

1 To: Senator Anderson, Chair
2 Committee on Jobs, Energy and Community Development
3 Senator Kubly,
4 Chair of the Subcommittee on Energy, to which was referred

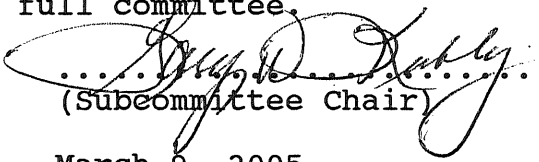
5 S.F. No. 527: A bill for an act relating to local
6 government; authorizing electric or utility special assessments
7 exceeding standards on petition of all affected owners; amending
8 Minnesota Statutes 2004, section 429.021, subdivision 1.

9 Reports the same back with the recommendation that the bill
10 be amended as follows:

11 Page 3, delete lines 14 to 19 and insert:

12 "(20) To enter an agreement with a private or cooperative
13 electric or communications utility to pay all or a portion of
14 the incremental costs to bury or alter an existing service
15 distribution system within the public right-of-way, which
16 exceeds the design and construction standards set by law,
17 tariff, or franchise, but only upon petition under section
18 429.031, subdivision 3."

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

21 
22
23 (Subcommittee Chair)

24 March 9, 2005.....
25 (Date of Subcommittee action)

Senator Reiter introduced--

S.F. No. 527: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to local government; authorizing electric or
3 utility special assessments exceeding standards on
4 petition of all affected owners; amending Minnesota
5 Statutes 2004, section 429.021, subdivision 1.

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

7 Section 1. Minnesota Statutes 2004, section 429.021,
8 subdivision 1, is amended to read:

9 Subdivision 1. [IMPROVEMENTS AUTHORIZED.] The council of a
10 municipality shall have power to make the following improvements:

11 (1) To acquire, open, and widen any street, and to improve
12 the same by constructing, reconstructing, and maintaining
13 sidewalks, pavement, gutters, curbs, and vehicle parking strips
14 of any material, or by grading, graveling, oiling, or otherwise
15 improving the same, including the beautification thereof and
16 including storm sewers or other street drainage and connections
17 from sewer, water, or similar mains to curb lines.

18 (2) To acquire, develop, construct, reconstruct, extend,
19 and maintain storm and sanitary sewers and systems, including
20 outlets, holding areas and ponds, treatment plants, pumps, lift
21 stations, service connections, and other appurtenances of a
22 sewer system, within and without the corporate limits.

23 (3) To construct, reconstruct, extend, and maintain steam
24 heating mains.

25 (4) To install, replace, extend, and maintain street lights

1 and street lighting systems and special lighting systems.

2 (5) To acquire, improve, construct, reconstruct, extend,
3 and maintain water works systems, including mains, valves,
4 hydrants, service connections, wells, pumps, reservoirs, tanks,
5 treatment plants, and other appurtenances of a water works
6 system, within and without the corporate limits.

7 (6) To acquire, improve and equip parks, open space areas,
8 playgrounds, and recreational facilities within or without the
9 corporate limits.

10 (7) To plant trees on streets and provide for their
11 trimming, care, and removal.

12 (8) To abate nuisances and to drain swamps, marshes, and
13 ponds on public or private property and to fill the same.

14 (9) To construct, reconstruct, extend, and maintain dikes
15 and other flood control works.

16 (10) To construct, reconstruct, extend, and maintain
17 retaining walls and area walls.

18 (11) To acquire, construct, reconstruct, improve, alter,
19 extend, operate, maintain, and promote a pedestrian skyway
20 system. Such improvement may be made upon a petition pursuant
21 to section 429.031, subdivision 3.

22 (12) To acquire, construct, reconstruct, extend, operate,
23 maintain, and promote underground pedestrian concourses.

24 (13) To acquire, construct, improve, alter, extend,
25 operate, maintain, and promote public malls, plazas or
26 courtyards.

27 (14) To construct, reconstruct, extend, and maintain
28 district heating systems.

29 (15) To construct, reconstruct, alter, extend, operate,
30 maintain, and promote fire protection systems in existing
31 buildings, but only upon a petition pursuant to section 429.031,
32 subdivision 3.

33 (16) To acquire, construct, reconstruct, improve, alter,
34 extend, and maintain highway sound barriers.

35 (17) To improve, construct, reconstruct, extend, and
36 maintain gas and electric distribution facilities owned by a

1 municipal gas or electric utility.

2 (18) To purchase, install, and maintain signs, posts, and
3 other markers for addressing related to the operation of
4 enhanced 911 telephone service.

5 (19) To improve, construct, extend, and maintain facilities
6 for Internet access and other communications purposes, if the
7 council finds that:

8 (i) the facilities are necessary to make available Internet
9 access or other communications services that are not and will
10 not be available through other providers or the private market
11 in the reasonably foreseeable future; and

12 (ii) the service to be provided by the facilities will not
13 compete with service provided by private entities.

14 (20) Enter an agreement with a private or cooperative
15 electric or communication utility for improvement of an existing
16 service distribution system, within public right-of-way, which
17 exceeds the design and construction standards set by law, tariff
18 or franchise, but only upon petition pursuant to section
19 429.031, subdivision 3.

1 Senator Anderson from the Committee on Jobs, Energy and
2 Community Development, to which was referred

3 S.F. No. 527: A bill for an act relating to local
4 government; authorizing electric or utility special assessments
5 exceeding standards on petition of all affected owners; amending
6 Minnesota Statutes 2004, section 429.021, subdivision 1.

7 Reports the same back with the recommendation that the bill
8 be amended as follows:

9 Page 3, delete lines 14 to 19 and insert:

10 "(20) To enter an agreement with a private or cooperative
11 electric or communications utility to pay all or a portion of
12 the incremental costs to bury or alter an existing service
13 distribution system within the public right-of-way, which
14 exceeds the design and construction standards set by law,
15 tariff, or franchise, but only upon petition under section
16 429.031, subdivision 3."

17 And when so amended the bill do pass and be re-referred to
18 the Committee on State and Local Government Operations.
19 Amendments adopted. Report adopted.

20

21
22 (Committee Chair)

23
24 April 8, 2005.....
25 (Date of Committee recommendation)

1 To: Senator Anderson, Chair
2 Committee on Jobs, Energy and Community Development
3 Senator Kubly,
4 Chair of the Subcommittee on Energy, to which was referred
5 S.F. No. 940: A bill for an act relating to energy;
6 expanding definition of farm-grown closed-loop biomass; amending
7 conditions for Public Utilities Commission approval of a pending
8 request for a biomass project; amending Minnesota Statutes 2004,
9 section 216B.2424, subdivisions 1, 2, 5a, 6, 8.

10 Reports the same back with the recommendation that the bill
11 be amended as follows:

12 Page 2, line 7, strike "and"

13 Page 2, line 8, delete everything after "grass" and insert
14 ", and sustainably managed woody biomass."

15 Page 2, delete lines 9 to 25 and insert:

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

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

20 (2) upland and lowland brush harvested from lands
21 incorporated into brushland habitat management activities of the
22 Minnesota Department of Natural Resources;

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

26 (4) logging slash or waste wood that is created by harvest,
27 precommercial timber stand improvement to meet silvicultural
28 objectives, or by fire, disease, or insect control treatments,
29 and that is managed in compliance with the Minnesota Forest
30 Resources Council's "Sustaining Minnesota Forest Resources:
31 voluntary site-level forest management guidelines for
32 landowners, loggers and resources managers" as modified by the
33 requirement of this subdivision.

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

36 Subd. 1a. [MUNICIPAL WASTE-TO-ENERGY PROJECT.] (a) This
37 subdivision applies only to a biomass project owned or
38 controlled, directly or indirectly, by two municipal utilities

1 as described in subdivision 5a, paragraph (b).

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

5 (c) The project must prepare a fuel plan on an annual basis
6 after commercial operation of the project as described in the
7 power contract between the project and the public utility, and
8 must also prepare annually certificates reflecting the types of
9 fuel used in the preceding year by the project, as described in
10 the power contract. The fuel plans and certificates shall also
11 be filed with the Minnesota Department of Natural Resources and
12 the Minnesota Department of Commerce within 30 days after being
13 provided to the public utility, as provided by the power
14 contract. Any person who believes the fuel plans, as amended,
15 and certificates show that the project does not or will not
16 comply with the fuel requirements of this subdivision may file a
17 petition with the commission seeking such a determination.

18 (d) The wood procurement process must utilize third-party
19 audit certification systems to verify that applicable best
20 management practices were utilized in the procurement of the
21 sustainably managed biomass. If there is a failure to so verify
22 in any two consecutive years during the original contract term,
23 the short rotation woody crop requirements of subdivision 2 must
24 be increased to 50 percent for the remaining contract term
25 period; however, if in two consecutive subsequent years after
26 the increase has been implemented, it is verified that the
27 conditions in this subdivision have been met, then for the
28 remaining original contract term the closed-loop biomass mandate
29 reverts to 25 percent. If there is a subsequent failure to
30 verify in a year after the first failure and implementation of
31 the 50 percent requirement, then the closed-loop percentage
32 shall remain at 50 percent for each remaining year of the
33 contract term.

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

36 (f) No wood may be harvested off of any lands identified by

1 the final or preliminary Minnesota County Biological Survey as
2 having statewide significance as native plant communities, large
3 populations or concentrations of rare species, or critical
4 animal habitat.

5 (g) A wood procurement plan must be prepared every five
6 years and public meetings must be held and written comments
7 taken on the plan and documentation must be provided on why or
8 why not the public inputs were used.

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

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

15 (2) the Minnesota Forest Resources Council for logging
16 slash, using the most recent available scientific information
17 regarding the removal of woody biomass from forest lands, to
18 sustain the management of forest resources as defined by section
19 89.001, subdivisions 8 and 9, with particular attention to soil
20 productivity, biological diversity as defined by section
21 89A.001, subdivision 3, and wildlife habitat.

22 These guidelines must be completed by July 1, 2007, and the
23 process of developing them must incorporate public notification
24 and comment."

25 Page 7, after line 23, insert:

26 "Sec. 7. [RENEWABLE DEVELOPMENT ACCOUNT; DISTRIBUTION.]

27 Of the \$10,000,000 distributed to the University of
28 Minnesota from the renewable development account by Laws 2003,
29 First Special Session chapter 11, article 2, section 18, the
30 university must redistribute:

31 (1) on or before July 1, 2005, \$200,000 to the Minnesota
32 Forest Resources Council and \$100,000 to the Minnesota
33 Department of Natural Resources for the purposes of developing
34 guidelines under Minnesota Statutes, section 216B.2424,
35 subdivision 1a, paragraph (h); and

36 (2) \$100,000 during 2005 for a grant to a qualified

1 applicant for a master logger certification program in Minnesota
2 and to assist loggers to meet certification requirements."

3 Renumber the sections in sequence

4 Amend the title as follows:

5 Page 1, line 6, before the period, insert ", by adding a
6 subdivision"

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

9
10 (Subcommittee Chair)

11
12 March 11, 2005.....
13 (Date of Subcommittee action)

Senators Tomassoni, Pogemiller, Marty, Saxhaug and Bakk introduced--
S.F. No. 940: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to energy; expanding definition of farm-grown
3 closed-loop biomass; amending conditions for Public
4 Utilities Commission approval of a pending request for
5 a biomass project; amending Minnesota Statutes 2004,
6 section 216B.2424, subdivisions 1, 2, 5a, 6, 8.

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

8 Section 1. Minnesota Statutes 2004, section 216B.2424,
9 subdivision 1, is amended to read:

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

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

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

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

22 (i) located within 400 miles of the site of the biomass
23 production; and

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

26 (b) The legislature finds that the negative environmental

1 impacts within 400 miles of the facility resulting from
2 transporting and combusting the biomass are offset in that
3 region by the environmental benefits to air, soil, and water of
4 the biomass production.

5 (c) Among the biomass fuel sources that meet the
6 requirements of paragraph (a), clause (2) are poplar, aspen,
7 willow, switch grass, sorghum, alfalfa, and cultivated prairie
8 grass; brush, trees, and other biomass harvested from within
9 designated utility, railroad, and road rights-of-way; upland and
10 lowland brush harvested from lands managed in accord with
11 Minnesota Department of Natural Resources "Best Management
12 Practices for Managing Brushlands"; slash and timber harvest
13 residuals harvested in compliance with the Minnesota Forest
14 Resources Council "Site Level Timber Harvesting and Forest
15 Management Guidelines"; and trees and brush harvested for fire
16 prevention, disease, or insect control or timber stand
17 improvement purposes in compliance with the Minnesota Forest
18 Resources Council "Site Level Timber Harvesting and Forest
19 Management Guidelines." The Minnesota Forest Resources Council
20 must periodically review its "Site Level Timber Harvesting and
21 Forest Management Guidelines" to ensure that it incorporates the
22 most recent available scientific information regarding biomass
23 removal from forest lands, including, but not limited to,
24 information pertaining to wildlife, soil nutrients, and forest
25 productivity.

