1 insufficient number of appropriate programs are available. For
2 the purposes of this subdivision and subdivision 2, "low-income"
3 means an income at or below 50 percent of the state median
4 income.

5 (i) As part of its spending for conservation improvement, a
6 municipality or association may contribute to the energy and
7 conservation account. A municipality or association may propose
8 to the commissioner to designate that all or a portion of funds
9 contributed to the account be used for research and development
10 projects that can best be implemented on a statewide basis. Any
11 amount contributed must be remitted to the commissioner by
12 February 1 of each year.

13 (j) A municipality may spend up to 50 percent of its
14 required spending under this section to refurbish an existing
15 district heating or cooling system. This paragraph expires July
16 1, 2007.

17 Sec. 2. Minnesota Statutes 2004, section 216B.241,
18 subdivision 2, is amended to read:

19 Subd. 2. [PROGRAMS.] (a) The commissioner may require
20 public utilities to make investments and expenditures in energy
21 conservation improvements, explicitly setting forth the interest
22 rates, prices, and terms under which the improvements must be
23 offered to the customers. The required programs must cover no
24 more than a two-year four-year period. Public utilities shall
25 file conservation improvement plans by June 1, on a schedule
26 determined by order of the commissioner, but at least every four
27 years. Plans received by a public utility by June 1 must be
28 approved or approved as modified by the commissioner by December
29 1 of that same year. The commissioner shall give special
30 consideration and encouragement to programs that bring about
31 significant net savings through the use of energy-efficient
32 lighting. The commissioner shall evaluate the program on the
33 basis of cost-effectiveness and the reliability of technologies
34 employed. The commissioner's order must provide to the extent
35 practicable for a free choice, by consumers participating in the
36 program, of the device, method, material, or project

1 constituting the energy conservation improvement and for a free
2 choice of the seller, installer, or contractor of the energy
3 conservation improvement, provided that the device, method,
4 material, or project seller, installer, or contractor is duly
5 licensed, certified, approved, or qualified, including under the
6 residential conservation services program, where applicable.

7 (b) The commissioner may require a utility to make an
8 energy conservation improvement investment or expenditure
9 whenever the commissioner finds that the improvement will result
10 in energy savings at a total cost to the utility less than the
11 cost to the utility to produce or purchase an equivalent amount
12 of new supply of energy. The commissioner shall nevertheless
13 ensure that every public utility operate one or more programs
14 under periodic review by the department.

15 (c) Each public utility subject to subdivision 1a may spend
16 and invest annually up to ten percent of the total amount
17 required to be spent and invested on energy conservation
18 improvements under this section by the utility on research and
19 development projects that meet the definition of energy
20 conservation improvement in subdivision 1 and that are funded
21 directly by the public utility.

22 (d) A public utility may not spend for or invest in energy
23 conservation improvements that directly benefit a large electric
24 customer facility for which the commissioner has issued an
25 exemption pursuant to subdivision 1a, paragraph (b). The
26 commissioner shall consider and may require a utility to
27 undertake a program suggested by an outside source, including a
28 political subdivision or a nonprofit or community organization.

29 (e) The commissioner may, by order, establish a list of
30 programs that may be offered as energy conservation improvements
31 by a public utility, municipal utility, cooperative electric
32 association, or other entity providing conservation services
33 pursuant to this section. The list of programs may include
34 rebates for high-efficiency appliances, rebates or subsidies for
35 high-efficiency lamps, small business energy audits, and
36 building recommissioning. The commissioner may, by order,

1 change this list to add or subtract programs as the commissioner
2 determines is necessary to promote efficient and effective
3 conservation programs.

4 (f) The commissioner shall ensure that a portion of the
5 money spent on residential conservation improvement programs is
6 devoted to programs that directly address the needs of renters
7 and low-income persons, ~~in proportion to the amount the utility~~
8 ~~has historically spent on such programs based on the most recent~~
9 ~~three-year average relative to the utility's total conservation~~
10 ~~spending under this section.~~ The utility shall make a good
11 faith effort to ensure that its conservation spending for the
12 needs of renters and low-income persons increases and decreases
13 in approximately the same proportion as the total increase or
14 decrease in the utility's overall conservation spending, unless
15 an insufficient number of appropriate programs are available.

16 (g) A utility, a political subdivision, or a nonprofit or
17 community organization that has suggested a program, the
18 attorney general acting on behalf of consumers and small
19 business interests, or a utility customer that has suggested a
20 program and is not represented by the attorney general under
21 section 8.33 may petition the commission to modify or revoke a
22 department decision under this section, and the commission may
23 do so if it determines that the program is not cost-effective,
24 does not adequately address the residential conservation
25 improvement needs of low-income persons, has a long-range
26 negative effect on one or more classes of customers, or is
27 otherwise not in the public interest. The commission shall
28 reject a petition that, on its face, fails to make a reasonable
29 argument that a program is not in the public interest.

30 (h) The commissioner may order a public utility to include,
31 with the filing of the utility's proposed conservation
32 improvement plan under paragraph (a), the results of an
33 independent audit of the utility's conservation improvement
34 programs and expenditures performed by the department or an
35 auditor with experience in the provision of energy conservation
36 and energy efficiency services approved by the commissioner and

1 chosen by the utility. The audit must specify the energy
2 savings or increased efficiency in the use of energy within the
3 service territory of the utility that is the result of the
4 spending and investments. The audit must evaluate the
5 cost-effectiveness of the utility's conservation programs.

6 (i) Up to three percent of a utility's conservation
7 spending obligation under this section may be used for program
8 pre-evaluation, testing, and monitoring and program audit and
9 evaluation.

