

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 2007 - Excavation Notice Violation Penalties

Author: Senator Thomas M. Neuville

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890) *MS*

Date: April 8, 2005

The bill amends the penalty section of the excavation notice system law. Current law provides for penalties to be imposed by the Commissioner of Public Safety under the Administrative Procedures Act. The bill allows the district court to try penalty proceedings without a jury, and clarifies that the Commissioner still has the option to use the contested case process in current law or to go to district court.

MSG:cs

Senator Neuville introduced--

S.F. No. 2007: Referred to the Committee on Jobs, Energy and Community Development.

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A bill for an act

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relating to public utilities; authorizing district
3 court to hear appeals of lesser utility fines;
4 amending Minnesota Statutes 2004, section 216D.08,
5 subdivision 1.

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

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Section 1. Minnesota Statutes 2004, section 216D.08,

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subdivision 1, is amended to read:

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Subdivision 1. [~~PENALTY~~ PENALTIES.] (a) A person who is

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engaged in excavation for remuneration or an operator other than

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an operator subject to section 299F.59, subdivision 1, who

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violates sections 216D.01 to 216D.07 is subject to a civil

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penalty to be imposed by the commissioner not to exceed \$1,000

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for each violation per day of violation. The district court may

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hear, try, and determine actions commenced under this section.

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Trials under this section must be to the court sitting without a

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jury.

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(b) An operator subject to section 299F.59, subdivision 1,

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who violates sections 216D.01 to 216D.07 is subject to a civil

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penalty to be imposed under section 299F.60.

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

3 S.F. No. 2007: A bill for an act relating to public
4 utilities; authorizing district court to hear appeals of lesser
5 utility fines; amending Minnesota Statutes 2004, section
6 216D.08, subdivision 1.

7 Reports the same back with the recommendation that the bill
8 do pass and be re-referred to the Committee on Judiciary.
9 Report adopted.

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(Committee Chair)
April 11, 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. 2091: A bill for an act relating to taxation;
 6 property; providing that certain personal property of an
 7 electric generation facility is exempt; amending Minnesota
 8 Statutes 2004, section 272.02, by adding a subdivision.

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

11 Page 1, line 21, delete "one mile" and insert "two miles"

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

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 15 (Subcommittee Chair)

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 17 April 8, 2005.....
 18 (Date of Subcommittee action)

Senator Day introduced--

S.F. No. 2091: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to taxation; property; providing that certain
3 personal property of an electric generation facility
4 is exempt; amending Minnesota Statutes 2004, section
5 272.02, by adding a subdivision.

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

7 Section 1. Minnesota Statutes 2004, section 272.02, is
8 amended by adding a subdivision to read:

9 Subd. 68. [ELECTRIC GENERATION FACILITY PERSONAL
10 PROPERTY.] (a) Notwithstanding subdivision 9, clause (a),
11 attached machinery and other personal property which is part of
12 either a simple-cycle, combustion-turbine electric generation
13 facility, or a combined-cycle, combustion-turbine electric
14 generation facility that does not exceed 325 megawatts of
15 installed capacity and that meets the requirements of this
16 subdivision is exempt. At the time of construction, the
17 facility must:

18 (1) utilize either a simple-cycle or a combined-cycle
19 combustion-turbine generator fueled by natural gas;

20 (2) be connected to an existing 115-kilovolt high-voltage
21 electric transmission line that is within one mile of the
22 facility;

23 (3) be located on an underground natural gas storage
24 aquifer;

25 (4) be designed as either a peaking or intermediate load

1 facility; and

2 (5) have received, by resolution, the approval from the
3 governing body of the county for the exemption of personal
4 property under this subdivision.

5 (b) Construction of the facility must be commenced after
6 January 1, 2006, and before January 1, 2008. Property eligible
7 for this exemption does not include electric transmission lines
8 and interconnections or gas pipelines and interconnections
9 appurtenant to the property or the facility.

10 [EFFECTIVE DATE.] This section is effective for assessment
11 year 2005, taxes payable in 2006, and thereafter.

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

3 S.F. No. 2091: A bill for an act relating to taxation;
4 property; providing that certain personal property of an
5 electric generation facility is exempt; amending Minnesota
6 Statutes 2004, section 272.02, by adding a subdivision.

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

9 Page 1, line 21, delete "one mile" and insert "two miles"

10 And when so amended the bill do pass and be re-referred to
11 the Committee on Taxes. Amendments adopted. Report adopted.

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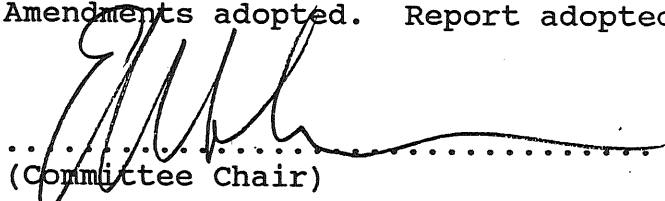
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(Committee Chair)

April 11, 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. 2163: A bill for an act relating to taxation;
 6 providing a personal property tax exemption and a sales tax
 7 exemption for construction materials used for an electric
 8 generating facility; amending Minnesota Statutes 2004, sections
 9 272.02, subdivision 53; 297A.71, by adding a subdivision.

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

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 (Subcommittee Chair)

April 8, 2005.....
 (Date of Subcommittee action)

Senator Pogemiller introduced--

S.F. No. 2163: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

relating to taxation; providing a personal property tax exemption and a sales tax exemption for construction materials used for an electric generating facility; amending Minnesota Statutes 2004, sections 272.02, subdivision 53; 297A.71, by adding a subdivision.

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

Section 1. Minnesota Statutes 2004, section 272.02, subdivision 53, is amended to read:

Subd. 53. [ELECTRIC GENERATION FACILITY; PERSONAL PROPERTY.] Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a 3.2 megawatt run-of-the-river hydroelectric generation facility and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) utilize two turbine generators at a dam site existing on March 31, 1994;

(2) be located on publicly-owned land and within 1,500 feet of a 13.8 kilovolt distribution substation; and

(3) be eligible to receive a renewable energy production incentive payment under section 216C.41.