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

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

1 production meets the requirements of subdivision 1, paragraph
2 (a), clause (3).

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

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

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

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

32 Sec. 3. Minnesota Statutes 2004, section 216B.2424,
33 subdivision 5a, is amended to read:

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

1 megawatts.

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

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

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

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

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

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

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

26 Sec. 4. Minnesota Statutes 2004, section 216B.2424,
 27 subdivision 6, is amended to read:

28 Subd. 6. [REMAINING MEGAWATT COMPLIANCE PROCESS.] (a) If
 29 there remain megawatts of biomass power generating capacity to
 30 fulfill the mandate in subdivision 5 after the commission has
 31 taken final action on all contracts filed by September 1, 2000,
 32 by a public utility, as amended and assigned, this subdivision
 33 governs final compliance with the biomass energy mandate in
 34 subdivision 5 subject to the requirements of subdivisions 7 and
 35 8.

36 (b) To the extent not inconsistent with this subdivision,

1 the provisions of subdivisions 2, 3, 4, and 5 apply to proposals
2 subject to this subdivision.

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

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

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

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

1 chipped wood, bark, brush, residue wood, and sawdust.

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

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

10 Sec. 5. Minnesota Statutes 2004, section 216B.2424,
11 subdivision 8, is amended to read:

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

1 Senator moves to amend S.F. No. 940 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 216B.2424,
4 subdivision 1, is amended to read:

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

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

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

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

17 (i) located within 400 miles of the site of the biomass
18 production; and

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

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

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

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

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

34 (2) upland and lowland brush harvested from lands
35 incorporated into brushland habitat management activities of the
36 Minnesota Department of Natural Resources;

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

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

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

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

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

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

29 (c) The project must prepare a fuel plan on an annual basis
30 after commercial operation of the project as described in the
31 power contract between the project and the public utility, and
32 must also prepare annually certificates reflecting the types of
33 fuel used in the preceding year by the project, as described in
34 the power contract. The fuel plans and certificates shall also
35 be filed with the Minnesota Department of Natural Resources and
36 the Minnesota Department of Commerce within 30 days after being

1 provided to the public utility, as provided by the power
2 contract. Any person who believes the fuel plans, as amended,
3 and certificates show that the project does not or will not
4 comply with the fuel requirements of this subdivision may file a
5 petition with the commission seeking such a determination.

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

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

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

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

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

35 (1) the Minnesota Department of Natural Resources for
36 managing and maintaining brushland and open land habitat on

1 public and private lands, including, but not limited to,
2 provisions of sections 84.941, 84.942, and 97A.125; and
3 (2) the Minnesota Forest Resources Council for logging
4 slash, using the most recent available scientific information
5 regarding the removal of woody biomass from forest lands, to
6 sustain the management of forest resources as defined by section
7 89.001, subdivisions 8 and 9, with particular attention to soil
8 productivity, biological diversity as defined by section
9 89A.001, subdivision 3, and wildlife habitat.

10 These guidelines must be completed by July 1, 2007, and the
11 process of developing them must incorporate public notification
12 and comment.

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

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

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

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

1 designated short-rotation woody crops as its primary fuel after
2 the interim period and provided the location of the interim fuel
3 production meets the requirements of subdivision 1, paragraph
4 (a), clause (3).

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

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

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

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

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

35 Subd. 5a. [REDUCTION OF BIOMASS MANDATE.] (a)

36 Notwithstanding subdivision 5, the biomass electric energy

1 mandate shall ~~must~~ must be reduced from 125 megawatts to 110
2 megawatts.

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

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

35 (1) the power purchase agreement complies with and fully
36 satisfies the provisions of this section to the full extent of

1 its 35-megawatt capacity;

2 (2) all costs incurred by the public utility and all
3 amounts to be paid by the public utility to the project owner
4 under the terms of the power purchase agreement are fully
5 recoverable pursuant to section 216B.1645;

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

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

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

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

29 Subd. 6. [REMAINING MEGAWATT COMPLIANCE PROCESS.] (a) If
30 there remain megawatts of biomass power generating capacity to
31 fulfill the mandate in subdivision 5 after the commission has
32 taken final action on all contracts filed by September 1, 2000,
33 by a public utility, as amended and assigned, this subdivision
34 governs final compliance with the biomass energy mandate in
35 subdivision 5 subject to the requirements of subdivisions 7 and
36 8.

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

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

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

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

34 (f) Notwithstanding the provisions of subdivision 1, for
35 proposals subject to this subdivision, "biomass" includes
36 farm-grown closed-loop biomass; agricultural wastes, including

1 animal, poultry, and plant wastes; and waste wood, including
2 chipped wood, bark, brush, residue wood, and sawdust.

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

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

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

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

25 Delete the title and insert:

26 "A bill for an act relating to energy; expanding definition
27 of farm-grown closed-loop biomass; amending Minnesota Statutes
28 2004, sections 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding
29 a subdivision."

1 Senator Anderson from the Committee on Jobs, Energy and
2 Community Development, to which was referred

3 S.F. No. 940: A bill for an act relating to energy;
4 expanding definition of farm-grown closed-loop biomass; amending
5 conditions for Public Utilities Commission approval of a pending
6 request for a biomass project; amending Minnesota Statutes 2004,
7 section 216B.2424, subdivisions 1, 2, 5a, 6, 8.

8 Reports the same back with the recommendation that the bill
9 be amended as follows:

10 Delete everything after the enacting clause and insert:

11 "Section 1. Minnesota Statutes 2004, section 216B.2424,
12 subdivision 1, is amended to read:

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

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

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

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

25 (i) located within 400 miles of the site of the biomass
26 production; and

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

29 (b) The legislature finds that the negative environmental
30 impacts within 400 miles of the facility resulting from
31 transporting and combusting the biomass are offset in that
32 region by the environmental benefits to air, soil, and water of
33 the biomass production.

34 (c) Among the biomass fuel sources that meet the
35 requirements of paragraph (a), clause clauses (1) and (2) are
36 poplar, aspen, willow, switch grass, sorghum, alfalfa, and
37 cultivated prairie grass and sustainably managed woody biomass.

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

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

3 (2) upland and lowland brush harvested from lands
4 incorporated into brushland habitat management activities of the
5 Minnesota Department of Natural Resources;

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

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

17 (5) trees or parts of trees that do not meet the
18 utilization standards for pulpwood, posts, bolts, or sawtimber
19 as described in the Minnesota Department of Natural Resources
20 Division of Forestry Timber Sales Manual, 1998, as amended as of
21 May 1, 2005, and the Minnesota Department of Natural Resources
22 Timber Scaling Manual, 1981, as amended as of May 1, 2005,
23 except as provided in paragraph (a), clause (1), and this
24 paragraph, clauses (1) to (3).

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

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

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

34 (c) The project must prepare a fuel plan on an annual basis
35 after commercial operation of the project as described in the
36 power contract between the project and the public utility, and

1 must also prepare annually certificates reflecting the types of
2 fuel used in the preceding year by the project, as described in
3 the power contract. The fuel plans and certificates shall also
4 be filed with the Minnesota Department of Natural Resources and
5 the Minnesota Department of Commerce within 30 days after being
6 provided to the public utility, as provided by the power
7 contract. Any person who believes the fuel plans, as amended,
8 and certificates show that the project does not or will not
9 comply with the fuel requirements of this subdivision may file a
10 petition with the commission seeking such a determination.

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

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

29 (f) No wood may be harvested from any lands identified by
30 the final or preliminary Minnesota County Biological Survey as
31 having statewide significance as native plant communities, large
32 populations or concentrations of rare species, or critical
33 animal habitat.

34 (g) A wood procurement plan must be prepared every five
35 years and public meetings must be held and written comments
36 taken on the plan and documentation must be provided on why or

1 why not the public inputs were used.

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

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

8 (2) the Minnesota Forest Resources Council for logging
9 slash, using the most recent available scientific information
10 regarding the removal of woody biomass from forest lands, to
11 sustain the management of forest resources as defined by section
12 89.001, subdivisions 8 and 9, with particular attention to soil
13 productivity, biological diversity as defined by section 89A.01,
14 subdivision 3, and wildlife habitat.

15 These guidelines must be completed by July 1, 2007, and the
16 process of developing them must incorporate public notification
17 and comment.

18 (i) The University of Minnesota Initiative for Renewable
19 Energy and the Environment is encouraged to solicit and fund
20 high-quality research projects to develop and consolidate
21 scientific information regarding the removal of woody biomass
22 from forest and brush lands, with particular attention to the
23 environmental impacts on soil productivity, biological
24 diversity, and sequestration of carbon. The results of this
25 research shall be made available to the public.

26 (j) The two utilities owning or controlling, directly or
27 indirectly, the biomass project described in subdivision 5a,
28 paragraph (b), agree to fund or obtain funding of up to \$150,000
29 to implement the guidelines or best management practices
30 described in paragraph (h). The expenditures to be funded under
31 this paragraph do not include any of the expenditures to be
32 funded under paragraph (i).

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

35 Subd. 2. [INTERIM EXEMPTION.] (a) A biomass project
36 proposing to use, as its primary fuel over the life of the

1 project, short-rotation woody crops, may use as an interim fuel
2 agricultural waste and other biomass which is not farm-grown
3 closed-loop biomass for up to six years after the project's
4 electric generating facility becomes operational; provided, the
5 project developer demonstrates the project will use the
6 designated short-rotation woody crops as its primary fuel after
7 the interim period and provided the location of the interim fuel
8 production meets the requirements of subdivision 1, paragraph
9 (a), clause (3).

10 (b) A biomass project proposing to use, as its primary fuel
11 over the life of the project, short-rotation woody crops, may
12 use as an interim fuel agricultural waste and other biomass
13 which is not farm-grown closed-loop biomass for up to three
14 years after the project's electric generating facility becomes
15 operational; provided, the project developer demonstrates the
16 project will use the designated short-rotation woody crops as
17 its primary fuel after the interim period.

18 (c) A biomass project that uses an interim fuel under the
19 terms of paragraph (b) may, in addition, use an interim fuel
20 under the terms of paragraph (a) for six years less the number
21 of years that an interim fuel was used under paragraph (b).

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

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

1 owner and the public utility, whichever is longer.

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

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

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

31 (c) If the power purchase agreement described in paragraph
32 (b) is assigned to an entity that is, or becomes, owned or
33 controlled, directly or indirectly, by two municipal entities as
34 described in paragraph (b), and the power purchase agreement
35 meets the price requirements of paragraph (b), the commission
36 shall approve any amendments to the power purchase agreement

1 necessary to reflect the changes in project location and
2 ownership and any other amendments made necessary by those
3 changes. The commission shall also specifically find that:

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

7 (2) all costs incurred by the public utility and all
8 amounts to be paid by the public utility to the project owner
9 under the terms of the power purchase agreement are fully
10 recoverable pursuant to section 216B.1645;

11 (3) subject to prudence review by the commission, the
12 public utility may recover from its Minnesota retail customers
13 the Minnesota jurisdictional portion of the amounts that may be
14 incurred and paid by the public utility during the full term of
15 the power purchase agreement; and

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

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

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

34 Subd. 6. [REMAINING MEGAWATT COMPLIANCE PROCESS.] (a) If
35 there remain megawatts of biomass power generating capacity to
36 fulfill the mandate in subdivision 5 after the commission has

1 taken final action on all contracts filed by September 1, 2000,
2 by a public utility, as amended and assigned, this subdivision
3 governs final compliance with the biomass energy mandate in
4 subdivision 5 subject to the requirements of subdivisions 7 and
5 8.

6 (b) To the extent not inconsistent with this subdivision,
7 the provisions of subdivisions 2, 3, 4, and 5 apply to proposals
8 subject to this subdivision.

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

20 (d) Notwithstanding the provisions of subdivisions 1 to 5
21 but subject to the provisions of subdivisions 7 and 8, a new or
22 existing facility proposed under this subdivision that is fueled
23 either by biomass or by co-firing biomass with nonbiomass may
24 satisfy the mandate in this section. Such a facility need not
25 use biomass that complies with the definition in subdivision 1
26 if it uses biomass as defined in paragraph (f) of this
27 subdivision. Generating capacity produced by co-firing of
28 biomass that is operational as of April 25, 2000, does not meet
29 the requirements of the mandate, except that additional
30 co-firing capacity added at an existing facility after April 25,
31 2000, may be used to satisfy this mandate. Only the number of
32 megawatts of capacity at a facility which co-fires biomass that
33 are directly attributable to the biomass and that become
34 operational after April 25, 2000, count toward meeting the
35 biomass mandate in this section.