10 ARTICLE 8

11 POWER QUALITY ZONES

12 Section 1. [216B.2426] [OPPORTUNITIES FOR DISTRIBUTED
13 GENERATION.]

14 The commission shall ensure that opportunities for the
15 installation of distributed generation, as that term is defined
16 in section 216B.169, subdivision 1, paragraph (c), are
17 considered in any proceeding under section 216B.2422, 216B.2425,
18 or 216B.243.

19 Sec. 2. [216B.82] [LOCAL POWER QUALITY ZONES.]

20 (a) Upon joint petition of a public utility as defined in
21 section 216B.02, subdivision 4, and any customer located within
22 the utility's service territory, the commission may establish a
23 zone within that utility's service territory where the utility
24 will install additional, redundant or upgraded components of the
25 electric distribution infrastructure that are designed to
26 decrease the risk of power outages, provided the utility and all
27 of its customers located within the proposed zone have approved
28 the installation of the components and the financial recovery
29 plan prior to the creation of the zone.

30 (b) The commission shall authorize the utility to collect
31 all costs of the installation of any components under this
32 section, including initial investment, operation and maintenance
33 costs and taxes from all customers within the zone, through
34 tariffs and surcharges for service in a zone that appropriately
35 reflect the cost of service to those customers, provided the
36 customers agree to pay all costs for a predetermined period,

1 including costs of component removal, if appropriate.

2 (c) Nothing in this section limits the ability of the
3 utility and any customer to enter into customer-specific
4 agreements pursuant to applicable statutory, rule, or tariff
5 provisions.

6 ARTICLE 9

7 BIOGAS INCENTIVE PAYMENTS

8 Section 1. Minnesota Statutes 2004, section 216C.41,
9 subdivision 1, is amended to read:

10 Subdivision 1. [DEFINITIONS.] (a) The definitions in this
11 subdivision apply to this section.

12 (b) "Qualified hydroelectric facility" means a
13 hydroelectric generating facility in this state that:

14 (1) is located at the site of a dam, if the dam was in
15 existence as of March 31, 1994; and

16 (2) begins generating electricity after July 1, 1994, or
17 generates electricity after substantial refurbishing of a
18 facility that begins after July 1, 2001.

19 (c) "Qualified wind energy conversion facility" means a
20 wind energy conversion system in this state that:

21 (1) produces two megawatts or less of electricity as
22 measured by nameplate rating and begins generating electricity
23 after December 31, 1996, and before July 1, 1999;

24 (2) begins generating electricity after June 30, 1999,
25 produces two megawatts or less of electricity as measured by
26 nameplate rating, and is:

27 (i) owned by a resident of Minnesota or an entity that is
28 organized under the laws of this state, is not prohibited from
29 owning agricultural land under section 500.24, and owns the land
30 where the facility is sited;

31 (ii) owned by a Minnesota small business as defined in
32 section 645.445;

33 (iii) owned by a Minnesota nonprofit organization;

34 (iv) owned by a tribal council if the facility is located
35 within the boundaries of the reservation;

36 (v) owned by a Minnesota municipal utility or a Minnesota

1 cooperative electric association; or

2 (vi) owned by a Minnesota political subdivision or local
3 government, including, but not limited to, a county, statutory
4 or home rule charter city, town, school district, or any other
5 local or regional governmental organization such as a board,
6 commission, or association; or

7 (3) begins generating electricity after June 30, 1999,
8 produces seven megawatts or less of electricity as measured by
9 nameplate rating, and:

10 (i) is owned by a cooperative organized under chapter 308A
11 other than a Minnesota cooperative electric association; and

12 (ii) all shares and membership in the cooperative are held
13 by an entity that is not prohibited from owning agricultural
14 land under section 500.24.

15 (d) "Qualified on-farm biogas recovery facility" means an
16 anaerobic digester system that:

17 (1) is located at the site of an agricultural
18 operation; and

19 (2) is owned by an entity that is not prohibited from
20 owning agricultural land under section 500.24 and that owns or
21 rents the land where the facility is located; ~~and~~

22 ~~(3) begins generating electricity after July 17, 2001.~~

23 (e) "Anaerobic digester system" means a system of
24 components that processes animal waste based on the absence of
25 oxygen and produces gas used to generate electricity.

26 ARTICLE 10

27 GAS INFRASTRUCTURE COST

28 Section 1. [216B.1635] [RECOVERY OF ELIGIBLE
29 INFRASTRUCTURE REPLACEMENT COSTS BY GAS UTILITIES.]

30 Subdivision 1. [DEFINITIONS.] (a) "Gas utility" means a
31 public utility as defined in section 216B.02, subdivision 4,
32 that furnishes natural gas service to retail customers.

33 (b) "Gas utility infrastructure costs" or "GUIC" means gas
34 utility projects that:

35 (1) do not serve to increase revenues by directly
36 connecting the infrastructure replacement to new customers;

1 (2) are in service but were not included in the gas
2 utility's rate base in its most recent general rate case; and
3 (3) replace or modify existing infrastructure if the
4 replacement or modification does not constitute a betterment,
5 unless the betterment is required by a political subdivision, as
6 evidenced by specific documentation from the government entity
7 requiring the replacement or modification of infrastructure.

8 (c) "Gas utility projects" means relocation and replacement
9 of natural gas facilities located in the public right-of-way
10 required by the construction or improvement of a highway, road,
11 street, public building, or other public work by or on behalf of
12 the United States, the State of Minnesota, or a political
13 subdivision.

14 Subd. 2. [FILING.] (a) The commission may approve a gas
15 utility's petition for a rate schedule to recover GUIC under
16 this section. A gas utility may petition the commission to
17 recover a rate of return, income taxes on the rate of return,
18 incremental property taxes, plus incremental depreciation
19 expense associated with GUIC.