Construction of the facility must be commenced after ~~January 17, 2002~~ December 31, 2004, and before January 1, 2005 2007. Property eligible for this exemption does not include electric transmission lines and interconnections or gas

1 pipelines and interconnections appurtenant to the property or
2 the facility.

3 [EFFECTIVE DATE.] This section is effective for sales after
4 June 30, 2005.

5 Sec. 2. Minnesota Statutes 2004, section 297A.71, is
6 amended by adding a subdivision to read:

7 Subd. 33. [HYDROELECTRIC GENERATING FACILITY.] Materials
8 and supplies used or consumed in the construction of a
9 hydroelectric generating facility that meets the requirements of
10 this subdivision are exempt. To qualify for the exemption under
11 this subdivision, a hydroelectric generating facility must:

12 (1) utilize two turbine generators at a dam site existing
13 on March 31, 1994;

14 (2) be located on land within 2,500 feet of a 13.8 kilovolt
15 distribution circuit; and

16 (3) be eligible to receive a renewable energy production
17 incentive payment under section 216C.41.

18 [EFFECTIVE DATE.] This section is effective for sales made
19 after December 31, 2004, and on or before December 31, 2007.

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

3 S.F. No. 2163: A bill for an act relating to taxation;
4 providing a personal property tax exemption and a sales tax
5 exemption for construction materials used for an electric
6 generating facility; amending Minnesota Statutes 2004, sections
7 272.02, subdivision 53; 297A.71, by adding a subdivision.

8 Reports the same back with the recommendation that the bill
9 do pass and be re-referred to the Committee on Taxes. Report
10 adopted.

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(Committee Chair)

April 11, 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. 2166: A bill for an act relating to taxation;
 6 property; clarifying the market value exclusion for electric
 7 power generation efficiency; amending Minnesota Statutes 2004,
 8 section 272.0211, subdivisions 1, 2.

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

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 (Subcommittee Chair)

April 8, 2005.....
 (Date of Subcommittee action)

Senators Anderson and Belanger introduced--

S.F. No. 2166: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to taxation; property; clarifying the market
3 value exclusion for electric power generation
4 efficiency; amending Minnesota Statutes 2004, section
5 272.0211, subdivisions 1, 2.

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

7 Section 1. Minnesota Statutes 2004, section 272.0211,
8 subdivision 1, is amended to read:

9 Subdivision 1. [EFFICIENCY DETERMINATION AND

10 CERTIFICATION.] An owner or operator of a new or existing
11 electric power generation facility, excluding wind energy
12 conversion systems, may apply to the commissioner of revenue for
13 a market value exclusion on the property as provided for in this
14 section. This exclusion shall apply only to the market value of
15 the equipment of the facility, and shall not apply to the
16 structures and the land upon which the facility is located. The
17 commissioner of revenue shall prescribe the forms and procedures
18 for this application. Upon receiving the application, the
19 commissioner of revenue shall request the commissioner of
20 commerce to make a determination of the efficiency of the
21 applicant's electric power generation facility. ~~In calculating~~
22 ~~the efficiency of a facility,~~ The commissioner of commerce shall
23 ~~use a definition of~~ calculate ~~efficiency which calculates~~
24 ~~efficiency as the sum of:~~

25 ~~(1) the useful electrical power output; plus~~

~~(2)-the-useful-thermal-energy-output,-plus~~
~~(3)-the-fuel-energy-of-the-useful-chemical-products,~~
~~all-divided-by-the-total-energy-input-to-the-facility,-expressed~~
 4 as-a-percentage as the ratio of useful energy outputs to energy
 5 inputs, expressed as a percentage, based on the performance of
 6 the facility's equipment during a heat rate test conducted in
 7 conformance with the American Society of Mechanical Engineers
 8 Performance Test Codes PTC-46-1996: Performance Test Code on
 9 Overall Plant Performance. The commissioner must include in
 10 this formula the energy used in any on-site preparation of
 11 materials necessary to convert the materials into the fuel used
 12 to generate electricity, such as a process to gasify petroleum
 13 coke. The commissioner shall use the ~~high-heating-value~~ Higher
 14 Heating Value (HHV) for all substances in the commissioner's
 15 efficiency calculations, except for wood for fuel in a
 16 biomass-eligible project under section 216B.2424; for these
 17 instances, the commissioner shall adjust the heating value to
 18 allow for energy consumed for evaporation of the moisture in the
 19 wood. The applicant shall provide the commissioner of commerce
 20 with whatever information the commissioner deems necessary to
 21 make the determination. Within 30 days of the receipt of the
 22 necessary information, the commissioner of commerce shall
 23 certify the findings of the efficiency determination to the
 24 commissioner of revenue and to the applicant. ~~The commissioner~~
 25 ~~of-commerce-shall-determine-the-efficiency-of-the-facility-and~~
 26 ~~certify-the-findings-of-that-determination-to-the-commissioner~~
 27 ~~of-revenue-every-two-years-thereafter-from-the-date-of-the~~
 28 ~~original-certification.~~

29 [EFFECTIVE DATE.] This section is effective for assessment
 30 year 2005 and thereafter, for taxes payable in 2006 and
 31 thereafter.

32 Sec. 2. Minnesota Statutes 2004, section 272.0211,
 33 subdivision 2, is amended to read:

34 Subd. 2. [SLIDING SCALE EXCLUSION.] Based upon the
 35 efficiency determination provided by the commissioner of
 36 commerce as described in subdivision 1, the commissioner of

1 revenue shall subtract ~~five~~ eight percent of the taxable market
2 value of the qualifying property for each percentage point that
3 the efficiency of the specific facility, as determined by the
4 commissioner of commerce, is above 35 40 percent. The reduction
5 in taxable market value shall be reflected in the taxable market
6 value of the facility beginning with the assessment year
7 immediately following the determination. For a facility that is
8 assessed by the county in which the facility is located, the
9 commissioner of revenue shall certify to the assessor of that
10 county the percentage of the taxable market value of the
11 facility to be excluded.

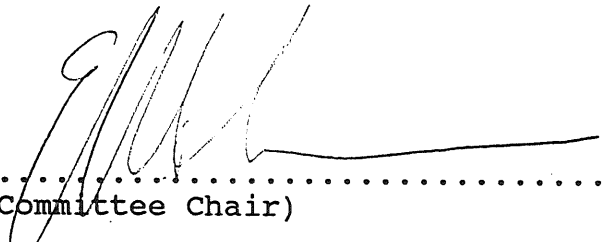
12 [EFFECTIVE DATE.] This section is effective for assessment
13 year 2005 and thereafter, for taxes payable in 2006 and
14 thereafter.