36 (e) Nothing in this subdivision precludes a facility

1 proposed and approved under this subdivision from using fuel
2 sources that are not biomass in compliance with subdivision 3.

3 (f) Notwithstanding the provisions of subdivision 1, for
4 proposals subject to this subdivision, "biomass" includes
5 farm-grown closed-loop biomass; agricultural wastes, including
6 animal, poultry, and plant wastes; and waste wood, including
7 chipped wood, bark, brush, residue wood, and sawdust.

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

11 (h) Nothing in this subdivision requires a public utility
12 to retrofit its own power plants for the purpose of co-firing
13 biomass fuel, nor is a utility prohibited from retrofitting its
14 own power plants for the purpose of co-firing biomass fuel to
15 meet the requirements of this subdivision.

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

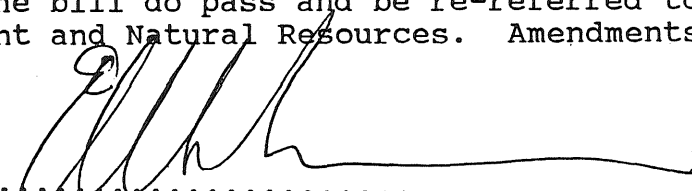
18 Subd. 8. [AGRICULTURAL BIOMASS REQUIREMENT.] Of the 125
19 megawatts mandated in subdivision 5, or 110 megawatts mandated
20 in subdivision 5a, at least 75 megawatts of the generating
21 capacity must be generated by facilities that use agricultural
22 biomass as the principal fuel source. For purposes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

30 Delete the title and insert:

31 "A bill for an act relating to energy; expanding definition
32 of farm-grown closed-loop biomass; amending Minnesota Statutes
33 2004, section 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding
34 a subdivision."

35 And when so amended the bill do pass and be re-referred to
36 the Committee on Environment and Natural Resources. Amendments
37 adopted. Report adopted.

38


.....
(Committee Chair)

April 8, 2005.....
(Date of Committee recommendation)

1 To: Senator Anderson, Chair
2 Committee on Jobs, Energy and Community Development
3 Senator Kubly,
4 Chair of the Subcommittee on Energy, to which was referred

5 S.F. No. 1846: A bill for an act relating to state
6 government; establishing an energy savings program; authorizing
7 the Department of Administration to use energy forward pricing
8 mechanisms for budget risk reduction; amending Minnesota
9 Statutes 2004, section 16C.144; proposing coding for new law in
10 Minnesota Statutes, chapter 16C.

11 Reports the same back with the recommendation that the bill
12 be amended as follows:

13 Delete everything after the enacting clause and insert:

14 "Section 1. [16C.143] [ENERGY FORWARD PRICING MECHANISMS.]

15 Subdivision 1. [DEFINITIONS.] The following definitions
16 apply in this section:

17 (1) "energy" means natural gas, heating oil, propane, and
18 any other energy source except electricity used in state
19 facilities; and

20 (2) "forward pricing mechanism" means a contract or
21 financial instrument that obligates a state agency to buy or
22 sell a specified quantity of energy at a future date at a set
23 price.

24 Subd. 2. [AUTHORITY.] Notwithstanding any other law to the
25 contrary, the commissioner may use forward pricing mechanisms
26 for budget risk reduction.

27 Subd. 3. [CONDITIONS.] Forward pricing mechanism
28 transactions must be made only under the following conditions:

29 (1) the quantity of energy affected by the forward pricing
30 mechanism must not exceed the estimated energy use for the state
31 agency for the same period; and

32 (2) a separate account must be established for each state
33 agency using a forward pricing mechanism.

34 Subd. 4. [WRITTEN POLICIES AND PROCEDURES.] Before
35 exercising the authority under this section, the commissioner
36 must develop written policies and procedures governing the use
37 of forward pricing mechanisms.

38 Sec. 2. Minnesota Statutes 2004, section 16C.144, is
39 amended to read:

1 16C.144 [GUARANTEED SAVINGS ~~CONTRACTS~~ PROGRAM.]

2 Subdivision 1. [DEFINITIONS.] The following definitions
3 apply to this section.

4 (a) "Utility" means electricity, natural gas, or other
5 energy resource, water, and wastewater.

6 (b) "Utility cost savings" means the difference between the
7 ~~utility-costs-under-the-precontract-conditions-and~~ the utility
8 ~~costs after the-changes-have-been-made-under-the-contract.---Such~~
9 ~~savings-shall-be-calculated-in-comparison-to-an-established~~
10 ~~baseline-of-utility-costs~~ installation of the utility
11 cost-savings measures pursuant to the guaranteed energy savings
12 agreement and the baseline utility costs after baseline
13 adjustments have been made.

14 (c) ~~"Established-baseline"-means-the-precontract~~
15 ~~preagreement-utilities,-operations,-and-maintenance-costs-~~
16 "Baseline" means the preagreement utilities, operations, and
17 maintenance costs.

18 (d) "Utility cost-savings measure" means a measure that
19 produces utility cost savings and/or operation and maintenance
20 cost savings.

21 (e) "Operation and maintenance cost savings" means a
22 measurable ~~decrease-in~~ difference between operation and
23 maintenance costs after the installation of the utility
24 cost-savings measures pursuant to the guaranteed energy savings
25 agreement and the baseline operation and maintenance costs ~~that~~
26 ~~is-a-direct-result-of-the-implementation-of-one-or-more-utility~~
27 ~~cost-savings-measures-but-does~~ after inflation adjustments have
28 been made. Operation and maintenance costs savings shall not
29 include savings from in-house staff labor. Such-savings-shall
30 be-calculated-in-comparison-to-an-established-baseline-of
31 operation-and-maintenance-costs-

32 (f) "Guaranteed energy savings contract agreement" means a
33 contract an agreement for the evaluation, recommendation, and
34 installation of one or more utility cost-savings measures that
35 includes the qualified provider's guarantee as required under
36 subdivision 2. The-contract-must-provide-that-all-payments-are

1 ~~to-be-made-over-time-but-not-to-exceed-ten-years-from-the-date~~
2 ~~of-final-installation, and the savings are guaranteed to the~~
3 ~~extent-necessary-to-make-payments-for-the-utility-cost-savings~~
4 ~~measures.~~

5 (g) "Baseline adjustments" means adjusting the established
6 utility cost savings baselines ~~in paragraphs (b) and~~
7 ~~(d)~~ annually for changes in the following variables:

- 8 (1) utility rates;
- 9 (2) number of days in the utility billing cycle;
- 10 (3) square footage of the facility;
- 11 (4) operational schedule of the facility;
- 12 (5) facility temperature set points;
- 13 (6) weather; and
- 14 (7) amount of equipment or lighting utilized in the
15 facility.

16 (h) "Inflation adjustment" means adjusting the operation
17 and maintenance cost-savings baseline annually for inflation.

18 ~~(h)~~ (i) "Lease purchase contract agreement" means a
19 ~~contract~~ an agreement obligating the state to make regular lease
20 payments to satisfy the lease costs of the utility cost-savings
21 measures until the final payment, after which time the utility
22 cost-savings measures become the sole property of the state of
23 Minnesota.

24 ~~(i)~~ (j) "Qualified provider" means a person or business
25 experienced in the design, implementation, and installation of
26 utility cost-savings measures.

27 ~~(j)~~ (k) "Engineering report" means a report prepared by a
28 professional engineer licensed by the state of Minnesota
29 summarizing estimates of all costs of installations,
30 modifications, or remodeling, including costs of design,
31 engineering, installation, maintenance, repairs, and estimates
32 of the amounts by which utility and operation and maintenance
33 costs will be reduced.

34 ~~(k)~~ (l) "Capital cost avoidance" means money expended by a
35 state agency to pay for utility cost-savings measures with a
36 guaranteed savings contract agreement so long as the measures

1 that are being implemented to achieve the utility, operation,
2 and maintenance cost savings are a significant portion of an
3 overall project as determined by the commissioner.

4 ~~(1)~~ (m) "Guaranteed energy savings ~~contracting~~ program
5 guidelines" means policies, procedures, and requirements of
6 guaranteed savings ~~contracts~~ agreements established by the
7 Department of Administration ~~upon-enacting-this-legislation.~~

8 Subd. 2. [GUARANTEED ENERGY SAVINGS ~~CONTRACT~~ AGREEMENT.]

9 The commissioner may enter into a guaranteed energy savings
10 ~~contract~~ agreement with a qualified provider if:

11 (1) the qualified provider is selected through a
12 competitive process in accordance with the guaranteed energy
13 savings ~~contracting~~ program guidelines within the Department of
14 Administration;

15 (2) the qualified provider agrees to submit an engineering
16 report prior to the execution of the guaranteed energy savings
17 ~~contract~~ agreement. The cost of the engineering report may be
18 considered as part of the implementation costs if the
19 commissioner enters into a guaranteed energy savings agreement
20 with the provider;

21 (3) the term of the guaranteed energy savings agreement
22 shall not exceed 15 years from the date of final installation;

23 (4) the commissioner finds that the amount it would spend
24 on the utility cost-savings measures recommended in the
25 engineering report will not exceed the amount to be saved in
26 utility operation and maintenance costs over ~~ten~~ 15 years from
27 the date of implementation of utility cost-savings measures;

28 ~~(4)~~ (5) the qualified provider provides a written guarantee
29 that the annual utility, operation, and maintenance cost savings
30 during the term of the guaranteed energy savings agreement will
31 meet or exceed the ~~costs-of-the-guaranteed-savings-contract~~
32 annual payments due under a lease purchase agreement. The
33 qualified provider shall reimburse the state for any shortfall
34 of guaranteed utility, operation, and maintenance cost savings;
35 and

36 ~~(5)~~ (6) the qualified provider gives a sufficient bond in

1 accordance with section 574.26 to the commissioner for the
 2 faithful implementation and installation of the utility
 3 cost-savings measures.

4 Subd. 3. [~~LEASE PURCHASE CONTRACT~~ AGREEMENT.] The
 5 commissioner may enter into a lease purchase agreement with any
 6 party for the implementation of utility cost-savings measures in
 7 accordance with ~~an engineering report~~ the guaranteed energy
 8 savings agreement. The implementation costs of the utility
 9 cost-savings measures recommended in the engineering report
 10 shall not exceed the amount to be saved in utility and operation
 11 and maintenance costs over the term of the lease purchase
 12 agreement. The term of the lease purchase agreement shall not
 13 exceed ~~ten~~ 15 years from the date of final installation. The
 14 lease is assignable in accordance with terms approved by the
 15 commissioner of finance.

16 Subd. 4. [USE OF CAPITAL COST AVOIDANCE.] The affected
 17 state agency may contribute funds for capital cost avoidance for
 18 guaranteed energy savings contracts agreements. Use of capital
 19 cost avoidance is subject to the guaranteed energy savings
 20 ~~contracting~~ program guidelines within the Department of
 21 Administration.

22 Subd. 5. [REPORT.] By January 15 ~~of 2005 and~~, 2007, the
 23 commissioner of administration shall submit to the commissioner
 24 of finance and the chairs of the senate and house of
 25 representatives capital investment committees a list of projects
 26 in the agency that have been funded using guaranteed energy
 27 savings, as outlined in this section, during the preceding
 28 biennium. For each guaranteed energy savings contract agreement
 29 entered into, the commissioner of administration shall contract
 30 with an independent third party to evaluate the
 31 cost-effectiveness of each utility cost-savings measure
 32 implemented to ensure that such measures were the least-cost
 33 measures available. For the purposes of this section,
 34 "independent third party" means an entity not affiliated with
 35 the qualified provider, that is not involved in creating or
 36 providing conservation project services to that provider, and

1 that has expertise (or access to expertise) in energy savings
2 practices.

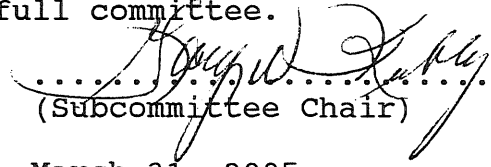
3 ~~Subd. 6. ---[CONTRACT LIMITS.]---Contracts may not be entered~~
4 ~~into after June 30, 2007.~~

5 Sec. 3. [EFFECTIVE DATE.]

6 Sections 1 and 2 are effective the day following final
7 enactment."

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

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.....
(Subcommittee Chair)
March 31, 2005.....
(Date of Subcommittee action)

Senator Kelley introduced--

S.F. No. 1846: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to state government; establishing an energy
3 savings program; authorizing the Department of
4 Administration to use energy forward pricing
5 mechanisms for budget risk reduction; amending
6 Minnesota Statutes 2004, section 16C.144; proposing
7 coding for new law in Minnesota Statutes, chapter 16C.