20 (b) The filing is subject to the following:

21 (1) a gas utility may submit a filing under this section no
22 more than once per year;

23 (2) a gas utility must file sufficient information to
24 satisfy the commission regarding the proposed GUIC or be subject
25 to denial by the commission. The information includes, but is
26 not limited to:

27 (i) the government entity ordering the gas utility project
28 and the purpose for which the project is undertaken;

29 (ii) the location, description, and costs associated with
30 the project;

31 (iii) a description of the costs, and salvage value, if
32 any, associated with the existing infrastructure replaced or
33 modified as a result of the project;

34 (iv) the proposed rate design and an explanation of why the
35 proposed rate design is in the public interest;

36 (v) the magnitude and timing of any known future gas

1 utility projects that the utility may seek to recover under this
2 section;

3 (vi) the magnitude of GUIC in relation to the gas utility's
4 base revenue as approved by the commission in the gas utility's
5 most recent general rate case, exclusive of gas purchase costs
6 and transportation charges;

7 (vii) the magnitude of GUIC in relation to the gas
8 utility's capital expenditures since its most recent general
9 rate case;

10 (viii) the amount of time since the utility last filed a
11 general rate case and the utility's reasons for seeking recovery
12 outside of a general rate case; and

13 (ix) documentation supporting the calculation of the GUIC.

14 Subd. 3. [COMMISSION AUTHORITY.] The commission may issue
15 orders and adopt rules necessary to implement and administer
16 this section.

17 [EFFECTIVE DATE.] This section is effective the day
18 following final enactment.

19 Sec. 2. [REPORT TO LEGISLATURE.]

20 The Department of Commerce shall review the operation and
21 impact of the GUIC recovery mechanism established under
22 Minnesota Statutes, section 216B.1635, on ratepayers and the
23 utility and submit a report of its findings and recommendations
24 to the legislature four years after the effective date of this
25 section.

26 Sec. 3. [SUNSET.]

27 Sections 1 and 2 shall expire on June 30, 2015.

28 ARTICLE 11

29 EMINENT DOMAIN LANDOWNER COMPENSATION

30 Section. 1. [LANDOWNER PAYMENTS WORKING GROUP.]

31 Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the
32 Legislative Electric Energy Task Force shall convene a landowner
33 payments working group consisting of up to 12 members, including
34 representatives from each of the following groups:
35 transmission-owning investor-owned utilities, electric
36 cooperatives, municipal power agencies, Farm Bureau, Farmers

1 Union, county commissioners, real estate appraisers and others
2 with an interest and expertise in landowner rights and the
3 market value of rural property.

4 Subd. 2. [APPOINTMENT.] The chairs of the Legislative
5 Electric Energy Task Force and the chairs of the senate and
6 house committees with primary jurisdiction over energy policy
7 shall jointly appoint the working group members.

8 Subd. 3. [CHARGE.] (a) The landowner payments working
9 group shall research alternative methods of remunerating
10 landowners on whose land high voltage transmission lines have
11 been constructed.

12 (b) In developing its recommendations, the working group
13 shall:

14 (1) examine different methods of landowner payments that
15 operate in other states and countries;

16 (2) consider innovative alternatives to lump-sum payments
17 that extend payments over the life of the transmission line and
18 that run with the land if the land is conveyed to another owner;

19 (3) consider alternative ways of structuring payments that
20 are equitable to landowners and utilities.

21 Subd. 4. [EXPENSES.] Members of the working group shall be
22 reimbursed for expenses as provided in Minnesota Statutes,
23 section 15.059, subdivision 6. Expenses of the landowner
24 payments working group shall not exceed \$10,000 without the
25 approval of the chairs of the Legislative Electric Energy Task
26 Force.

27 Subd. 5. [REPORT.] The landowner payments working group
28 shall present its findings and recommendations, including
29 legislative recommendations and model legislation, if any, in a
30 report to the Legislative Electric Energy Task Force by January
31 15, 2006.

32 ARTICLE 12

33 TECHNICAL CORRECTION

34 Section 1. Minnesota Statutes 2004, section 216B.16,
35 subdivision 6d, is amended to read:

36 Subd. 6d. [WIND ENERGY; PROPERTY TAX.] An owner of a wind

1 energy conversion facility which is required to pay property
2 taxes under section 272.02, subdivision 22, or production taxes
3 under section 272.029, and any related or successor provisions,
4 or a public utility regulated by the Public Utilities Commission
5 which purchases the wind generated electricity may petition the
6 commission to include in any power purchase agreement between
7 the owner of the facility and the public utility the amount of
8 property taxes and production taxes paid by the owner of the
9 facility. The Public Utilities Commission shall require the
10 public utility to amend the power purchase agreement to include
11 the property taxes and production taxes paid by the owner of the
12 facility in the price paid by the utility for wind generated
13 electricity if the commission finds:

14 (1) the owner of the facility has paid the property taxes
15 or production taxes required by this subdivision;

16 (2) the power purchase agreement between the public utility
17 and the owner does not already require the utility to pay the
18 amount of property taxes or production taxes the owner has paid
19 under this subdivision, or, in the case of a power purchase
20 agreement entered into prior to 1997, the amount of property or
21 production taxes paid by the owner in any year of the power
22 purchase agreement exceeds the amount of such property or
23 production taxes included in the price paid by the utility to
24 the owner, as reflected in the owner's bid documents; and

25 (3) the commission has approved a rate schedule containing
26 provisions for the automatic adjustment of charges for utility
27 service in direct relation to the charges ordered by the
28 commission under section 272.02, subdivision 22, or section
29 272.029.