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

3 S.F. No. 2166: A bill for an act relating to taxation;
4 property; clarifying the market value exclusion for electric
5 power generation efficiency; amending Minnesota Statutes 2004,
6 section 272.0211, subdivisions 1, 2.


7 Reports the same back with the recommendation that the bill
8 do pass and be re-referred to the Committee on Taxes. Report
9 adopted.

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(Committee Chair)
April 11, 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. 1921: A bill for an act relating to utilities;
 6 establishing geothermal energy incentives; amending Minnesota
 7 Statutes 2004, section 297A.67, by adding a subdivision;
 8 proposing coding for new law in Minnesota Statutes, chapter 216B.
 9 Reports the same back with the recommendation that the bill
 10 do pass and be referred to the full committee.

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

Senators Kubly and Marty introduced--**S.F. No. 1921:** Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to utilities; establishing geothermal energy
3 incentives; amending Minnesota Statutes 2004, section
4 297A.67, by adding a subdivision; proposing coding for
5 new law in Minnesota Statutes, chapter 216B.

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

7 Section 1. [216B.2426] [GEOTHERMAL INCENTIVE.]

8 Subdivision 1. [CREDIT.] Each public utility, as defined
9 in section 216B.02, shall offer each of its customers a minimum
10 onetime credit of \$200 per ton for geothermal heating and
11 cooling equipment purchased after June 30, 2005. For purposes
12 of this section, "ton" is a term used by the heating and cooling
13 industry referring to the cooling power of a ton of ice.

14 Subd. 2. [QUARTERLY NOTICE.] Each public utility shall
15 inform its customers four times per year (1) that geothermal
16 energy can substantially reduce their heating bills and carbon
17 dioxide emissions and (2) that the incentive to purchase
18 geothermal heating and cooling equipment is available under this
19 section and a sales tax credit is available under section
20 297A.67, subdivision 32, when geothermal equipment is purchased.

21 [EFFECTIVE DATE.] This section is effective for sales,
22 purchases, and installations occurring on and after July 1, 2005.

23 Sec. 2. Minnesota Statutes 2002, section 297A.67, is
24 amended by adding a subdivision to read:

25 Subd. 32. [GEOTHERMAL EQUIPMENT.] The loop field

1 collection system, the heat pump, and charges for installation
2 of geothermal heating and cooling systems are exempt.

3 [EFFECTIVE DATE.] This section is effective for sales,
4 purchases, and installations occurring on and after July 1, 2005.

1 Senator moves to amend S.F. No. 1921 as follows:

2 Page 1, delete section 1, and insert:

3 "Section 1. Minnesota Statutes 2004, section 216B.241,
4 subdivision 1b, is amended to read:

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

7 (1) a cooperative electric association that provides retail
8 service to its members;

9 (2) a municipality that provides electric service to retail
10 customers; and

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

13 (b) Each cooperative electric association and municipality
14 subject to this subdivision shall spend and invest for energy
15 conservation improvements under this subdivision the following
16 amounts:

17 (1) for a municipality, 0.5 percent of its gross operating
18 revenues from the sale of gas and 1.5 percent of its gross
19 operating revenues from the sale of electricity, excluding gross
20 operating revenues from electric and gas service provided in the
21 state to large electric customer facilities; and

22 (2) for a cooperative electric association, 1.5 percent of
23 its gross operating revenues from service provided in the state,
24 excluding gross operating revenues from service provided in the
25 state to large electric customer facilities indirectly through a
26 distribution cooperative electric association.

27 (c) Each municipality and cooperative electric association
28 subject to this subdivision shall identify and implement energy
29 conservation improvement spending and investments that are
30 appropriate for the municipality or association, except that a
31 municipality or association may not spend or invest for energy
32 conservation improvements that directly benefit a large electric
33 customer facility for which the commissioner has issued an
34 exemption under subdivision 1a, paragraph (b). The spending
35 must include programs for rebates for geothermal heating and
36 cooling systems.

1 (d) Each municipality and cooperative electric association
2 subject to this subdivision may spend and invest annually up to
3 ten percent of the total amount required to be spent and
4 invested on energy conservation improvements under this
5 subdivision on research and development projects that meet the
6 definition of energy conservation improvement in subdivision 1
7 and that are funded directly by the municipality or cooperative
8 electric association.

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

- 13 (1) 2002 - 90 percent;
- 14 (2) 2003 - 80 percent;
- 15 (3) 2004 - 65 percent; and
- 16 (4) 2005 and thereafter - 50 percent.

17 (f) A generation and transmission cooperative electric
18 association that provides energy services to cooperative
19 electric associations that provide electric service at retail to
20 consumers may invest in energy conservation improvements on
21 behalf of the associations it serves and may fulfill the
22 conservation, spending, reporting, and energy savings goals on
23 an aggregate basis. A municipal power agency or other
24 not-for-profit entity that provides energy service to municipal
25 utilities that provide electric service at retail may invest in
26 energy conservation improvements on behalf of the municipal
27 utilities it serves and may fulfill the conservation, spending,
28 reporting, and energy savings goals on an aggregate basis, under
29 an agreement between the municipal power agency or
30 not-for-profit entity and each municipal utility for funding the
31 investments.

32 (g) Every two years, on a schedule determined by the
33 commissioner, each municipality or cooperative shall file an
34 overview of its conservation improvement plan with the
35 commissioner. With this overview, the municipality or
36 cooperative shall also provide an evaluation to the commissioner

1 detailing its energy conservation improvement spending and
2 investments for the previous period. The evaluation must
3 briefly describe each conservation program, including the
4 geothermal heating and cooling system rebate program, and must
5 specify the energy savings or increased efficiency in the use of
6 energy within the service territory of the utility or
7 association that is the result of the spending and investments.
8 The evaluation must analyze the cost-effectiveness of the
9 utility's or association's conservation programs, using a list
10 of baseline energy and capacity savings assumptions developed in
11 consultation with the department. The commissioner shall review
12 each evaluation and make recommendations, where appropriate, to
13 the municipality or association to increase the effectiveness of
14 conservation improvement activities. Up to three percent of a
15 utility's conservation spending obligation under this section
16 may be used for program pre-evaluation, testing, and monitoring
17 and program evaluation. The overview and evaluation filed by a
18 municipality with less than 60,000,000 kilowatt hours in annual
19 retail sales of electric service may consist of a letter from
20 the governing board of the municipal utility to the department
21 providing the amount of annual conservation spending required of
22 that municipality and certifying that the required amount has
23 been spent on conservation programs pursuant to this subdivision.