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

9 Section 1. [16C.143] [ENERGY FORWARD PRICING MECHANISMS.]

10 Subdivision 1. [DEFINITIONS.] The following definitions
11 apply in this section:

12 (1) "energy" means natural gas, heating oil, propane, and
13 any other energy source except electricity used in state
14 facilities; and

15 (2) "forward pricing mechanism" means a contract or
16 financial instrument that obligates a state agency to buy or
17 sell a specified quantity of energy at a future date at a set
18 price.

19 Subd. 2. [AUTHORITY.] Notwithstanding any other law to the
20 contrary, the Department of Administration may use forward
21 pricing mechanisms for budget risk reduction.

22 Subd. 3. [CONDITIONS.] Forward pricing mechanism
23 transactions must be made only under the following conditions:

24 (1) the quantity of energy affected by the forward pricing
25 mechanism must not exceed the estimated energy use for the state
26 agency for the same period; and

1 (2) a separate account must be established for each state
2 agency using a forward pricing mechanism.

3 Subd. 4. [WRITTEN POLICIES AND PROCEDURES.] Before
4 exercising the authority under this section, the Department of
5 Administration must develop written policies and procedures
6 governing the use of forward pricing mechanisms.

7 Sec. 2. Minnesota Statutes 2004, section 16C.144, is
8 amended to read:

9 16C.144 [GUARANTEED SAVINGS CONTRACTS.]

10 Subdivision 1. [DEFINITIONS.] The following definitions
11 apply to this section.

12 (a) "Utility" means electricity, natural gas, or other
13 energy resource, water, and wastewater.

14 (b) "Utility cost savings" means the difference between the
15 ~~utility-costs-under-the-precontract-conditions-and~~ the utility
16 ~~costs after the-changes-have-been-made-under-the-contract---~~Such
17 ~~savings-shall-be-calculated-in-comparison-to-an-established~~
18 ~~baseline-of-utility-costs~~ installation of the utility
19 cost-savings measures pursuant to the guaranteed energy savings
20 agreement and the baseline utility costs after baseline
21 adjustments have been made.

22 (c) "Established baseline" means the ~~precontract~~
23 preagreement utilities, operations, and maintenance costs.

24 (d) "Baseline" means the preagreement utilities,
25 operations, and maintenance costs.

26 (e) "Utility cost-savings measure" means a measure that
27 produces utility cost savings and/or operation and maintenance
28 cost savings.

29 (f) (e) (f) "Operation and maintenance cost savings" means a
30 ~~measurable decrease-in~~ difference between operation and
31 maintenance costs after the installation of the utility
32 cost-savings measures pursuant to the guaranteed energy savings
33 agreement and the baseline operation and maintenance costs that
34 ~~is-a-direct-result-of-the-implementation-of-one-or-more-utility~~
35 ~~cost-savings-measures-but-does~~ after inflation adjustments have
36 been made. Operation and maintenance costs savings shall not

1 include savings from in-house staff labor. ~~Such-savings-shall~~
2 ~~be-calculated-in-comparison-to-an-established-baseline-of~~
3 ~~operation-and-maintenance-costs.~~

4 ~~{f}~~ (g) "Guaranteed energy savings contract agreement"
5 means ~~a-contract~~ an agreement for the evaluation,
6 ~~recommendation,~~ and installation of one or more utility
7 cost-savings measures that includes the qualified provider's
8 guarantee as required under subdivision 2. ~~The-contract-must~~
9 ~~provide-that-all-payments-are-to-be-made-over-time-but-not-to~~
10 ~~exceed-ten-years-from-the-date-of-final-installation,~~ and the
11 ~~savings-are-guaranteed-to-the-extent-necessary-to-make-payments~~
12 ~~for-the-utility-cost-savings-measures.~~

13 ~~{g}~~ (h) "Baseline adjustments" means adjusting
14 the established utility cost savings baselines ~~in-paragraphs-(b)~~
15 ~~and-(d)~~ annually for changes in the following variables:

- 16 (1) utility rates;
17 (2) number of days in the utility billing cycle;
18 (3) square footage of the facility;
19 (4) operational schedule of the facility;
20 (5) facility temperature set points;
21 (6) weather; and
22 (7) amount of equipment or lighting utilized in the
23 facility.

24 (i) "Inflation adjustment" means adjusting the operation
25 and maintenance cost-savings baseline annually for inflation.

26 ~~{h}~~ (j) "Lease purchase contract agreement" means a
27 contract an agreement obligating the state to make regular lease
28 payments to satisfy the lease costs of the utility cost-savings
29 measures until the final payment, after which time the utility
30 cost-savings measures become the sole property of the state of
31 Minnesota.

32 ~~{i}~~ (k) "Qualified provider" means a person or business
33 experienced in the design, implementation, and installation of
34 utility cost-savings measures.

35 ~~{j}~~ (l) "Engineering report" means a report prepared by a
36 professional engineer licensed by the state of Minnesota

1 summarizing estimates of all costs of installations,
2 modifications, or remodeling, including costs of design,
3 engineering, installation, maintenance, repairs, and estimates
4 of the amounts by which utility and operation and maintenance
5 costs will be reduced.

6 ~~(k)~~ (m) "Capital cost avoidance" means money expended by a
7 state agency to pay for utility cost-savings measures with a
8 guaranteed savings ~~contract~~ agreement so long as the measures
9 that are being implemented to achieve the utility, operation,
10 and maintenance cost savings are a significant portion of an
11 overall project as determined by the commissioner.

12 ~~(l)~~ (n) "Guaranteed energy savings contracting program
13 guidelines" means policies, procedures, and requirements of
14 guaranteed savings ~~contracts~~ agreements established by the
15 Department of Administration ~~upon-enacting-this-legislation.~~

16 Subd. 2. [GUARANTEED ENERGY SAVINGS ~~CONTRACT~~ AGREEMENT.]
17 The commissioner may enter into a guaranteed energy savings
18 ~~contract~~ agreement with a qualified provider if:

19 (1) the qualified provider is selected through a
20 competitive process in accordance with the guaranteed energy
21 savings ~~contracting~~ program guidelines within the Department of
22 Administration;

23 (2) the qualified provider agrees to submit an engineering
24 report prior to the execution of the guaranteed energy savings
25 ~~contract~~ agreement. The cost of the engineering report may be
26 considered as part of the implementation costs if the
27 commissioner enters into a guaranteed energy savings agreement
28 with the provider;

29 (3) the term of the guaranteed energy savings agreement
30 shall not exceed 15 years from the date of final installation;

31 (4) the commissioner finds that the amount it would spend
32 on the utility cost-savings measures recommended in the
33 engineering report will not exceed the amount to be saved in
34 utility operation and maintenance costs over ~~ten~~ 15 years from
35 the date of implementation of utility cost-savings measures;

36 ~~(4)~~ (5) the qualified provider provides a written guarantee

1 that the annual utility, operation, and maintenance cost savings
2 during the term of the guaranteed energy savings agreement will
3 meet or exceed the ~~costs-of-the-guaranteed-savings-contract~~
4 annual payments due under a lease purchase agreement. The
5 qualified provider shall reimburse the state for any shortfall
6 of guaranteed utility, operation, and maintenance cost savings;
7 and

8 ~~(5)~~ (6) the qualified provider gives a sufficient bond in
9 accordance with section 574.26 to the commissioner for the
10 faithful implementation and installation of the utility
11 cost-savings measures.

12 Subd. 3. [~~LEASE PURCHASE CONTRACT AGREEMENT.~~] The
13 commissioner may enter into a lease purchase agreement with any
14 party for the implementation of utility cost-savings measures in
15 accordance with ~~an-engineering-report~~ the guaranteed energy
16 savings agreement. The implementation costs of the utility
17 cost-savings measures recommended in the engineering report
18 shall not exceed the amount to be saved in utility and operation
19 and maintenance costs over the term of the lease purchase
20 agreement. The term of the lease purchase agreement shall not
21 exceed ~~ten~~ 15 years from the date of final installation. The
22 lease is assignable in accordance with terms approved by the
23 commissioner of finance.

24 Subd. 4. [USE OF CAPITAL COST AVOIDANCE.] The affected
25 state agency may contribute funds for capital cost avoidance for
26 guaranteed energy savings contracts agreements. Use of capital
27 cost avoidance is subject to the guaranteed energy savings
28 contracting program guidelines within the Department of
29 Administration.

30 Subd. 5. [REPORT.] By January 15 of 2005 and 2007, the
31 commissioner of administration shall submit to the commissioner
32 of finance and the chairs of the senate and house of
33 representatives capital investment committees a list of projects
34 in the agency that have been funded using guaranteed energy
35 savings, as outlined in this section, during the preceding
36 biennium. For each guaranteed energy savings contract agreement

1 entered into, the commissioner of administration shall contract
2 with an independent third party to evaluate the
3 cost-effectiveness of each utility cost-savings measure
4 implemented to ensure that such measures were the least-cost
5 measures available. For the purposes of this section,
6 "independent third party" means an entity not affiliated with
7 the qualified provider, that is not involved in creating or
8 providing conservation project services to that provider, and
9 that has expertise (or access to expertise) in energy savings
10 practices.

11 ~~Subd. 6. -- {CONTRACT LIMITS.} Contracts may not be entered~~
12 ~~into after June 30, 2007.~~

1 Senator Anderson from the Committee on Jobs, Energy and
2 Community Development, to which was referred

3 S.F. No. 1846: A bill for an act relating to state
4 government; establishing an energy savings program; authorizing
5 the Department of Administration to use energy forward pricing
6 mechanisms for budget risk reduction; amending Minnesota
7 Statutes 2004, section 16C.144; proposing coding for new law in
8 Minnesota Statutes, chapter 16C.

9 Reports the same back with the recommendation that the bill
10 be amended as follows:

11 Delete everything after the enacting clause and insert:

12 "Section 1. [16C.143] [ENERGY FORWARD PRICING MECHANISMS.]

13 Subdivision 1. [DEFINITIONS.] The following definitions
14 apply in this section:

15 (1) "energy" means natural gas, heating oil, propane, and
16 any other energy source except electricity used in state
17 facilities; and

18 (2) "forward pricing mechanism" means a contract or
19 financial instrument that obligates a state agency to buy or
20 sell a specified quantity of energy at a future date at a set
21 price.

22 Subd. 2. [AUTHORITY.] Notwithstanding any other law to the
23 contrary, the commissioner may use forward pricing mechanisms
24 for budget risk reduction.

25 Subd. 3. [CONDITIONS.] Forward pricing mechanism
26 transactions must be made only under the following conditions:

27 (1) the quantity of energy affected by the forward pricing
28 mechanism must not exceed the estimated energy use for the state
29 agency for the same period; and

30 (2) a separate account must be established for each state
31 agency using a forward pricing mechanism.

32 Subd. 4. [WRITTEN POLICIES AND PROCEDURES.] Before
33 exercising the authority under this section, the commissioner
34 must develop written policies and procedures governing the use
35 of forward pricing mechanisms.

36 Sec. 2. Minnesota Statutes 2004, section 16C.144, is
37 amended to read:

38 16C.144 [GUARANTEED SAVINGS CONTRACTS PROGRAM.]

39 Subdivision 1. [DEFINITIONS.] The following definitions

1 apply to this section.

2 (a) "Utility" means electricity, natural gas, or other
3 energy resource, water, and wastewater.

4 (b) "Utility cost savings" means the difference between the
5 ~~utility-costs-under-the-precontract-conditions-and~~ the utility
6 ~~costs after the-changes-have-been-made-under-the-contract.--Such~~
7 ~~savings-shall-be-calculated-in-comparison-to-an-established~~
8 ~~baseline-of-utility-costs~~ installation of the utility
9 cost-savings measures pursuant to the guaranteed energy savings
10 agreement and the baseline utility costs after baseline
11 adjustments have been made.

12 (c) ~~"Established-baseline"-means-the-precontract~~
13 ~~preagreement-utilities,-operations,-and-maintenance-costs-~~
14 "Baseline" means the preagreement utilities, operations, and
15 maintenance costs.

16 (d) "Utility cost-savings measure" means a measure that
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18 cost savings.