30 ARTICLE 13

31 HYDROGEN

32 Section 1. [216B.811] [DEFINITIONS.]

33 Subdivision 1. [SCOPE.] For purposes of sections 216B.811
34 to 216B.815, the terms defined in this section have the meanings
35 given them.

36 Subd. 2. [FUEL CELL.] "Fuel cell" means an electrochemical

1 device that produces useful electricity, heat, and water vapor,
2 and operates as long as it is provided fuel.

3 Subd. 3. [HYDROGEN.] "Hydrogen" means hydrogen produced
4 using native energy sources.

5 Subd. 4. [RELATED TECHNOLOGIES.] "Related technologies"
6 means balance of plant components necessary to make hydrogen and
7 fuel cell systems function; turbines, reciprocating, and other
8 combustion engines capable of operating on hydrogen; and
9 electrolyzers, reformers, and other equipment and processes
10 necessary to produce, purify, store, distribute, and use
11 hydrogen for energy.

12 Sec. 2. [216B.812] [FOSTERING THE TRANSITION TOWARD ENERGY
13 SECURITY.]

14 Subdivision 1. [EARLY PURCHASE AND DEPLOYMENT OF HYDROGEN,
15 FUEL CELLS, AND RELATED TECHNOLOGIES BY THE STATE.] The
16 Department of Administration shall identify opportunities for
17 demonstrating the use of hydrogen fuel cells within state-owned
18 facilities, vehicle fleets, and operations.

19 The department shall purchase and demonstrate hydrogen,
20 fuel cells, and related technologies in ways that strategically
21 contribute to realizing Minnesota's hydrogen economy goal as set
22 forth in section 216B.013, and which contribute to the following
23 nonexclusive list of objectives:

24 (1) provide needed performance data to the marketplace;

25 (2) identify code and regulatory issues to be resolved;

26 (3) advance or validate a critical area of research;

27 (4) foster economic development and job creation in the
28 state;

29 (5) raise public awareness of hydrogen, fuel cells, and
30 related technologies; or

31 (6) reduce emissions of carbon dioxide and other pollutants.

32 Subd. 2. [SUPPORT FOR STRATEGIC DEMONSTRATION PROJECTS
33 THAT ACCELERATE THE COMMERCIALIZATION OF HYDROGEN, FUEL CELLS,
34 AND RELATED TECHNOLOGIES.] (a) In consultation with appropriate
35 representatives from state agencies, local governments,
36 universities, businesses, and other interested parties, the

1 Department of Commerce shall report back to the legislature by
2 November 1, 2005, and every two years thereafter, with a slate
3 of proposed pilot projects that contribute to realizing
4 Minnesota's hydrogen economy goal as set forth in section
5 216B.013. The Department of Commerce must consider the
6 following nonexclusive list of priorities in developing the
7 proposed slate of pilot projects:

8 (1) demonstrate "bridge" technologies such as
9 hybrid-electric, off-road, and fleet vehicles running on
10 hydrogen or fuels blended with hydrogen;

11 (2) develop cost-competitive, on-site hydrogen production
12 technologies;

13 (3) demonstrate nonvehicle applications for hydrogen;

14 (4) improve the cost and efficiency of hydrogen from
15 renewable energy sources; and

16 (5) improve the cost and efficiency of hydrogen production
17 using direct solar energy without electricity generation as an
18 intermediate step.

19 (b) For all demonstrations, individual system components of
20 the technology must meet commercial performance standards and
21 systems modeling must be completed to predict commercial
22 performance, risk, and synergies. In addition, the proposed
23 pilots should meet as many of the following criteria as possible:

24 (1) advance energy security;

25 (2) capitalize on the state's native resources;

26 (3) result in economically competitive infrastructure being
27 put in place;

28 (4) be located where it will link well with existing and
29 related projects and be accessible to the public, now or in the
30 future;

31 (5) demonstrate multiple, integrated aspects of hydrogen
32 infrastructure;

33 (6) include an explicit public education and awareness
34 component;

35 (7) be scalable to respond to changing circumstances and
36 market demands;

1 (8) draw on firms and expertise within the state where
2 possible;

3 (9) include an assessment of its economic, environmental,
4 and social impact; and

5 (10) serve other needs beyond hydrogen development.

6 Subd. 3. [ESTABLISHING INITIAL, MULTIFUEL TRANSITION
7 INFRASTRUCTURE FOR HYDROGEN VEHICLES.] The commissioner of
8 commerce may accept federal funds, expend funds, and participate
9 in projects to design, site, and construct multifuel hydrogen
10 fueling stations that eventually link urban centers along key
11 trade corridors across the jurisdictions of Manitoba, the
12 Dakotas, Minnesota, Iowa, and Wisconsin.

13 These energy stations must serve the priorities listed in
14 subdivision 2 and, as transition infrastructure, should
15 accommodate a wide variety of vehicle technologies and fueling
16 platforms, including hybrid, flexible-fuel, and fuel cell
17 vehicles. They may offer, but not be limited to, gasoline,
18 diesel, ethanol (E-85), biodiesel, and hydrogen, and may
19 simultaneously test the integration of on-site combined heat and
20 power technologies with the existing energy infrastructure.

21 The hydrogen portion of the stations may initially serve
22 local, dedicated on or off-road vehicles, but should eventually
23 support long-haul transport.

24 Sec. 3. [216B.815] [AUTHORIZE AND ENCOURAGE THE STATE'S
25 PUBLIC RESEARCH INSTITUTIONS TO COORDINATE AND LEVERAGE THEIR
26 STRENGTHS THROUGH A REGIONAL ENERGY RESEARCH AND EDUCATION
27 PARTNERSHIP.]