24 (h) The commissioner shall also review each evaluation for
25 whether a portion of the money spent on residential conservation
26 improvement programs is devoted to programs that directly
27 address the needs of renters and low-income persons unless an
28 insufficient number of appropriate programs are available. For
29 the purposes of this subdivision and subdivision 2, "low-income"
30 means an income at or below 50 percent of the state median
31 income.

32 (i) As part of its spending for conservation improvement, a
33 municipality or association may contribute to the energy and
34 conservation account. A municipality or association may propose
35 to the commissioner to designate that all or a portion of funds
36 contributed to the account be used for research and development

1 projects that can best be implemented on a statewide basis. Any
2 amount contributed must be remitted to the commissioner by
3 February 1 of each year.

4 (j) A municipality may spend up to 50 percent of its
5 required spending under this section to refurbish an existing
6 district heating or cooling system. This paragraph expires July
7 1, 2007.

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

10 Subd. 2. [PROGRAMS.] (a) The commissioner may require
11 public utilities to make investments and expenditures in energy
12 conservation improvements, explicitly setting forth the interest
13 rates, prices, and terms under which the improvements must be
14 offered to the customers. The required programs must cover a
15 two-year period. Public utilities shall file conservation
16 improvement plans by June 1, on a schedule determined by order
17 of the commissioner. Plans received by a public utility by June
18 1 must be approved or approved as modified by the commissioner
19 by December 1 of that same year. The commissioner shall give
20 special consideration and encouragement to programs that bring
21 about significant net savings through the use of
22 energy-efficient lighting. The commissioner shall require
23 public utilities to file programs offering rebates for the
24 installation of geothermal heating and cooling systems. The
25 commissioner shall evaluate the program on the basis of
26 cost-effectiveness and the reliability of technologies
27 employed. The commissioner's order must provide to the extent
28 practicable for a free choice, by consumers participating in the
29 program, of the device, method, material, or project
30 constituting the energy conservation improvement and for a free
31 choice of the seller, installer, or contractor of the energy
32 conservation improvement, provided that the device, method,
33 material, or project seller, installer, or contractor is duly
34 licensed, certified, approved, or qualified, including under the
35 residential conservation services program, where applicable.

36 (b) The commissioner may require a utility to make an

1 energy conservation improvement investment or expenditure
2 whenever the commissioner finds that the improvement will result
3 in energy savings at a total cost to the utility less than the
4 cost to the utility to produce or purchase an equivalent amount
5 of new supply of energy. The commissioner shall nevertheless
6 ensure that every public utility operate one or more programs
7 under periodic review by the department.

8 (c) Each public utility subject to subdivision 1a may spend
9 and invest annually up to ten percent of the total amount
10 required to be spent and invested on energy conservation
11 improvements under this section by the utility on research and
12 development projects that meet the definition of energy
13 conservation improvement in subdivision 1 and that are funded
14 directly by the public utility.

15 (d) A public utility may not spend for or invest in energy
16 conservation improvements that directly benefit a large electric
17 customer facility for which the commissioner has issued an
18 exemption pursuant to subdivision 1a, paragraph (b). The
19 commissioner shall consider and may require a utility to
20 undertake a program suggested by an outside source, including a
21 political subdivision or a nonprofit or community organization.

22 (e) The commissioner may, by order, establish a list of
23 programs that may be offered as energy conservation improvements
24 by a public utility, municipal utility, cooperative electric
25 association, or other entity providing conservation services
26 pursuant to this section. The list of programs may include
27 rebates for high-efficiency appliances, rebates or subsidies for
28 high-efficiency lamps, small business energy audits, and
29 building recommissioning. The commissioner may, by order,
30 change this list to add or subtract programs as the commissioner
31 determines is necessary to promote efficient and effective
32 conservation programs.

33 (f) The commissioner shall ensure that a portion of the
34 money spent on residential conservation improvement programs is
35 devoted to programs that directly address the needs of renters
36 and low-income persons, in proportion to the amount the utility

1 has historically spent on such programs based on the most recent
2 three-year average relative to the utility's total conservation
3 spending under this section, unless an insufficient number of
4 appropriate programs are available.

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

19 (h) The commissioner may order a public utility to include,
20 with the filing of the utility's proposed conservation
21 improvement plan under paragraph (a), the results of an
22 independent audit of the utility's conservation improvement
23 programs and expenditures performed by the department or an
24 auditor with experience in the provision of energy conservation
25 and energy efficiency services approved by the commissioner and
26 chosen by the utility. The audit must specify the energy
27 savings or increased efficiency in the use of energy within the
28 service territory of the utility that is the result of the
29 spending and investments. The audit must evaluate the
30 cost-effectiveness of the utility's conservation programs.

31 (i) Up to three percent of a utility's conservation
32 spending obligation under this section may be used for program
33 pre-evaluation, testing, and monitoring and program audit and
34 evaluation."

35 Renumber the sections in sequence and correct the internal
36 references

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

3 S.F. No. 1921: A bill for an act relating to utilities;
4 establishing geothermal energy incentives; amending Minnesota
5 Statutes 2004, section 297A.67, by adding a subdivision;
6 proposing coding for new law in Minnesota Statutes, chapter 216B.

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

9 Page 1, delete section 1

10 Page 1, line 23, delete "Sec. 2." and insert "Section 1."

11 Delete the title and insert:

12 "A bill for an act relating to taxation; providing a sales
13 tax exemption for certain geothermal heating and cooling
14 products; amending Minnesota Statutes 2004, section 297A.67, by
15 adding a subdivision."

16 And when so amended the bill do pass and be re-referred to
17 the Committee on Taxes. Amendments adopted. Report adopted.