19 (e) "Operation and maintenance cost savings" means a
20 ~~measurable decrease-in~~ difference between operation and
21 maintenance costs after the installation of the utility
22 cost-savings measures pursuant to the guaranteed energy savings
23 agreement and the baseline operation and maintenance costs that
24 ~~is-a-direct-result-of-the-implementation-of-one-or-more-utility~~
25 ~~cost-savings-measures-but-does~~ after inflation adjustments have
26 been made. Operation and maintenance costs savings shall not
27 include savings from in-house staff labor. ~~Such-savings-shall~~
28 ~~be-calculated-in-comparison-to-an-established-baseline-of~~
29 ~~operation-and-maintenance-costs-~~

30 (f) "Guaranteed energy savings contract agreement" means a
31 ~~contract~~ an agreement for the evaluation,-recommendation,-and
32 installation of one or more utility cost-savings measures that
33 includes the qualified provider's guarantee as required under
34 subdivision 2. The-contract-must-provide-that-all-payments-are
35 ~~to-be-made-over-time-but-not-to-exceed-ten-years-from-the-date~~
36 ~~of-final-installation,-and-the-savings-are-guaranteed-to-the~~

1 ~~extent-necessary-to-make-payments-for-the-utility-cost-savings~~
2 ~~measures.~~

3 (g) "Baseline adjustments" means adjusting the established
4 utility cost savings baselines ~~in-paragraphs-(b)-and~~
5 ~~(d)~~ annually for changes in the following variables:

6 (1) utility rates;

7 (2) number of days in the utility billing cycle;

8 (3) square footage of the facility;

9 (4) operational schedule of the facility;

10 (5) facility temperature set points;

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13 facility.

14 (h) "Inflation adjustment" means adjusting the operation
15 and maintenance cost-savings baseline annually for inflation.

16 (i) "Lease purchase contract agreement" means a
17 ~~contract~~ an agreement obligating the state to make regular lease
18 payments to satisfy the lease costs of the utility cost-savings
19 measures until the final payment, after which time the utility
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22 (j) "Qualified provider" means a person or business
23 experienced in the design, implementation, and installation of
24 utility cost-savings measures.

25 (k) "Engineering report" means a report prepared by a
26 professional engineer licensed by the state of Minnesota
27 summarizing estimates of all costs of installations,
28 modifications, or remodeling, including costs of design,
29 engineering, installation, maintenance, repairs, and estimates
30 of the amounts by which utility and operation and maintenance
31 costs will be reduced.

32 (l) "Capital cost avoidance" means money expended by a
33 state agency to pay for utility cost-savings measures with a
34 guaranteed savings contract agreement so long as the measures
35 that are being implemented to achieve the utility, operation,
36 and maintenance cost savings are a significant portion of an

1 overall project as determined by the commissioner.

2 ~~(1)~~ (m) "Guaranteed energy savings contracting program
3 guidelines" means policies, procedures, and requirements of
4 guaranteed savings contracts agreements established by the
5 Department of Administration ~~upon-enacting-this-legislation.~~

6 Subd. 2. [GUARANTEED ENERGY SAVINGS CONTRACT AGREEMENT.]
7 The commissioner may enter into a guaranteed energy savings
8 contract agreement with a qualified provider if:

9 (1) the qualified provider is selected through a
10 competitive process in accordance with the guaranteed energy
11 savings contracting program guidelines within the Department of
12 Administration;

13 (2) the qualified provider agrees to submit an engineering
14 report prior to the execution of the guaranteed energy savings
15 contract agreement. The cost of the engineering report may be
16 considered as part of the implementation costs if the
17 commissioner enters into a guaranteed energy savings agreement
18 with the provider;

19 (3) the term of the guaranteed energy savings agreement
20 shall not exceed 15 years from the date of final installation;

21 (4) the commissioner finds that the amount it would spend
22 on the utility cost-savings measures recommended in the
23 engineering report will not exceed the amount to be saved in
24 utility operation and maintenance costs over ~~ten~~ 15 years from
25 the date of implementation of utility cost-savings measures;

26 ~~(4)~~ (5) the qualified provider provides a written guarantee
27 that the annual utility, operation, and maintenance cost savings
28 during the term of the guaranteed energy savings agreement will
29 meet or exceed the ~~costs-of-the-guaranteed-savings-contract~~
30 annual payments due under a lease purchase agreement. The
31 qualified provider shall reimburse the state for any shortfall
32 of guaranteed utility, operation, and maintenance cost savings;
33 and

34 ~~(5)~~ (6) the qualified provider gives a sufficient bond in
35 accordance with section 574.26 to the commissioner for the
36 faithful implementation and installation of the utility

1 cost-savings measures.

2 Subd. 3. [LEASE PURCHASE ~~CONTRACT~~ AGREEMENT.] The
3 commissioner may enter into a lease purchase agreement with any
4 party for the implementation of utility cost-savings measures in
5 accordance with ~~an engineering report~~ the guaranteed energy
6 savings agreement. The implementation costs of the utility
7 cost-savings measures recommended in the engineering report
8 shall not exceed the amount to be saved in utility and operation
9 and maintenance costs over the term of the lease purchase
10 agreement. The term of the lease purchase agreement shall not
11 exceed ~~ten~~ 15 years from the date of final installation. The
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13 commissioner of finance.

14 Subd. 4. [USE OF CAPITAL COST AVOIDANCE.] The affected
15 state agency may contribute funds for capital cost avoidance for
16 guaranteed energy savings ~~contracts~~ agreements. Use of capital
17 cost avoidance is subject to the guaranteed energy savings
18 ~~contracting~~ program guidelines within the Department of
19 Administration.

20 Subd. 5. [REPORT.] By January 15 ~~of-2005-and~~, 2007, the
21 commissioner of administration shall submit to the commissioner
22 of finance and the chairs of the senate and house of
23 representatives capital investment committees a list of projects
24 in the agency that have been funded using guaranteed energy
25 savings, as outlined in this section, during the preceding
26 biennium. For each guaranteed energy savings ~~contract~~ agreement
27 entered into, the commissioner of administration shall contract
28 with an independent third party to evaluate the
29 cost-effectiveness of each utility cost-savings measure
30 implemented to ensure that such measures were the least-cost
31 measures available. For the purposes of this section,
32 "independent third party" means an entity not affiliated with
33 the qualified provider, that is not involved in creating or
34 providing conservation project services to that provider, and
35 that has expertise (or access to expertise) in energy savings
36 practices.

1 Subd.--6.--[CONTRACT-LIMITS]-Contracts-may-not-be-entered
2 into-after-June-30,2007-

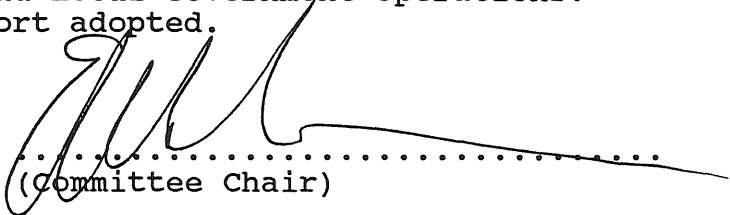
3 Sec. 3. [EFFECTIVE DATE.]

4 Sections 1 and 2 are effective the day following final
5 enactment."

6 And when so amended the bill do pass and be re-referred to
7 the Committee on State and Local Government Operations.
8 Amendments adopted. Report adopted.

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.....
(Committee Chair)

April 8, 2005.....
(Date of Committee recommendation)

Senator Metzen introduced--

S.F. No. 1902: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act
 2 relating to public utilities; transferring power plant
 3 siting and routing, wind energy conversion system, and
 4 pipeline authority from the Environmental Quality
 5 Board to the Public Utilities Commission; amending
 6 Minnesota Statutes 2004, sections 116C.52, subdivision
 7 2; 116C.53, subdivision 2; 116C.57, subdivisions 1,
 8 2c, by adding a subdivision; 116C.575, subdivision 5;
 9 116C.577; 116C.58; 116C.69, subdivisions 2, 2a;
 10 216B.243, subdivisions 4, 5; 216C.052.

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

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

14 Subd. 2. [~~BOARD COMMISSION.~~] "Board Commission" shall
 15 ~~mean the Minnesota Environmental Quality Board~~ means the Public
 16 Utilities Commission.

17 Sec. 2. Minnesota Statutes 2004, section 116C.53,
 18 subdivision 2, is amended to read:

19 Subd. 2. [JURISDICTION.] The board commission is hereby
 20 given the authority to provide for site and route selection for
 21 large electric power facilities. The board commission shall
 22 issue permits for large electric power facilities in a timely
 23 fashion. ~~When the Public Utilities Commission has determined~~
 24 the and in a manner consistent with the overall determination of
 25 need for the project under section 216B.243 or 216B.24257.
 26 Questions of need, including size, type, and timing; alternative
 27 system configurations; and voltage ~~are not within the board's~~
 28 ~~siting and routing authority and~~ must not be included in the

1 scope of environmental review conducted under sections 116C.51
2 to 116C.69.

3 Sec. 3. Minnesota Statutes 2004, section 116C.57,
4 subdivision 1, is amended to read:

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

15 Sec. 4. Minnesota Statutes 2004, section 116C.57,
16 subdivision 2c, is amended to read:

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

31 Sec. 5. Minnesota Statutes 2004, section 116C.57, is
32 amended by adding a subdivision to read:

33 Subd. 9. [POLLUTION CONTROL AGENCY TO PROVIDE TECHNICAL
34 EXPERTISE AND OTHER ASSISTANCE.] The commissioner of the
35 Pollution Control Agency shall provide technical expertise and
36 other assistance to the commission for activities and

1 proceedings under this section, sections 116C.51 to 116C.697,
2 and chapter 116I. The commissioner shall periodically report to
3 the commission concerning the Pollution Control Agency's costs
4 of providing assistance. The report shall conform to the
5 schedule and include the required contents specified by the
6 commission. The commission shall include the costs of the
7 assistance in assessments for activities and proceedings under
8 those sections and reimburse the special revenue fund for those
9 costs.

10 Sec. 6. Minnesota Statutes 2004, section 116C.575,
11 subdivision 5, is amended to read:

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

23 Sec. 7. Minnesota Statutes 2004, section 116C.577, is
24 amended to read:

25 116C.577 [EMERGENCY PERMIT.]

26 (a) Any utility whose electric power system requires the
27 immediate construction of a large electric power generating
28 plant or high voltage transmission line due to a major
29 unforeseen event may apply to the board commission for an
30 emergency permit after-providing. The application shall provide
31 notice in writing to-the-Public-Utilities-Commission of the
32 major unforeseen event and the need for immediate construction.
33 The permit must be issued in a timely manner, no later than 195
34 days after the board's commission's acceptance of the
35 application and upon a finding by the board commission that (1)
36 a demonstrable emergency exists, (2) the emergency requires

1 immediate construction, and (3) adherence to the procedures and
 2 time schedules specified in section 116C.57 would jeopardize the
 3 utility's electric power system or would jeopardize the
 4 utility's ability to meet the electric needs of its customers in
 5 an orderly and timely manner.

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

10 Sec. 8. Minnesota Statutes 2004, section 116C.58, is
 11 amended to read:

12 116C.58 [ANNUAL HEARING.]

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

24 Sec. 9. Minnesota Statutes 2004, section 116C.69,
 25 subdivision 2, is amended to read:

26 Subd. 2. [SITE APPLICATION FEE.] Every applicant for a
 27 site permit shall pay to the board commission a fee in-an-amount
 28 ~~equal-to-\$500-for-each-\$1,000,000-of-production-plant-investment~~
 29 ~~in-the-proposed-installation-as-defined-in-the-Federal-Power~~
 30 ~~Commission-Uniform-System-of-Accounts.--The-board-shall-specify~~
 31 ~~the-time-and-manner-of-payment-of-the-fee.--If-any-single~~
 32 ~~payment-requested-by-the-board-is-in-excess-of-25-percent-of-the~~
 33 ~~total-estimated-fee,-the-board-shall-show-that-the-excess-is~~
 34 ~~reasonably-necessary.--The-applicant-shall-pay-within-30-days-of~~
 35 ~~notification-any-additional-fees-reasonably-necessary-for~~
 36 ~~completion-of-the-site-evaluation-and-designation-process-by-the~~

1 ~~board.---In-no-event-shall-the-total-fees-required-of-the~~
 2 ~~applicant-under-this-subdivision-exceed-an-amount-equal-to-0.001~~
 3 ~~of-said-production-plant-investment-(\$1,000-for-each~~
 4 ~~\$1,000,000)-~~ to cover the necessary and reasonable costs
 5 incurred by the commission in acting on the permit application
 6 and carrying out the requirements of sections 116C.51 to
 7 116C.69. The commission may adopt rules providing for the
 8 payment of the fee. All money received pursuant to this
 9 subdivision shall be deposited in a special account. Money in
 10 the account is appropriated to the board commission to pay
 11 expenses incurred in processing applications for site permits in
 12 accordance with sections 116C.51 to 116C.69 and in the event the
 13 expenses are less than the fee paid, to refund the excess to the
 14 applicant.