28 The state's public research and higher education
29 institutions should work with one another and with similar
30 institutions in the region to establish Minnesota and the Upper
31 Midwest as a center of research, education, outreach, and
32 technology transfer for the production of renewable energy and
33 products, including hydrogen, fuel cells, and related
34 technologies. The partnership should be designed to create a
35 critical mass of research and education capability that can
36 compete effectively for federal and private investment in these

1 areas.

2 The partnership must include an advisory committee
3 comprised of government, industry, academic, and nonprofit
4 representatives to help focus its research and education efforts
5 on the most critical issues. Initiatives undertaken by the
6 partnership may include:

7 (1) collaborative and interdisciplinary research,
8 demonstration projects, and commercialization of market-ready
9 technologies;

10 (2) creation of undergraduate and graduate course offerings
11 and eventually degreed and vocational programs with reciprocity;

12 (3) establishment of fellows programs at the region's
13 institutes of higher learning that provide financial incentives
14 for relevant study, research, and exchange; and

15 (4) development and field-testing of relevant curricula,
16 teacher kits for all educational levels, and widespread teacher
17 training, in collaboration with state energy offices, teachers,
18 nonprofits, businesses, the United States Department of Energy,
19 and other interested parties.

20 Sec. 4. [HYDROGEN REFUELING STATIONS; GRANTS.]

21 The commissioner of commerce shall make assessments under
22 Minnesota Statutes, section 216C.052, of \$300,000 in fiscal year
23 2006 and \$300,000 in fiscal year 2007 for the purpose of
24 matching federal and private investments in three multifuel
25 hydrogen refueling stations in Moorhead, Alexandria, and the
26 Twin Cities respectively. The assessments and grants are
27 contingent upon securing the balance of the total project costs
28 from nonstate sources.

29 Sec. 5. [FUEL CELL CURRICULUM DEVELOPMENT PILOT.]

30 The Board of Trustees of the Minnesota State Colleges and
31 Universities is encouraged to work with the Upper Midwest
32 Hydrogen Initiative and other interested parties to develop and
33 implement hydrogen and fuel cell curricula and training programs
34 that can be incorporated into existing relevant courses and
35 disciplines affected by these technologies. These disciplines
36 include, but are not limited to, chemical, electrical, and

1 mechanical engineering, including lab technicians; fuel cell
2 production, installation, and maintenance; fuel cell and
3 internal combustion vehicles, including hybrids, running on
4 hydrogen or biofuels; and the construction, installation, and
5 maintenance of facilities that will produce, use, or serve
6 hydrogen. The curricula should also be useful to secondary
7 educational institutions and should include, but not be limited
8 to, the production, purification, distribution, and use of
9 hydrogen in portable, stationary, and mobile applications such
10 as fuel cells, turbines, and reciprocating engines.

11 ARTICLE 14

12 CIP GEOTHERMAL PROGRAMS

13 Section 1. Minnesota Statutes 2004, section 216B.241,
14 subdivision 1b, is amended to read:

15 Subd. 1b. [CONSERVATION IMPROVEMENT BY COOPERATIVE
16 ASSOCIATION OR MUNICIPALITY.] (a) This subdivision applies to:

17 (1) a cooperative electric association that provides retail
18 service to its members;

19 (2) a municipality that provides electric service to retail
20 customers; and

21 (3) a municipality with gross operating revenues in excess
22 of \$5,000,000 from sales of natural gas to retail customers.

23 (b) Each cooperative electric association and municipality
24 subject to this subdivision shall spend and invest for energy
25 conservation improvements under this subdivision the following
26 amounts:

27 (1) for a municipality, 0.5 percent of its gross operating
28 revenues from the sale of gas and 1.5 percent of its gross
29 operating revenues from the sale of electricity, excluding gross
30 operating revenues from electric and gas service provided in the
31 state to large electric customer facilities; and

32 (2) for a cooperative electric association, 1.5 percent of
33 its gross operating revenues from service provided in the state,
34 excluding gross operating revenues from service provided in the
35 state to large electric customer facilities indirectly through a
36 distribution cooperative electric association.

1 (c) Each municipality and cooperative electric association
2 subject to this subdivision shall identify and implement energy
3 conservation improvement spending and investments that are
4 appropriate for the municipality or association, except that a
5 municipality or association may not spend or invest for energy
6 conservation improvements that directly benefit a large electric
7 customer facility for which the commissioner has issued an
8 exemption under subdivision 1a, paragraph (b). The spending
9 must include programs for rebates for geothermal heating and
10 cooling systems if programs are found to be cost effective.

11 (d) Each municipality and cooperative electric association
12 subject to this subdivision may spend and invest annually up to
13 ten percent of the total amount required to be spent and
14 invested on energy conservation improvements under this
15 subdivision on research and development projects that meet the
16 definition of energy conservation improvement in subdivision 1
17 and that are funded directly by the municipality or cooperative
18 electric association.

19 (e) Load-management activities that do not reduce energy
20 use but that increase the efficiency of the electric system may
21 be used to meet the following percentage of the conservation
22 investment and spending requirements of this subdivision:

- 23 (1) 2002 - 90 percent;
24 (2) 2003 - 80 percent;
25 (3) 2004 - 65 percent; and
26 (4) 2005 and thereafter - 50 percent.