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(Committee Chair)

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22 April 11, 2005.....
23 (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. 1673: A bill for an act relating to taxation;
6 providing a subtraction from taxable income for costs incurred
7 for certain purchases of wind-generated electricity; amending
8 Minnesota Statutes 2004, section 290.01, subdivision 19b.

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

11 Page 3, line 35, delete "for the primary residence of the
12 taxpayer"

13 Page 4, after line 1, insert:

14 "Sec. 2. Minnesota Statutes 2004, section 290.01,
15 subdivision 19d, is amended to read:

16 Subd. 19d. [CORPORATIONS; MODIFICATIONS DECREASING FEDERAL
17 TAXABLE INCOME.] For corporations, there shall be subtracted
18 from federal taxable income after the increases provided in
19 subdivision 19c:

20 (1) the amount of foreign dividend gross-up added to gross
21 income for federal income tax purposes under section 78 of the
22 Internal Revenue Code;

23 (2) the amount of salary expense not allowed for federal
24 income tax purposes due to claiming the federal jobs credit
25 under section 51 of the Internal Revenue Code;

26 (3) any dividend (not including any distribution in
27 liquidation) paid within the taxable year by a national or state
28 bank to the United States, or to any instrumentality of the
29 United States exempt from federal income taxes, on the preferred
30 stock of the bank owned by the United States or the
31 instrumentality;

32 (4) amounts disallowed for intangible drilling costs due to
33 differences between this chapter and the Internal Revenue Code
34 in taxable years beginning before January 1, 1987, as follows:

35 (i) to the extent the disallowed costs are represented by
36 physical property, an amount equal to the allowance for
37 depreciation under Minnesota Statutes 1986, section 290.09,
38 subdivision 7, subject to the modifications contained in

1 subdivision 19e; and

2 (ii) to the extent the disallowed costs are not represented
3 by physical property, an amount equal to the allowance for cost
4 depletion under Minnesota Statutes 1986, section 290.09,
5 subdivision 8;

6 (5) the deduction for capital losses pursuant to sections
7 1211 and 1212 of the Internal Revenue Code, except that:

8 (i) for capital losses incurred in taxable years beginning
9 after December 31, 1986, capital loss carrybacks shall not be
10 allowed;

11 (ii) for capital losses incurred in taxable years beginning
12 after December 31, 1986, a capital loss carryover to each of the
13 15 taxable years succeeding the loss year shall be allowed;

14 (iii) for capital losses incurred in taxable years
15 beginning before January 1, 1987, a capital loss carryback to
16 each of the three taxable years preceding the loss year, subject
17 to the provisions of Minnesota Statutes 1986, section 290.16,
18 shall be allowed; and

19 (iv) for capital losses incurred in taxable years beginning
20 before January 1, 1987, a capital loss carryover to each of the
21 five taxable years succeeding the loss year to the extent such
22 loss was not used in a prior taxable year and subject to the
23 provisions of Minnesota Statutes 1986, section 290.16, shall be
24 allowed;

25 (6) an amount for interest and expenses relating to income
26 not taxable for federal income tax purposes, if (i) the income
27 is taxable under this chapter and (ii) the interest and expenses
28 were disallowed as deductions under the provisions of section
29 171(a)(2), 265 or 291 of the Internal Revenue Code in computing
30 federal taxable income;

31 (7) in the case of mines, oil and gas wells, other natural
32 deposits, and timber for which percentage depletion was
33 disallowed pursuant to subdivision 19c, clause (11), a
34 reasonable allowance for depletion based on actual cost. In the
35 case of leases the deduction must be apportioned between the
36 lessor and lessee in accordance with rules prescribed by the

1 commissioner. In the case of property held in trust, the
2 allowable deduction must be apportioned between the income
3 beneficiaries and the trustee in accordance with the pertinent
4 provisions of the trust, or if there is no provision in the
5 instrument, on the basis of the trust's income allocable to
6 each;

7 (8) for certified pollution control facilities placed in
8 service in a taxable year beginning before December 31, 1986,
9 and for which amortization deductions were elected under section
10 169 of the Internal Revenue Code of 1954, as amended through
11 December 31, 1985, an amount equal to the allowance for
12 depreciation under Minnesota Statutes 1986, section 290.09,
13 subdivision 7;

14 (9) amounts included in federal taxable income that are due
15 to refunds of income, excise, or franchise taxes based on net
16 income or related minimum taxes paid by the corporation to
17 Minnesota, another state, a political subdivision of another
18 state, the District of Columbia, or a foreign country or
19 possession of the United States to the extent that the taxes
20 were added to federal taxable income under section 290.01,
21 subdivision 19c, clause (1), in a prior taxable year;

22 (10) 80 percent of royalties, fees, or other like income
23 accrued or received from a foreign operating corporation or a
24 foreign corporation which is part of the same unitary business
25 as the receiving corporation;

26 (11) income or gains from the business of mining as defined
27 in section 290.05, subdivision 1, clause (a), that are not
28 subject to Minnesota franchise tax;

29 (12) the amount of handicap access expenditures in the
30 taxable year which are not allowed to be deducted or capitalized
31 under section 44(d)(7) of the Internal Revenue Code;

32 (13) the amount of qualified research expenses not allowed
33 for federal income tax purposes under section 280C(c) of the
34 Internal Revenue Code, but only to the extent that the amount
35 exceeds the amount of the credit allowed under section 290.068;

36 (14) the amount of salary expenses not allowed for federal

1 income tax purposes due to claiming the Indian employment credit
2 under section 45A(a) of the Internal Revenue Code;

3 (15) the amount of any refund of environmental taxes paid
4 under section 59A of the Internal Revenue Code;

5 (16) for taxable years beginning before January 1, 2008,
6 the amount of the federal small ethanol producer credit allowed
7 under section 40(a)(3) of the Internal Revenue Code which is
8 included in gross income under section 87 of the Internal
9 Revenue Code;

10 (17) for a corporation whose foreign sales corporation, as
11 defined in section 922 of the Internal Revenue Code, constituted
12 a foreign operating corporation during any taxable year ending
13 before January 1, 1995, and a return was filed by August 15,
14 1996, claiming the deduction under section 290.21, subdivision
15 4, for income received from the foreign operating corporation,
16 an amount equal to 1.23 multiplied by the amount of income
17 excluded under section 114 of the Internal Revenue Code,
18 provided the income is not income of a foreign operating
19 company;

20 (18) any decrease in subpart F income, as defined in
21 section 952(a) of the Internal Revenue Code, for the taxable
22 year when subpart F income is calculated without regard to the
23 provisions of section 614 of Public Law 107-147; and

24 (19) in each of the five tax years immediately following
25 the tax year in which an addition is required under subdivision
26 19c, clause (16), an amount equal to one-fifth of the delayed
27 depreciation. For purposes of this clause, "delayed
28 depreciation" means the amount of the addition made by the
29 taxpayer under subdivision 19c, clause (16). The resulting
30 delayed depreciation cannot be less than zero; and

31 (20) the amount paid by the taxpayer to a utility as an
32 additional rate amount determined under section 216B.169,
33 subdivision 2, for the purchase of renewable and high-efficiency
34 energy.