15 Sec. 10. Minnesota Statutes 2004, section 116C.69,
 16 subdivision 2a, is amended to read:

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

1 applications for route permits in accordance with sections
2 116C.51 to 116C.69 and in the event the expenses are less than
3 the fee paid, to refund the excess to the applicant.

4 Sec. 11. Minnesota Statutes 2004, section 216B.243,
5 subdivision 4, is amended to read:

6 Subd. 4. [APPLICATION FOR CERTIFICATE; HEARING.] Any
7 person proposing to construct a large energy facility shall
8 apply for a certificate of need ~~prior-to-applying~~ and for a site
9 or route permit under sections 116C.51 to 116C.69 or
10 construction of the facility. The application shall be on forms
11 and in a manner established by the commission. In reviewing
12 each application the commission shall hold at least one public
13 hearing pursuant to chapter 14. The public hearing shall be
14 held at a location and hour reasonably calculated to be
15 convenient for the public. An objective of the public hearing
16 shall be to obtain public opinion on the necessity of granting a
17 certificate of need and, if a joint hearing is held, a site or
18 route permit. The commission shall designate a commission
19 employee whose duty shall be to facilitate citizen participation
20 in the hearing process. ~~If~~ Unless the commission ~~and-the~~
21 ~~Environmental-Quality-Board-determine~~ determines that a joint
22 hearing on siting and need under this subdivision and section
23 116C.57, subdivision 2d, is not feasible, or more efficient, and
24 ~~may-further~~ or otherwise not in the public interest, a joint
25 hearing under those subdivisions ~~may~~ shall be held.

26 Sec. 12. Minnesota Statutes 2004, section 216B.243,
27 subdivision 5, is amended to read:

28 Subd. 5. [APPROVAL, DENIAL, OR MODIFICATION.] Within
29 ~~six~~ 12 months of the submission of an application, the
30 commission shall approve or deny a certificate of need for the
31 facility. Approval or denial of the certificate shall be
32 accompanied by a statement of the reasons for the decision.
33 Issuance of the certificate may be made contingent upon
34 modifications required by the commission.

35 Sec. 13. Minnesota Statutes 2004, section 216C.052, is
36 amended to read:

1 216C.052 [RELIABILITY ADMINISTRATOR.]

2 Subdivision 1. [RESPONSIBILITIES.] (a) There is
3 established the position of reliability administrator in the
4 ~~Department-of-Commerce~~ Public Utilities Commission. The
5 administrator shall act as a source of independent expertise and
6 a technical advisor to the commissioner, the commission, the
7 public, and the Legislative Electric Energy Task Force on issues
8 related to the reliability of the electric system. In
9 conducting its work, the administrator shall:

10 (1) model and monitor the use and operation of the energy
11 infrastructure in the state, including generation facilities,
12 transmission lines, natural gas pipelines, and other energy
13 infrastructure;

14 (2) develop and present to the commission and parties
15 technical analyses of proposed infrastructure projects, and
16 provide technical advice to the commission;

17 (3) present independent, factual, expert, and technical
18 information on infrastructure proposals and reliability issues
19 at public meetings hosted by the task force, the Environmental
20 Quality Board, the department, or the commission.

21 (b) Upon request and subject to resource constraints, the
22 administrator shall provide technical assistance regarding
23 matters unrelated to applications for infrastructure
24 improvements to the task force, the department, or the
25 commission.

26 (c) The administrator may not advocate for any particular
27 outcome in a commission proceeding, but may give technical
28 advice to the commission as to the impact on the reliability of
29 the energy system of a particular project or projects. The
30 administrator must not be considered a party or a participant in
31 any proceeding before the commission.

32 Subd. 2. [ADMINISTRATIVE ISSUES.] (a) The
33 ~~commissioner~~ commission may select the administrator who shall
34 serve for a four-year term. The administrator may not have been
35 a party or a participant in a commission energy proceeding for
36 at least one year prior to selection by the ~~commissioner~~

1 commission. The ~~commissioner~~ commission shall oversee and
2 direct the work of the administrator, annually review the
3 expenses of the administrator, and annually approve the budget
4 of the administrator. The administrator may hire staff and may
5 contract for technical expertise in performing duties when
6 existing state resources are required for other state
7 responsibilities or when special expertise is required. The
8 salary of the administrator is governed by section 15A.0815,
9 subdivision 2.

10 (b) Costs relating to a specific proceeding, analysis, or
11 project are not general administrative costs. For purposes of
12 this section, "energy utility" means public utilities,
13 generation and transmission cooperative electric associations,
14 and municipal power agencies providing natural gas or electric
15 service in the state.

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

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

27 (2) costs relating to a specific proceeding analysis or
28 project and shall render a bill to the specific energy utility
29 or utilities participating in the proceeding, analysis, or
30 project directly, either at the conclusion of a particular
31 proceeding, analysis, or project, or from time to time during
32 the course of the proceeding, analysis, or project.

33 (d) For purposes of administrative efficiency, the
34 ~~department~~ commission shall assess energy utilities and issue
35 bills in accordance with the billing and assessment procedures
36 provided in section 216B.62, to the extent that these procedures

1 do not conflict with this subdivision. The amount of the bills
2 rendered by the department commission under paragraph (c) must
3 be paid by the energy utility into an account in the special
4 revenue fund in the state treasury within 30 days from the date
5 of billing and is appropriated to the ~~commissioner~~ commission
6 for the purposes provided in this section. The commission shall
7 approve or approve as modified a rate schedule providing for the
8 automatic adjustment of charges to recover amounts paid by
9 utilities under this section. All amounts assessed under this
10 section are in addition to amounts appropriated to the
11 commission ~~and the department~~ by other law.

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

22 Subd. 4. [EXPIRATION.] This section expires June 30,
23 ~~2006~~ 2007.

24 Sec. 14. [TRANSFERRING POWER PLANT SITING
25 RESPONSIBILITIES.]

26 All responsibilities, as defined in Minnesota Statutes,
27 section 15.039, subdivision 1, held by the Environmental Quality
28 Board relating to power plant siting and routing under Minnesota
29 Statutes, sections 116C.51 to 116C.69; wind energy conversion
30 systems under Minnesota Statutes, sections 116C.691 to 116C.697;
31 pipelines under Minnesota Statutes, chapter 116I; and rules
32 associated with those sections are transferred to the Public
33 Utilities Commission under Minnesota Statutes, section 15.039,
34 except that the responsibilities of the Environmental Quality
35 Board under Minnesota Statutes, section 116C.83, subdivision 6,
36 and Minnesota Rules, parts 4400.1700, 4400.2750, and 4410.7010

1 to 4410.7070, are transferred to the commissioner of the
2 Pollution Control Agency.

3 Sec. 15. [TRANSFERRING RELIABILITY ADMINISTRATOR
4 RESPONSIBILITIES.]

5 All responsibilities, as defined in Minnesota Statutes
6 2004, section 15.039, subdivision 1, held by the Minnesota
7 Department of Commerce relating the reliability administrator
8 under Minnesota Statutes 2004, section 216C.052, are transferred
9 to the Minnesota Public Utilities Commission under Minnesota
10 Statutes 2004, section 15.039.

11 Sec. 16. [REVISOR'S INSTRUCTION.]

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

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

32 Sec. 17. [EFFECTIVE DATE.]

33 Sections 1 to 16 are effective July 1, 2005.

1 Senator moves to amend S.F. No. 1902 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 116C.52,
4 subdivision 2, is amended to read:

5 Subd. 2. [~~BOARD COMMISSION.~~] ~~"Board"-shall-mean-the~~
6 ~~Minnesota-Environmental-Quality-Board~~ "Commission" means the
7 Public Utilities Commission.

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

10 Subd. 4. [~~HIGH VOLTAGE TRANSMISSION LINE.~~] "High voltage
11 transmission line" means a conductor of electric energy and
12 associated facilities designed for and capable of operation at a
13 nominal voltage of 100 kilovolts or more and is greater than
14 1,500 feet in length.

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

17 Subd. 2. [~~JURISDICTION.~~] The ~~board~~ commission is hereby
18 given the authority to provide for site and route selection for
19 large electric power facilities. The ~~board~~ commission shall
20 issue permits for large electric power facilities in a timely
21 fashion:~~---When-the-Public-Utilities-Commission-has-determined~~
22 ~~the~~ and in a manner consistent with the overall determination of
23 need for the project under section 216B.243 or 216B.24257.
24 Questions of need, including size, type, and timing; alternative
25 system configurations; and voltage ~~are-not-within-the-board's~~
26 ~~siting-and-routing-authority-and~~ must not be included in the
27 scope of environmental review conducted under sections 116C.51
28 to 116C.69.

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

31 Subdivision 1. [~~SITE PERMIT.~~] No person may construct a
32 large electric generating plant without a site permit from the
33 ~~board~~ commission. A large electric generating plant may be
34 constructed only on a site approved by the ~~board~~ commission.
35 The ~~board~~ commission must incorporate into one proceeding the
36 route selection for a high voltage transmission line that is

1 directly associated with and necessary to interconnect the large
2 electric generating plant to the transmission system and whose
3 need is certified ~~as part of the generating plant project by the~~
4 Public Utilities Commission under section 216B.243.

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

7 Subd. 2c. [ENVIRONMENTAL REVIEW.] ~~The board commissioner~~
8 of the Department of Commerce shall prepare for the commission
9 an environmental impact statement on each proposed large
10 electric generating plant or high voltage transmission line for
11 which a complete application has been submitted. ~~For any~~
12 ~~project that has obtained a certificate of need from the Public~~
13 ~~Utilities Commission, the board~~ The commissioner shall not
14 consider whether or not the project is needed. No other state
15 environmental review documents shall be required. ~~The board~~
16 commissioner shall study and evaluate any site or route proposed
17 by an applicant and any other site or route ~~the board~~ commission
18 deems necessary that was proposed in a manner consistent with
19 ~~rules adopted by the board~~ concerning the form, content, and
20 timeliness of proposals for alternate sites or routes.

21 Sec. 6. Minnesota Statutes 2004, section 116C.57, is
22 amended by adding a subdivision to read:

23 Subd. 9. [DEPARTMENT OF COMMERCE TO PROVIDE TECHNICAL
24 EXPERTISE AND OTHER ASSISTANCE.] The commissioner of the
25 Department of Commerce shall provide technical expertise and
26 other assistance to the commission for activities and
27 proceedings under this section, sections 116C.51 to 116C.697,
28 and chapter 116I. The commissioner shall periodically report to
29 the commission concerning the Department of Commerce's costs of
30 providing assistance. The report shall conform to the schedule
31 and include the required contents specified by the commission.
32 The commission shall include the costs of the assistance in
33 assessments for activities and proceedings under those sections
34 and reimburse the special revenue fund for those costs.

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

1 Subd. 5. [ENVIRONMENTAL REVIEW.] For the projects
2 identified in subdivision 2 and following these procedures, the
3 ~~board~~ commissioner of the Department of Commerce shall prepare
4 for the commission an environmental assessment. The
5 environmental assessment shall contain information on the human
6 and environmental impacts of the proposed project and other
7 sites or routes identified by the ~~board~~ commission and shall
8 address mitigating measures for all of the sites or routes
9 considered. The environmental assessment shall be the only
10 state environmental review document required to be prepared on
11 the project.

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

14 116C.577 [EMERGENCY PERMIT.]

15 (a) Any utility whose electric power system requires the
16 immediate construction of a large electric power generating
17 plant or high voltage transmission line due to a major
18 unforeseen event may apply to the ~~board~~ commission for an
19 emergency permit ~~after-providing.~~ The application shall provide
20 notice in writing ~~to the Public Utilities Commission~~ of the
21 major unforeseen event and the need for immediate construction.
22 The permit must be issued in a timely manner, no later than 195
23 days after the ~~board's~~ commission's acceptance of the
24 application and upon a finding by the ~~board~~ commission that (1)
25 a demonstrable emergency exists, (2) the emergency requires
26 immediate construction, and (3) adherence to the procedures and
27 time schedules specified in section 116C.57 would jeopardize the
28 utility's electric power system or would jeopardize the
29 utility's ability to meet the electric needs of its customers in
30 an orderly and timely manner.