27 (f) A generation and transmission cooperative electric
28 association that provides energy services to cooperative
29 electric associations that provide electric service at retail to
30 consumers may invest in energy conservation improvements on
31 behalf of the associations it serves and may fulfill the
32 conservation, spending, reporting, and energy savings goals on
33 an aggregate basis. A municipal power agency or other
34 not-for-profit entity that provides energy service to municipal
35 utilities that provide electric service at retail may invest in
36 energy conservation improvements on behalf of the municipal

1 utilities it serves and may fulfill the conservation, spending,
2 reporting, and energy savings goals on an aggregate basis, under
3 an agreement between the municipal power agency or
4 not-for-profit entity and each municipal utility for funding the
5 investments.

6 (g) Every two years, on a schedule determined by the
7 commissioner, each municipality or cooperative shall file an
8 overview of its conservation improvement plan with the
9 commissioner. With this overview, the municipality or
10 cooperative shall also provide an evaluation to the commissioner
11 detailing its energy conservation improvement spending and
12 investments for the previous period. The evaluation must
13 briefly describe each conservation program, including the
14 geothermal heating and cooling system rebate program, and must
15 specify the energy savings or increased efficiency in the use of
16 energy within the service territory of the utility or
17 association that is the result of the spending and investments.
18 The evaluation must analyze the cost-effectiveness of the
19 utility's or association's conservation programs, using a list
20 of baseline energy and capacity savings assumptions developed in
21 consultation with the department. The commissioner shall review
22 each evaluation and make recommendations, where appropriate, to
23 the municipality or association to increase the effectiveness of
24 conservation improvement activities. Up to three percent of a
25 utility's conservation spending obligation under this section
26 may be used for program pre-evaluation, testing, and monitoring
27 and program evaluation. The overview and evaluation filed by a
28 municipality with less than 60,000,000 kilowatt hours in annual
29 retail sales of electric service may consist of a letter from
30 the governing board of the municipal utility to the department
31 providing the amount of annual conservation spending required of
32 that municipality and certifying that the required amount has
33 been spent on conservation programs pursuant to this subdivision.
34 (h) The commissioner shall also review each evaluation for
35 whether a portion of the money spent on residential conservation
36 improvement programs is devoted to programs that directly

1 address the needs of renters and low-income persons unless an
2 insufficient number of appropriate programs are available. For
3 the purposes of this subdivision and subdivision 2, "low-income"
4 means an income at or below 50 percent of the state median
5 income.

6 (i) As part of its spending for conservation improvement, a
7 municipality or association may contribute to the energy and
8 conservation account. A municipality or association may propose
9 to the commissioner to designate that all or a portion of funds
10 contributed to the account be used for research and development
11 projects that can best be implemented on a statewide basis. Any
12 amount contributed must be remitted to the commissioner by
13 February 1 of each year.

14 (j) A municipality may spend up to 50 percent of its
15 required spending under this section to refurbish an existing
16 district heating or cooling system. This paragraph expires July
17 1, 2007.

18 Sec. 2. Minnesota Statutes 2004, section 216B.241,
19 subdivision 2, is amended to read:

20 Subd. 2. [PROGRAMS.] (a) The commissioner may require
21 public utilities to make investments and expenditures in energy
22 conservation improvements, explicitly setting forth the interest
23 rates, prices, and terms under which the improvements must be
24 offered to the customers. The required programs must cover a
25 two-year period. Public utilities shall file conservation
26 improvement plans by June 1, on a schedule determined by order
27 of the commissioner. Plans received by a public utility by June
28 1 must be approved or approved as modified by the commissioner
29 by December 1 of that same year. The commissioner shall give
30 special consideration and encouragement to programs that bring
31 about significant net savings through the use of
32 energy-efficient lighting. The commissioner shall require
33 public utilities to file programs offering rebates for the
34 installation of geothermal heating and cooling systems. The
35 commissioner shall evaluate the program on the basis of
36 cost-effectiveness and the reliability of technologies

1 employed. The commissioner's order must provide to the extent
2 practicable for a free choice, by consumers participating in the
3 program, of the device, method, material, or project
4 constituting the energy conservation improvement and for a free
5 choice of the seller, installer, or contractor of the energy
6 conservation improvement, provided that the device, method,
7 material, or project seller, installer, or contractor is duly
8 licensed, certified, approved, or qualified, including under the
9 residential conservation services program, where applicable.

10 (b) The commissioner may require a utility to make an
11 energy conservation improvement investment or expenditure
12 whenever the commissioner finds that the improvement will result
13 in energy savings at a total cost to the utility less than the
14 cost to the utility to produce or purchase an equivalent amount
15 of new supply of energy. The commissioner shall nevertheless
16 ensure that every public utility operate one or more programs
17 under periodic review by the department.

18 (c) Each public utility subject to subdivision 1a may spend
19 and invest annually up to ten percent of the total amount
20 required to be spent and invested on energy conservation
21 improvements under this section by the utility on research and
22 development projects that meet the definition of energy
23 conservation improvement in subdivision 1 and that are funded
24 directly by the public utility.

25 (d) A public utility may not spend for or invest in energy
26 conservation improvements that directly benefit a large electric
27 customer facility for which the commissioner has issued an
28 exemption pursuant to subdivision 1a, paragraph (b). The
29 commissioner shall consider and may require a utility to
30 undertake a program suggested by an outside source, including a
31 political subdivision or a nonprofit or community organization.

32 (e) The commissioner may, by order, establish a list of
33 programs that may be offered as energy conservation improvements
34 by a public utility, municipal utility, cooperative electric
35 association, or other entity providing conservation services
36 pursuant to this section. The list of programs may include

1 rebates for high-efficiency appliances, rebates or subsidies for
2 high-efficiency lamps, small business energy audits, and
3 building recommissioning. The commissioner may, by order,
4 change this list to add or subtract programs as the commissioner
5 determines is necessary to promote efficient and effective
6 conservation programs.