35 [EFFECTIVE DATE.] This section is effective for taxable
36 years beginning after December 31, 2005."

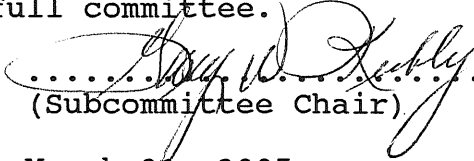
1 Amend the title as follows:

2 Page 1, line 5, delete "subdivision" and insert

3 "subdivisions"

4 Page 1, line 6, before the period, insert ", 19d"

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

7 

(Subcommittee Chair)

8
9
10 March 31, 2005.....

11 (Date of Subcommittee action)

Senators Dibble, Anderson and Kubly introduced--

S.F. No. 1673: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to taxation; providing a subtraction from
3 taxable income for costs incurred for certain
4 purchases of wind-generated electricity; amending
5 Minnesota Statutes 2004, section 290.01, subdivision
6 19b.

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

8 Section 1. Minnesota Statutes 2004, section 290.01,
9 subdivision 19b, is amended to read:

10 Subd. 19b. [SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.] For
11 individuals, estates, and trusts, there shall be subtracted from
12 federal taxable income:

13 (1) interest income on obligations of any authority,
14 commission, or instrumentality of the United States to the
15 extent includable in taxable income for federal income tax
16 purposes but exempt from state income tax under the laws of the
17 United States;

18 (2) if included in federal taxable income, the amount of
19 any overpayment of income tax to Minnesota or to any other
20 state, for any previous taxable year, whether the amount is
21 received as a refund or as a credit to another taxable year's
22 income tax liability;

23 (3) the amount paid to others, less the amount used to
24 claim the credit allowed under section 290.0674, not to exceed
25 \$1,625 for each qualifying child in grades kindergarten to 6 and
26 \$2,500 for each qualifying child in grades 7 to 12, for tuition,

1 textbooks, and transportation of each qualifying child in
2 attending an elementary or secondary school situated in
3 Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin,
4 wherein a resident of this state may legally fulfill the state's
5 compulsory attendance laws, which is not operated for profit,
6 and which adheres to the provisions of the Civil Rights Act of
7 1964 and chapter 363A. For the purposes of this clause,
8 "tuition" includes fees or tuition as defined in section
9 290.0674, subdivision 1, clause (1). As used in this clause,
10 "textbooks" includes books and other instructional materials and
11 equipment purchased or leased for use in elementary and
12 secondary schools in teaching only those subjects legally and
13 commonly taught in public elementary and secondary schools in
14 this state. Equipment expenses qualifying for deduction
15 includes expenses as defined and limited in section 290.0674,
16 subdivision 1, clause (3). "Textbooks" does not include
17 instructional books and materials used in the teaching of
18 religious tenets, doctrines, or worship, the purpose of which is
19 to instill such tenets, doctrines, or worship, nor does it
20 include books or materials for, or transportation to,
21 extracurricular activities including sporting events, musical or
22 dramatic events, speech activities, driver's education, or
23 similar programs. For purposes of the subtraction provided by
24 this clause, "qualifying child" has the meaning given in section
25 32(c)(3) of the Internal Revenue Code;
26 (4) income as provided under section 290.0802;
27 (5) to the extent included in federal adjusted gross
28 income, income realized on disposition of property exempt from
29 tax under section 290.491;
30 (6) to the extent included in federal taxable income,
31 postservice benefits for youth community service under section
32 124D.42 for volunteer service under United States Code, title
33 42, sections 12601 to 12604;
34 (7) to the extent not deducted in determining federal
35 taxable income by an individual who does not itemize deductions
36 for federal income tax purposes for the taxable year, an amount

1 equal to 50 percent of the excess of charitable contributions
2 allowable as a deduction for the taxable year under section
3 170(a) of the Internal Revenue Code over \$500;

4 (8) for taxable years beginning before January 1, 2008, the
5 amount of the federal small ethanol producer credit allowed
6 under section 40(a)(3) of the Internal Revenue Code which is
7 included in gross income under section 87 of the Internal
8 Revenue Code;

9 (9) for individuals who are allowed a federal foreign tax
10 credit for taxes that do not qualify for a credit under section
11 290.06, subdivision 22, an amount equal to the carryover of
12 subnational foreign taxes for the taxable year, but not to
13 exceed the total subnational foreign taxes reported in claiming
14 the foreign tax credit. For purposes of this clause, "federal
15 foreign tax credit" means the credit allowed under section 27 of
16 the Internal Revenue Code, and "carryover of subnational foreign
17 taxes" equals the carryover allowed under section 904(c) of the
18 Internal Revenue Code minus national level foreign taxes to the
19 extent they exceed the federal foreign tax credit;

20 (10) in each of the five tax years immediately following
21 the tax year in which an addition is required under subdivision
22 19a, clause (7), an amount equal to one-fifth of the delayed
23 depreciation. For purposes of this clause, "delayed
24 depreciation" means the amount of the addition made by the
25 taxpayer under subdivision 19a, clause (7), minus the positive
26 value of any net operating loss under section 172 of the
27 Internal Revenue Code generated for the tax year of the
28 addition. The resulting delayed depreciation cannot be less
29 than zero; and

30 (11) job opportunity building zone income as provided under
31 section 469.316; and

32 (12) the amount paid by the taxpayer to a utility as an
33 additional rate amount determined under section 216B.169,
34 subdivision 2, for the purchase of renewable and high-efficiency
35 energy for the primary residence of the taxpayer.