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

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

1 116C.58 [ANNUAL HEARING.]

2 The board commission shall hold an annual public hearing at
3 a time and place prescribed by rule in order to afford
4 interested persons an opportunity to be heard regarding any
5 matters relating to the siting of large electric generating
6 power plants and routing of high voltage transmission lines. At
7 the meeting, the board commission shall advise the public of the
8 permits issued by the board commission in the past year.

9 The board commission shall provide at least ten days but no more
10 than 45 days' notice of the annual meeting by mailing notice to
11 those persons who have requested notice and by publication in
12 the EQB Monitor and the commission's weekly calendar.

13 Sec. 10. Minnesota Statutes 2004, section 116C.69,
14 subdivision 2, is amended to read:

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

1 applications for site permits in accordance with sections
2 116C.51 to 116C.69 and in the event the expenses are less than
3 the fee paid, to refund the excess to the applicant.

4 Sec. 11. Minnesota Statutes 2004, section 116C.69,
5 subdivision 2a, is amended to read:

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

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

32 Subd. 4. [APPLICATION FOR CERTIFICATE; HEARING.] Any
33 person proposing to construct a large energy facility shall
34 apply for a certificate of need ~~prior-to-applying~~ and for a site
35 or route permit under sections 116C.51 to 116C.69 ~~or~~ prior to
36 construction of the facility. The application shall be on forms

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

16 Sec. 13. Minnesota Statutes 2004, section 216B.243,
17 subdivision 5, is amended to read:

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

30 Sec. 14. Minnesota Statutes 2004, section 216C.052, is
31 amended to read:

32 216C.052 [RELIABILITY ADMINISTRATOR.]

33 Subdivision 1. [RESPONSIBILITIES.] (a) There is
34 established the position of reliability administrator in the
35 ~~Department-of-Commerce~~ Public Utilities Commission. The
36 administrator shall act as a source of independent expertise and

1 a technical advisor to ~~the commissioner~~, the commission, and the
2 public, ~~and the Legislative Electric Energy Task Force~~ on issues
3 related to the reliability of the electric system. In
4 conducting its work, the administrator shall provide assistance
5 to the commission in administering and implementing the
6 commission's duties under sections 116C.51 to 116C.69; sections
7 116C.691 to 116C.697; 216B.2422; 216B.2425; 216B.243; chapter
8 116I; and rules associated with those sections. Subject to
9 resource constraints, the reliability administrator may also:

10 (1) model and monitor the use and operation of the energy
11 infrastructure in the state, including generation facilities,
12 transmission lines, natural gas pipelines, and other energy
13 infrastructure;

14 (2) develop and present to the commission and parties
15 technical analyses of proposed infrastructure projects, and
16 provide technical advice to the commission;

17 (3) present independent, factual, expert, and technical
18 information on infrastructure proposals and reliability issues
19 at public meetings hosted by the task force, the Environmental
20 Quality Board, the department, or the commission.

21 (b) Upon request and subject to resource constraints, the
22 administrator shall provide technical assistance regarding
23 matters unrelated to applications for infrastructure
24 improvements to the task force, the department, or the
25 commission.

26 (c) The administrator may not advocate for any particular
27 outcome in a commission proceeding, but may give technical
28 advice to the commission as to the impact on the reliability of
29 the energy system of a particular project or projects. The
30 ~~administrator must not be considered a party or a participant in~~
31 ~~any proceeding before the commission.~~

32 Subd. 2. [ADMINISTRATIVE ISSUES.] (a) The ~~commissioner~~
33 commission may select the administrator who shall serve for a
34 four-year term. The administrator may not have been a party or
35 a participant in a commission energy proceeding for at least one
36 year prior to selection by the ~~commissioner~~ commission.

1 The ~~commissioner~~ commission shall oversee and direct the work of
2 the administrator, annually review the expenses of the
3 administrator, and annually approve the budget of the
4 administrator. Pursuant to commission approval, the
5 administrator may hire staff and may contract for technical
6 expertise in performing duties when existing state resources are
7 required for other state responsibilities or when special
8 expertise is required. The salary of the administrator is
9 governed by section 15A.0815, subdivision 2.

10 (b) Costs relating to a specific proceeding, analysis, or
11 project are not general administrative costs. For purposes of
12 this section, "energy utility" means public utilities,
13 generation and transmission cooperative electric associations,
14 and municipal power agencies providing natural gas or electric
15 service in the state.

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

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

27 (2) costs relating to a specific proceeding analysis or
28 project and shall render a bill to the specific energy utility
29 or utilities participating in the proceeding, analysis, or
30 project directly, either at the conclusion of a particular
31 proceeding, analysis, or project, or from time to time during
32 the course of the proceeding, analysis, or project.

33 (d) For purposes of administrative efficiency, the
34 ~~department~~ commission shall assess energy utilities and issue
35 bills in accordance with the billing and assessment procedures
36 provided in section 216B.62, to the extent that these procedures

1 do not conflict with this subdivision. The amount of the bills
2 rendered by the ~~department~~ commission under paragraph (c) must
3 be paid by the energy utility into an account in the special
4 revenue fund in the state treasury within 30 days from the date
5 of billing and is appropriated to the ~~commissioner~~ commission
6 for the purposes provided in this section. The commission shall
7 approve or approve as modified a rate schedule providing for the
8 automatic adjustment of charges to recover amounts paid by
9 utilities under this section. All amounts assessed under this
10 section are in addition to amounts appropriated to the
11 commission ~~and the department~~ by other law.

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

22 Subd. 4. [EXPIRATION.] This section expires June 30,
23 ~~2006~~ 2007.

24 Sec. 15. [TRANSFERRING POWER PLANT SITING
25 RESPONSIBILITIES.]

26 All responsibilities, as defined in Minnesota Statutes,
27 section 15.039, subdivision 1, held by the Environmental Quality
28 Board relating to power plant siting and routing under Minnesota
29 Statutes, sections 116C.51 to 116C.69; wind energy conversion
30 systems under Minnesota Statutes, sections 116C.691 to 116C.697;
31 pipelines under Minnesota Statutes, chapter 116I; and rules
32 associated with those sections are transferred to the Public
33 Utilities Commission under Minnesota Statutes, section 15.039,
34 except that the responsibilities of the Environmental Quality
35 Board under Minnesota Statutes, section 116C.83, subdivision 6,
36 and Minnesota Rules, parts 4400.1700, 4400.2750, and 4410.7010

1 to 4410.7070, are transferred to the commissioner of the
2 Department of Commerce. The power plan siting staff of the
3 Environmental Quality Board are transferred to the Department of
4 Commerce. The department's budget shall be adjusted to reflect
5 the transfer.

6 Sec. 16. [TRANSFERRING RELIABILITY ADMINISTRATOR
7 RESPONSIBILITIES.]

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

14 Sec. 17. [REVISOR'S INSTRUCTION.]

15 (a) The revisor of statutes shall change the words
16 "Environmental Quality Board," "board," "chair of the board,"
17 "chair," "board's," and similar terms, when they refer to the
18 Environmental Quality Board or chair of the Environmental
19 Quality Board, to the term "Public Utilities Commission,"
20 "commission," or "commission's," as appropriate, where they
21 appear in Minnesota Statutes, sections 13.741, subdivision 3,
22 116C.51 to 116C.697, and chapter 116I. The revisor shall also
23 make those changes in Minnesota Rules, chapters 4400, 4401, and
24 4415, except as specified in paragraph (b).

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

34 Sec. 18. [EFFECTIVE DATE.]

35 Sections 1 to 16 are effective July 1, 2005."

36 Delete the title and insert:

1 "A bill for an act relating to public utilities;
2 transferring power plant siting and routing, wind energy
3 conversion system, and pipeline authority from the Environmental
4 Quality Board to the Public Utilities Commission; transferring
5 certain environmental review duties to the Department of
6 Commerce; transferring the reliability administrator to the
7 Public Utilities Commission; amending Minnesota Statutes 2004,
8 sections 116C.52, subdivisions 2, 4; 116C.53, subdivision 2;
9 116C.57, subdivisions 1, 2c, by adding a subdivision; 116C.575,
10 subdivision 5; 116C.577; 116C.58; 116C.69, subdivisions 2, 2a;
11 216B.243, subdivisions 4, 5; 216C.052."

1 Senator Anderson from the Committee on Jobs, Energy and
2 Community Development, to which was referred

3 S.F. No. 1902: A bill for an act relating to public
4 utilities; transferring power plant siting and routing, wind
5 energy conversion system, and pipeline authority from the
6 Environmental Quality Board to the Public Utilities Commission;
7 amending Minnesota Statutes 2004, sections 116C.52, subdivision
8 2; 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c, by
9 adding a subdivision; 116C.575, subdivision 5; 116C.577;
10 116C.58; 116C.69, subdivisions 2, 2a; 216B.243, subdivisions 4,
11 5; 216C.052.

12 Reports the same back with the recommendation that the bill
13 be amended as follows:

14 Delete everything after the enacting clause and insert:

15 "Section 1. Minnesota Statutes 2004, section 116C.52,
16 subdivision 2, is amended to read:

17 Subd. 2. [~~BOARD COMMISSION.~~] "~~Board~~"-~~shall-mean-the~~
18 ~~Minnesota-Environmental-Quality-Board~~ "Commission" means the
19 Public Utilities Commission.

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

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

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

29 Subd. 2. [~~JURISDICTION.~~] The ~~board~~ commission is hereby
30 given the authority to provide for site and route selection for
31 large electric power facilities. The ~~board~~ commission shall
32 issue permits for large electric power facilities in a timely
33 fashion:~~---When-the-Public-Utilities-Commission-has-determined~~
34 the and in a manner consistent with the overall determination of
35 need for the project under section 216B.243 or 216B.24257.
36 Questions of need, including size, type, and timing; alternative
37 system configurations; and voltage ~~are-not-within-the-board's~~
38 ~~siting-and-routing-authority-and~~ must not be included in the
39 scope of environmental review conducted under sections 116C.51
40 to 116C.69.

41 Sec. 4. Minnesota Statutes 2004, section 116C.57,

1 subdivision 1, is amended to read:

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

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

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

28 Sec. 6. Minnesota Statutes 2004, section 116C.57, is
29 amended by adding a subdivision to read:

30 Subd. 9. [DEPARTMENT OF COMMERCE TO PROVIDE TECHNICAL
31 EXPERTISE AND OTHER ASSISTANCE.] The commissioner of the
32 Department of Commerce shall consult with other state agencies
33 and provide technical expertise and other assistance to the
34 commission for activities and proceedings under this section,
35 sections 116C.51 to 116C.697, and chapter 116I. The
36 commissioner shall periodically report to the commission

1 concerning the Department of Commerce's costs of providing
2 assistance. The report shall conform to the schedule and
3 include the required contents specified by the commission. The
4 commission shall include the costs of the assistance in
5 assessments for activities and proceedings under those sections
6 and reimburse the special revenue fund for those costs.

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

9 Subd. 5. [ENVIRONMENTAL REVIEW.] For the projects
10 identified in subdivision 2 and following these procedures, the
11 board commissioner of the Department of Commerce shall prepare
12 for the commission an environmental assessment. The
13 environmental assessment shall contain information on the human
14 and environmental impacts of the proposed project and other
15 sites or routes identified by the board commission and shall
16 address mitigating measures for all of the sites or routes
17 considered. The environmental assessment shall be the only
18 state environmental review document required to be prepared on
19 the project.

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

22 116C.577 [EMERGENCY PERMIT.]

23 (a) Any utility whose electric power system requires the
24 immediate construction of a large electric power generating
25 plant or high voltage transmission line due to a major
26 unforeseen event may apply to the board commission for an
27 emergency permit after-providing. The application shall provide
28 notice in writing to-the-Public-Utilities-Commission of the
29 major unforeseen event and the need for immediate construction.
30 The permit must be issued in a timely manner, no later than 195
31 days after the board's commission's acceptance of the
32 application and upon a finding by the board commission that (1)
33 a demonstrable emergency exists, (2) the emergency requires
34 immediate construction, and (3) adherence to the procedures and
35 time schedules specified in section 116C.57 would jeopardize the
36 utility's electric power system or would jeopardize the

1 utility's ability to meet the electric needs of its customers in
2 an orderly and timely manner.

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

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

9 116C.58 [ANNUAL HEARING.]