7 (f) The commissioner shall ensure that a portion of the
8 money spent on residential conservation improvement programs is
9 devoted to programs that directly address the needs of renters
10 and low-income persons, in proportion to the amount the utility
11 has historically spent on such programs based on the most recent
12 three-year average relative to the utility's total conservation
13 spending under this section, unless an insufficient number of
14 appropriate programs are available.

15 (g) A utility, a political subdivision, or a nonprofit or
16 community organization that has suggested a program, the
17 attorney general acting on behalf of consumers and small
18 business interests, or a utility customer that has suggested a
19 program and is not represented by the attorney general under
20 section 8.33 may petition the commission to modify or revoke a
21 department decision under this section, and the commission may
22 do so if it determines that the program is not cost-effective,
23 does not adequately address the residential conservation
24 improvement needs of low-income persons, has a long-range
25 negative effect on one or more classes of customers, or is
26 otherwise not in the public interest. The commission shall
27 reject a petition that, on its face, fails to make a reasonable
28 argument that a program is not in the public interest.

29 (h) The commissioner may order a public utility to include,
30 with the filing of the utility's proposed conservation
31 improvement plan under paragraph (a), the results of an
32 independent audit of the utility's conservation improvement
33 programs and expenditures performed by the department or an
34 auditor with experience in the provision of energy conservation
35 and energy efficiency services approved by the commissioner and
36 chosen by the utility. The audit must specify the energy

1 savings or increased efficiency in the use of energy within the
2 service territory of the utility that is the result of the
3 spending and investments. The audit must evaluate the
4 cost-effectiveness of the utility's conservation programs.

5 (i) Up to three percent of a utility's conservation
6 spending obligation under this section may be used for program
7 pre-evaluation, testing, and monitoring and program audit and
8 evaluation.

9 ARTICLE 15

10 SOY-DIESEL

11 Section 1. [APPROPRIATION; RENEWABLE DEVELOPMENT GRANT.]

12 Notwithstanding any contrary provision of Minnesota
13 Statutes, section 116C.779, \$150,000 is appropriated in fiscal
14 year 2006 to the Agricultural Utilization Research Institute
15 from the renewable development account established under
16 Minnesota Statutes, section 116C.779. The institute shall
17 disburse the money over three fiscal years as grants to an
18 applicant meeting the requirements of Minnesota Statutes,
19 section 216C.41, subdivision 1, paragraph (c), clause (2), item
20 (i), for a project that uses a soy-diesel generator to provide
21 backup power for a wind energy conversion system of one megawatt
22 or less of nameplate capacity. The institute shall disburse up
23 to \$50,000 of the grant each of the next three fiscal years
24 beginning July 1, 2005.

25 For the purpose of this section, "soy-diesel" means a
26 renewable, biodegradable, mono alkyl ester combustible liquid
27 fuel derived from agricultural plant oils that meets American
28 Society for Testing and Materials Specification D6751-02 for
29 Biodiesel Fuel (B100) Blend Stock for Distillate Fuels. This
30 section only applies if the entity receives qualifying
31 applications.

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1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Sams,

4 Chair of the Environment, Agriculture and Economic
5 Development Budget Division, to which was referred

6 S.F. No. 1368: A bill for an act relating to energy;
7 providing for expedited cost recovery for certain transmission
8 investments; authorizing and regulating transmission companies;
9 permitting the transfer of transmission assets and operation to
10 transmission companies; providing for expedited regulatory
11 approval of transmission projects related to renewable
12 generation; providing new criteria to analyze the need for
13 transmission projects; establishing the framework for a wind
14 energy tariff related to community development; requiring a wind
15 integration study; transferring generation plant siting and
16 transmission line routing authority from the Minnesota
17 Environmental Quality Board to the Public Utilities Commission;
18 providing for technical corrections to the energy assistance
19 program; providing for a sustainably managed woody biomass
20 generation project to satisfy the biomass mandate; providing for
21 an electronic mail filing system at the Public Utilities
22 Commission and Department of Commerce; making changes to the
23 conservation investment program recommended by the legislative
24 auditor; authorizing the creation of energy quality zones;
25 regulating eligibility of biogas projects for the renewable
26 energy production incentive; providing for the recovery of
27 certain infrastructure investments by gas utilities; requiring a
28 study of compensation of landowners for transmission easements;
29 providing for a geothermal rebate program under the conservation
30 investment program; promoting the use of soy-diesel; providing
31 for the adjustment of power purchase agreements to account for
32 production tax payments; promoting the use of hydrogen as an
33 energy source; amending Minnesota Statutes 2004, sections
34 13.681, by adding a subdivision; 116C.52, subdivisions 2, 4;
35 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c, by adding a
36 subdivision; 116C.575, subdivision 5; 116C.577; 116C.58;
37 116C.61, subdivision 3; 116C.69, subdivisions 2, 2a; 119A.15,
38 subdivision 5a; 216B.02, by adding a subdivision; 216B.16,
39 subdivision 6d, by adding subdivisions; 216B.1645, subdivision
40 1; 216B.241, subdivisions 1b, 2; 216B.2421, subdivision 2;
41 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a subdivision;
42 216B.2425, subdivisions 2, 7; 216B.243, subdivisions 3, 4, 5, 6,
43 7, 8; 216B.50, subdivision 1; 216B.62, subdivision 5, by adding
44 a subdivision; 216B.79; 216C.052; 216C.09; 216C.41, subdivision
45 1; 462A.05, subdivisions 21, 23; proposing coding for new law in
46 Minnesota Statutes, chapters 216B; 216C.