36 [EFFECTIVE DATE.] This section is effective for taxable

03/07/05

[REVISOR] XX/MD 05-3294

1 years beginning after December 31, 2005.

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

3 S.F. No. 1673: A bill for an act relating to taxation;
4 providing a subtraction from taxable income for costs incurred
5 for certain purchases of wind-generated electricity; amending
6 Minnesota Statutes 2004, section 290.01, subdivision 19b.

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

9 Page 3, line 35, delete "for the primary residence of the
10 taxpayer"

11 Page 4, after line 1, insert:

12 "Sec. 2. Minnesota Statutes 2004, section 290.01,
13 subdivision 19d, is amended to read:

14 Subd. 19d. [CORPORATIONS; MODIFICATIONS DECREASING FEDERAL
15 TAXABLE INCOME.] For corporations, there shall be subtracted
16 from federal taxable income after the increases provided in
17 subdivision 19c:

18 (1) the amount of foreign dividend gross-up added to gross
19 income for federal income tax purposes under section 78 of the
20 Internal Revenue Code;

21 (2) the amount of salary expense not allowed for federal
22 income tax purposes due to claiming the federal jobs credit
23 under section 51 of the Internal Revenue Code;

24 (3) any dividend (not including any distribution in
25 liquidation) paid within the taxable year by a national or state
26 bank to the United States, or to any instrumentality of the
27 United States exempt from federal income taxes, on the preferred
28 stock of the bank owned by the United States or the
29 instrumentality;

30 (4) amounts disallowed for intangible drilling costs due to
31 differences between this chapter and the Internal Revenue Code
32 in taxable years beginning before January 1, 1987, as follows:

33 (i) to the extent the disallowed costs are represented by
34 physical property, an amount equal to the allowance for
35 depreciation under Minnesota Statutes 1986, section 290.09,
36 subdivision 7, subject to the modifications contained in
37 subdivision 19e; and

38 (ii) to the extent the disallowed costs are not represented.

1 by physical property, an amount equal to the allowance for cost
2 depletion under Minnesota Statutes 1986, section 290.09,
3 subdivision 8;

4 (5) the deduction for capital losses pursuant to sections
5 1211 and 1212 of the Internal Revenue Code, except that:

6 (i) for capital losses incurred in taxable years beginning
7 after December 31, 1986, capital loss carrybacks shall not be
8 allowed;

9 (ii) for capital losses incurred in taxable years beginning
10 after December 31, 1986, a capital loss carryover to each of the
11 15 taxable years succeeding the loss year shall be allowed;

12 (iii) for capital losses incurred in taxable years
13 beginning before January 1, 1987, a capital loss carryback to
14 each of the three taxable years preceding the loss year, subject
15 to the provisions of Minnesota Statutes 1986, section 290.16,
16 shall be allowed; and

17 (iv) for capital losses incurred in taxable years beginning
18 before January 1, 1987, a capital loss carryover to each of the
19 five taxable years succeeding the loss year to the extent such
20 loss was not used in a prior taxable year and subject to the
21 provisions of Minnesota Statutes 1986, section 290.16, shall be
22 allowed;

23 (6) an amount for interest and expenses relating to income
24 not taxable for federal income tax purposes, if (i) the income
25 is taxable under this chapter and (ii) the interest and expenses
26 were disallowed as deductions under the provisions of section
27 171(a)(2), 265 or 291 of the Internal Revenue Code in computing
28 federal taxable income;

29 (7) in the case of mines, oil and gas wells, other natural
30 deposits, and timber for which percentage depletion was
31 disallowed pursuant to subdivision 19c, clause (11), a
32 reasonable allowance for depletion based on actual cost. In the
33 case of leases the deduction must be apportioned between the
34 lessor and lessee in accordance with rules prescribed by the
35 commissioner. In the case of property held in trust, the
36 allowable deduction must be apportioned between the income

1 beneficiaries and the trustee in accordance with the pertinent
2 provisions of the trust, or if there is no provision in the
3 instrument, on the basis of the trust's income allocable to
4 each;

5 (8) for certified pollution control facilities placed in
6 service in a taxable year beginning before December 31, 1986,
7 and for which amortization deductions were elected under section
8 169 of the Internal Revenue Code of 1954, as amended through
9 December 31, 1985, an amount equal to the allowance for
10 depreciation under Minnesota Statutes 1986, section 290.09,
11 subdivision 7;

12 (9) amounts included in federal taxable income that are due
13 to refunds of income, excise, or franchise taxes based on net
14 income or related minimum taxes paid by the corporation to
15 Minnesota, another state, a political subdivision of another
16 state, the District of Columbia, or a foreign country or
17 possession of the United States to the extent that the taxes
18 were added to federal taxable income under section 290.01,
19 subdivision 19c, clause (1), in a prior taxable year;

20 (10) 80 percent of royalties, fees, or other like income
21 accrued or received from a foreign operating corporation or a
22 foreign corporation which is part of the same unitary business
23 as the receiving corporation;

24 (11) income or gains from the business of mining as defined
25 in section 290.05, subdivision 1, clause (a), that are not
26 subject to Minnesota franchise tax;

27 (12) the amount of handicap access expenditures in the
28 taxable year which are not allowed to be deducted or capitalized
29 under section 44(d)(7) of the Internal Revenue Code;

30 (13) the amount of qualified research expenses not allowed
31 for federal income tax purposes under section 280C(c) of the
32 Internal Revenue Code, but only to the extent that the amount
33 exceeds the amount of the credit allowed under section 290.068;

34 (14) the amount of salary expenses not allowed for federal
35 income tax purposes due to claiming the Indian employment credit
36 under section 45A(a) of the Internal Revenue Code;

1 (15) the amount of any refund of environmental taxes paid
2 under section 59A of the Internal Revenue Code;

3 (16) for taxable years beginning before January 1, 2008,
4 the amount of the federal small ethanol producer credit allowed
5 under section 40(a)(3) of the Internal Revenue Code which is
6 included in gross income under section 87 of the Internal
7 Revenue Code;