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

21 Sec. 10. Minnesota Statutes 2004, section 116C.69,
22 subdivision 2, is amended to read:

23 Subd. 2. [SITE APPLICATION FEE.] Every applicant for a
24 site permit shall pay to the board commission a fee in-an-amount
25 ~~equal-to-\$500-for-each-\$1,000,000-of-production-plant-investment~~
26 ~~in-the-proposed-installation-as-defined-in-the-Federal-Power~~
27 ~~Commission-Uniform-System-of-Accounts.--The-board-shall-specify~~
28 ~~the-time-and-manner-of-payment-of-the-fee.--If-any-single~~
29 ~~payment-requested-by-the-board-is-in-excess-of-25-percent-of-the~~
30 ~~total-estimated-fee,--the-board-shall-show-that-the-excess-is~~
31 ~~reasonably-necessary.--The-applicant-shall-pay-within-30-days-of~~
32 ~~notification-any-additional-fees-reasonably-necessary-for~~
33 ~~completion-of-the-site-evaluation-and-designation-process-by-the~~
34 ~~board.--In-no-event-shall-the-total-fees-required-of-the~~
35 ~~applicant-under-this-subdivision-exceed-an-amount-equal-to-0.001~~
36 ~~of-said-production-plant-investment-(\$1,000-for-each-\$1,000,000)~~

1 to cover the necessary and reasonable costs incurred by the
2 commission in acting on the permit application and carrying out
3 the requirements of sections 116C.51 to 116C.69. The commission
4 may adopt rules providing for the payment of the fee. Section
5 16A.1283 does not apply to establishment of this fee. All money
6 received pursuant to this subdivision shall be deposited in a
7 special account. Money in the account is appropriated to
8 the ~~board~~ commission to pay expenses incurred in processing
9 applications for site permits in accordance with sections
10 116C.51 to 116C.69 and in the event the expenses are less than
11 the fee paid, to refund the excess to the applicant.

12 Sec. 11. Minnesota Statutes 2004, section 116C.69,
13 subdivision 2a, is amended to read:

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

1 the applicant.

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

4 Subd. 4. [APPLICATION FOR CERTIFICATE; HEARING.] Any
5 person proposing to construct a large energy facility shall
6 apply for a certificate of need ~~prior-to-applying~~ and for a site
7 or route permit under sections 116C.51 to 116C.69 ~~or prior to~~
8 construction of the facility. The application shall be on forms
9 and in a manner established by the commission. In reviewing
10 each application the commission shall hold at least one public
11 hearing pursuant to chapter 14. The public hearing shall be
12 held at a location and hour reasonably calculated to be
13 convenient for the public. An objective of the public hearing
14 shall be to obtain public opinion on the necessity of granting a
15 certificate of need and, if a joint hearing is held, a site or
16 route permit. The commission shall designate a commission
17 employee whose duty shall be to facilitate citizen participation
18 in the hearing process. ~~If~~ Unless the commission ~~and-the~~
19 ~~Environmental-Quality-Board-determine~~ determines that a joint
20 hearing on siting and need under this subdivision and section
21 116C.57, subdivision 2d, is not feasible, or more efficient, and
22 ~~may-further~~ or otherwise not in the public interest, a joint
23 hearing under those subdivisions ~~may~~ shall be held.

24 Sec. 13. Minnesota Statutes 2004, section 216B.243,
25 subdivision 5, is amended to read:

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

1 justification for extension.

2 Sec. 14. Minnesota Statutes 2004, section 216C.052, is
3 amended to read:

4 216C.052 [RELIABILITY ADMINISTRATOR.]

5 Subdivision 1. [RESPONSIBILITIES.] (a) There is
6 established the position of reliability administrator in the
7 ~~Department-of-Commerce~~ Public Utilities Commission. The
8 administrator shall act as a source of independent expertise and
9 a technical advisor to ~~the-commissioner,~~ the commission, and the
10 ~~public,-and-the-Legislative-Electric-Energy-Task-Force~~ on issues
11 related to the reliability of the electric system. In
12 conducting its work, the administrator shall provide assistance
13 to the commission in administering and implementing the
14 commission's duties under sections 116C.51 to 116C.69; 116C.691
15 to 116C.697; 216B.2422; 216B.2425; 216B.243; chapter 116I; and
16 rules associated with those sections. Subject to resource
17 constraints, the reliability administrator may also:

18 (1) model and monitor the use and operation of the energy
19 infrastructure in the state, including generation facilities,
20 transmission lines, natural gas pipelines, and other energy
21 infrastructure;

22 (2) develop and present to the commission and parties
23 technical analyses of proposed infrastructure projects, and
24 provide technical advice to the commission;

25 (3) present independent, factual, expert, and technical
26 information on infrastructure proposals and reliability issues
27 at public meetings hosted by the task force, the Environmental
28 Quality Board, the department, or the commission.

29 (b) Upon request and subject to resource constraints, the
30 administrator shall provide technical assistance regarding
31 matters unrelated to applications for infrastructure
32 improvements to the task force, the department, or the
33 commission.

34 (c) The administrator may not advocate for any particular
35 outcome in a commission proceeding, but may give technical
36 advice to the commission as to the impact on the reliability of

1 the energy system of a particular project or projects. The
2 ~~administrator-must-not-be-considered-a-party-or-a-participant-in~~
3 ~~any-proceeding-before-the-commission.~~

4 Subd. 2. [ADMINISTRATIVE ISSUES.] (a) The ~~commissioner~~
5 commission may select the administrator who shall serve for a
6 four-year term. The administrator may not have been a party or
7 a participant in a commission energy proceeding for at least one
8 year prior to selection by the ~~commissioner~~ commission.
9 The ~~commissioner~~ commission shall oversee and direct the work of
10 the administrator, annually review the expenses of the
11 administrator, and annually approve the budget of the
12 administrator. Pursuant to commission approval, the
13 administrator may hire staff and may contract for technical
14 expertise in performing duties when existing state resources are
15 required for other state responsibilities or when special
16 expertise is required. The salary of the administrator is
17 governed by section 15A.0815, subdivision 2.

18 (b) Costs relating to a specific proceeding, analysis, or
19 project are not general administrative costs. For purposes of
20 this section, "energy utility" means public utilities,
21 generation and transmission cooperative electric associations,
22 and municipal power agencies providing natural gas or electric
23 service in the state.

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

25 (1) the general administrative costs of the administrator,
26 not to exceed \$1,000,000 in a fiscal year, and shall assess
27 energy utilities for those administrative costs. These costs
28 must be consistent with the budget approved by the ~~commissioner~~
29 commission under paragraph (a). The ~~department~~ commission shall
30 apportion the costs among all energy utilities in proportion to
31 their respective gross operating revenues from sales of gas or
32 electric service within the state during the last calendar year,
33 and shall then render a bill to each utility on a regular basis;
34 and

35 (2) costs relating to a specific proceeding analysis or
36 project and shall render a bill to the specific energy utility

1 or utilities participating in the proceeding, analysis, or
2 project directly, either at the conclusion of a particular
3 proceeding, analysis, or project, or from time to time during
4 the course of the proceeding, analysis, or project.

5 (d) For purposes of administrative efficiency, the
6 department commission shall assess energy utilities and issue
7 bills in accordance with the billing and assessment procedures
8 provided in section 216B.62, to the extent that these procedures
9 do not conflict with this subdivision. The amount of the bills
10 rendered by the department commission under paragraph (c) must
11 be paid by the energy utility into an account in the special
12 revenue fund in the state treasury within 30 days from the date
13 of billing and is appropriated to the ~~commissioner~~ commission
14 for the purposes provided in this section. The commission shall
15 approve or approve as modified a rate schedule providing for the
16 automatic adjustment of charges to recover amounts paid by
17 utilities under this section. All amounts assessed under this
18 section are in addition to amounts appropriated to the
19 ~~commission and the department~~ by other law.

20 Subd. 3. [ASSESSMENT AND APPROPRIATION.] In addition to
21 the amount noted in subdivision 2, the ~~commissioner~~ commission
22 may assess utilities, using the mechanism specified in that
23 subdivision, up to an additional \$500,000 annually through June
24 30, 2006. The amounts assessed under this subdivision are
25 appropriated to the ~~commissioner~~ commission, and some or all of
26 the amounts assessed may be transferred to the commissioner of
27 administration, for the purposes specified in section 16B.325
28 and Laws 2001, chapter 212, article 1, section 3, as needed to
29 implement those sections.

30 Subd. 4. [EXPIRATION.] This section expires June 30,
31 ~~2006~~ 2007.

32 Sec. 15. [TRANSFERRING POWER PLANT SITING
33 RESPONSIBILITIES.]

34 All responsibilities, as defined in Minnesota Statutes,
35 section 15.039, subdivision 1, held by the Environmental Quality
36 Board relating to power plant siting and routing under Minnesota

1 Statutes, sections 116C.51 to 116C.69; wind energy conversion
2 systems under Minnesota Statutes, sections 116C.691 to 116C.697;
3 pipelines under Minnesota Statutes, chapter 116I; and rules
4 associated with those sections are transferred to the Public
5 Utilities Commission under Minnesota Statutes, section 15.039,
6 except that the responsibilities of the Environmental Quality
7 Board under Minnesota Statutes, section 116C.83, subdivision 6,
8 and Minnesota Rules, parts 4400.1700, 4400.2750, and 4410.7010
9 to 4410.7070, are transferred to the commissioner of the
10 Department of Commerce. The power plan siting staff of the
11 Environmental Quality Board are transferred to the Department of
12 Commerce. The department's budget shall be adjusted to reflect
13 the transfer.

14 Sec. 16. [TRANSFERRING RELIABILITY ADMINISTRATOR
15 RESPONSIBILITIES.]

16 All responsibilities, as defined in Minnesota Statutes
17 2004, section 15.039, subdivision 1, held by the Minnesota
18 Department of Commerce relating to the reliability administrator
19 under Minnesota Statutes, section 216C.052, are transferred to
20 the Minnesota Public Utilities Commission under Minnesota
21 Statutes, section 15.039.

22 Sec. 17. [REVISOR'S INSTRUCTION.]

23 (a) The revisor of statutes shall change the words
24 "Environmental Quality Board," "board," "chair of the board,"
25 "chair," "board's," and similar terms, when they refer to the
26 Environmental Quality Board or chair of the Environmental
27 Quality Board, to the term "Public Utilities Commission,"
28 "commission," or "commission's," as appropriate, where they
29 appear in Minnesota Statutes, sections 13.741, subdivision 3,
30 116C.51 to 116C.697, and chapter 116I. The revisor shall also
31 make those changes in Minnesota Rules, chapters 4400, 4401, and
32 4415, except as specified in paragraph (b).

33 (b) The revisor of statutes shall change the words
34 "Environmental Quality Board," "board," "chair of the board,"
35 "chair," "board's," and similar terms, when they refer to the
36 Environmental Quality Board or chair of the Environmental

1 Quality Board, to the term "commissioner of the Department of
 2 Commerce," "commissioner," or "commissioner's," as appropriate,
 3 where they appear in Minnesota Statutes, section 116C.83,
 4 subdivision 6; and Minnesota Rules, parts 4400.1700, subparts 1
 5 to 9, 11, and 12; 4400.2750; and 4410.7010 to 4410.7070.

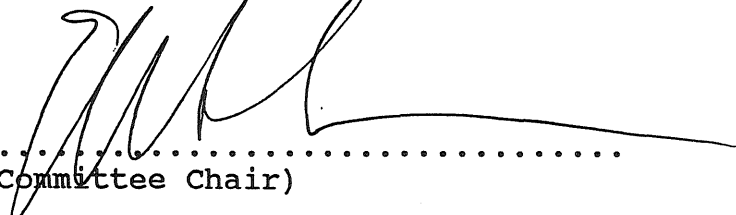
6 Sec. 18. [EFFECTIVE DATE.]

7 Sections 1 to 16 are effective July 1, 2005."

8 Delete the title and insert:

9 "A bill for an act relating to public utilities;
 10 transferring power plant siting and routing, wind energy
 11 conversion system, and pipeline authority from the Environmental
 12 Quality Board to the Public Utilities Commission; transferring
 13 certain environmental review duties to the Department of
 14 Commerce; transferring the reliability administrator to the
 15 Public Utilities Commission; amending Minnesota Statutes 2004,
 16 sections 116C.52, subdivisions 2, 4; 116C.53, subdivision 2;
 17 116C.57, subdivisions 1, 2c, by adding a subdivision; 116C.575,
 18 subdivision 5; 116C.577; 116C.58; 116C.69, subdivisions 2, 2a;
 19 216B.243, subdivisions 4, 5; 216C.052."

20 And when so amended the bill do pass and be re-referred to
 21 the Committee on Environment and Natural Resources. Amendments
 22 adopted. Report adopted.

23
 24 
 25
 26 (Committee Chair)

27 April 8, 2005.....
 28 (Date of Committee recommendation)