47 Reports the same back with the recommendation that the bill
48 be amended as follows:

49 Page 43, line 27, delete "commission" and insert

50 "commissioner of commerce" and delete "to"

51 Page 43, line 28, delete "regulated utilities," and insert "
52 of"

53 Page 43, line 31, after "proportionately" insert "to the
54 amount assessed"

55 Page 43, lines 32 and 33, delete "municipal utility,
56 electric cooperative association,"

57 Page 43, line 36, after "gross" insert "jurisdictional" and

1 delete "retail"

2 Page 44, line 3, delete "commission" and insert
3 "commissioner of commerce"

4 Page 44, line 4, after "documents" insert "filed with the
5 Public Utilities Commission"

6 Page 44, line 8, after "system" insert "described in
7 section 1"

8 Page 60, line 26, after the period, insert "The assessments
9 are subject to the assessment caps specified in section 216C.052.
10 Sums assessed under this section are appropriated to the
11 commissioner of commerce for the purpose of this section."

12 Page 67, line 11, delete "APPROPRIATION" and insert
13 "ALLOCATION"

14 Page 67, line 13, delete "appropriated" and insert
15 "allocated"

16 Page 67, line 15, after "from" insert "available funds in"

17 Page 67, line 22, delete "up"

18 Page 67, line 23, delete "to" and delete everything after
19 "grant" and insert "in three consecutive fiscal years"

20 And when so amended that the bill be recommended to pass
21 and be referred to the full committee.

22 *...Dallis Sumner.....*
23 (Division Chair)

24
25 April 19, 2005.....
26 (Date of Division action)

Preliminary

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1368-1E Complete Date:

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agencies: Public Utilities Commission
 Natural Resources Dept
 Agriculture Utilization Resrch
 Legislature

Administration Dept
 State Colleges & Universities
 Agriculture Dept
 Commerce

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund		100	70	10	
Natural Resources Dept		100	70	10	
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		100	70	10	
Natural Resources Dept		100	70	10	
Total Cost <Savings> to the State		100	70	10	

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		1.25	0.63		
Natural Resources Dept		1.25	0.63		
Total FTE		1.25	0.63		

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E Complete Date:

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

Fiscal Impact	Yes	No
State		
Local		
Fee/Departmental Earnings		
Tax Revenue		

Agency Name: Public Utilities Commission

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

Fiscal Impact	Yes	No
State		
Local		
Fee/Departmental Earnings		
Tax Revenue		

Agency Name: State Colleges & Universities

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agency Name: Natural Resources Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		100	70	10	
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		100	70	10	
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		100	70	10	
Total Cost <Savings> to the State		100	70	10	

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		1.25	0.63		
Total FTE		1.25	0.63		

Preliminary

Bill Description

Article 5 of this bill, as it applies to the Department of Natural Resources (DNR), calls for the DNR to adopt best management practices (BMPs) for managing and maintaining brushland and open-land habitat on public and private lands. The harvesting of woody biomass from state-owned lands must be in compliance with an adopted management plan and a third-party certification program. The bill also requires the Minnesota Forest Resources Council (MFRC) to update the site-level forest management guidelines pertaining to logging slash using the most recent scientific information.

Assumptions

The DNR divisions of Forestry, Fish and Wildlife, and Ecological Services will work together to develop the Brushland BMPs and ensure that their staffs are trained in using the BMPs.

Expenditure and/or Revenue Formula

The following expenditures include only those anticipated with the development and implementation of the Brushland BMPs.

Fiscal Year 2006:

- 1 FTE (project coordinator) = \$80,000 (salary and fringe benefits)
 - 0.25 FTE (facilitator assistance) = \$20,000 (salary and fringe benefits)
- Total = \$100,000**

Fiscal Year 2007:

- 1.25 FTEs (project coordinator + facilitator assistance) for half the fiscal year = 0.625 FTEs = \$50,000 (salary and fringe benefits)
 - Printing of Brushland BMPs and training of staff = \$20,000
- Total = \$70,000**

Fiscal Year 2008:

- Continued training of staff = **\$10,000**

MFRC site-level forest management guideline revisions—see “Long-Term Fiscal Considerations” section.

Long-Term Fiscal Considerations

Additional DNR staff time would be needed to help develop the Brushland BMPs, revise the MFRC’s site-level forest management guidelines, and oversee the harvest of any woody material on brushland and open-land habitat on state lands. There would also be additional work for DNR staff to develop a sustainable brushland management plan. This would likely be a combination of a statewide “harvest” guidance and application within the Subsection Forest Resource Management Plan process. The workload these tasks would create would be prioritized with other workloads and so, would be “absorbed” by the DNR.

Apparently discussions have occurred concerning the funding of the revisions to the MFRC’s site-level forest management guidelines, with approximately \$150,000 coming from University of Minnesota research dollars (for developing the revised guidelines) to be matched by private dollars (for implementing the revised guidelines).

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E Complete Date:

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

Fiscal Impact	Yes	No
State		
Local		
Fee/Departmental Earnings		
Tax Revenue		

Agency Name: Agriculture Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E Complete Date:

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

Fiscal Impact	Yes	No
State		
Local		
Fee/Departmental Earnings		
Tax Revenue		

Agency Name: Administration Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E Complete Date:

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

Fiscal Impact	Yes	No
State		
Local		
Fee/Departmental Earnings		
Tax Revenue		

Agency Name: Legislature

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E Complete Date:

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

Fiscal Impact	Yes	No
State		
Local		
Fee/Departmental Earnings		
Tax Revenue		

Agency Name: Agriculture Utilization Resrch

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

Fiscal Impact	Yes	No
State		
Local		
Fee/Departmental Earnings		
Tax Revenue		

Agency Name: Commerce

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					