8 (17) for a corporation whose foreign sales corporation, as
9 defined in section 922 of the Internal Revenue Code, constituted
10 a foreign operating corporation during any taxable year ending
11 before January 1, 1995, and a return was filed by August 15,
12 1996, claiming the deduction under section 290.21, subdivision
13 4, for income received from the foreign operating corporation,
14 an amount equal to 1.23 multiplied by the amount of income
15 excluded under section 114 of the Internal Revenue Code,
16 provided the income is not income of a foreign operating
17 company;

18 (18) any decrease in subpart F income, as defined in
19 section 952(a) of the Internal Revenue Code, for the taxable
20 year when subpart F income is calculated without regard to the
21 provisions of section 614 of Public Law 107-147; and

22 (19) in each of the five tax years immediately following
23 the tax year in which an addition is required under subdivision
24 19c, clause (16), an amount equal to one-fifth of the delayed
25 depreciation. For purposes of this clause, "delayed
26 depreciation" means the amount of the addition made by the
27 taxpayer under subdivision 19c, clause (16). The resulting
28 delayed depreciation cannot be less than zero; and

29 (20) the amount paid by the taxpayer to a utility as an
30 additional rate amount determined under section 216B.169,
31 subdivision 2, for the purchase of renewable and high-efficiency
32 energy.

33 [EFFECTIVE DATE.] This section is effective for taxable
34 years beginning after December 31, 2005."

35 Amend the title as follows:

36 Page 1, line 5, delete "subdivision" and insert

1 "subdivisions"

2 Page 1, line 6, before the period, insert ", 19d"

3 And when so amended the bill do pass and be re-referred to
4 the Committee on Taxes. Amendments adopted. Report adopted.

5

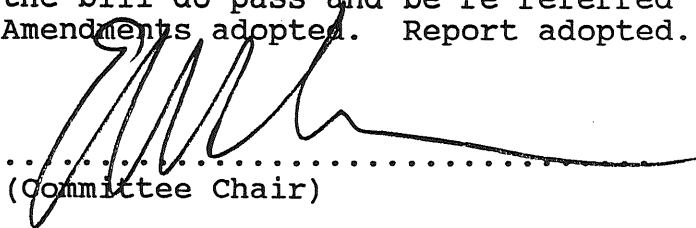
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.....
(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

**S.F. No. 1924 - Hydrogen Use Incentives
(as amended by SCS1924A-1)**

Author: Senator Ellen R. Anderson

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890) ^{mb}

Date: April 11, 2005

The bill establishes incentives to promote the use of hydrogen as an energy source.

Section 1 contains definitions.

Section 2, Subdivision 1, requires the Department of Administration to identify opportunities for demonstrating the use of hydrogen fuel cells in state-owned facilities, vehicle fleets, and operations. The Department of Administration is also required to purchase and demonstrate hydrogen fuel cell, provide performance data to the marketplace, identify relevant code and regulatory issues, foster economic development, raise public awareness of hydrogen, fuel cells and related technologies, and reduce carbon emissions.

Section 2, Subdivision 2, requires the Department of Commerce, in consultation with others, to report to the Legislature every two years a list of proposed projects that contribute to realizing Minnesota's goal of moving to hydrogen as an increasing source of electrical power, heating, and transportation needs. This subdivision also specifies a list of priorities for the Department to consider in developing the list of projects.

Section 2, Subdivision 3, permits the Commissioner of Commerce to engage in various activities to establish an initial multifuel transition infrastructure for hydrogen-fueled vehicles.

Section 3 provides an incentive in the amount of 48 cents per gallon of gasoline equivalent used for transportation, heating, cooling, fertilizer production, or other commercially productive uses, to be paid to hydrogen generating facilities between December 31, 2010, and December 31, 2020, with

amounts sufficient to make incentive payments appropriated annually from the general fund to the Commissioner of Commerce.

Section 4 establishes the energy infrastructure transition account in the special revenue fund to fund the energy infrastructure transition loan program in the Department of Commerce. The purpose of the loan program is to provide capital for the construction of vehicle refueling facilities that deploy hydrogen, biofuels, and related technologies.

Section 5 instructs the state's public research and higher education institutions to coordinate their research, education, outreach, and technology transfer activities for the production of renewable and carbon-neutral energy products and technologies.

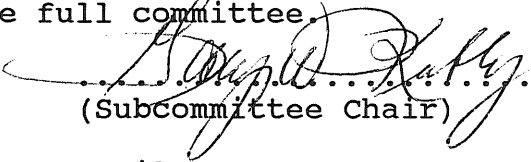
Section 6 exempts hydrogen used for transportation fuel, electricity generation, heating, cooling, fertilizer production, or other commercially productive use from general sales and use taxes.

Section 7 appropriates \$300,000 in each fiscal year 2006 and 2007 from the general fund to the Commissioner of Commerce for the purpose of matching federal and private investments in three multifuel hydrogen refueling stations in Moorhead, Alexandria, and the Twin Cities.

MSG:cs

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. 1924: A bill for an act relating to energy;
 6 promoting the use of hydrogen as an energy resource;
 7 appropriating money; amending Minnesota Statutes 2004, section
 8 297A.67, by adding a subdivision; proposing coding for new law
 9 in Minnesota Statutes, chapter 216B.

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

- 12 Page 1, delete lines 12 to 15
- 13 Page 1, line 16, delete "3" and insert "2"
- 14 Page 1, line 19, delete "4" and insert "3"
- 15 Page 1, line 20, delete everything after "sources"
- 16 Page 1, line 21, delete everything before the period
- 17 Page 1, line 22, delete "5" and insert "4"
- 18 Page 6, line 4, delete "any" and insert "hydrogen,
- 19 biofuels,"
- 20 Page 6, delete line 5 and insert "and related technologies
- 21 as those facilities meet a demand for"
- 22 Page 6, line 6, delete "provide"
- 23 Page 6, line 19, delete "must" and insert "should"
- 24 Page 6, lines 22 and 23, delete "and carbon-neutral"
- 25 Page 6, line 24, delete "must" and insert "should"
- 26 And when so amended that the bill be recommended to pass
- 27 and be referred to the full committee.
- 28 .....
- 29 (Subcommittee Chair)
- 30
- 31 April 8, 2005.....
- 32 (Date of Subcommittee action)

Senator Anderson introduced--**S.F. No. 1924:** Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to energy; promoting the use of hydrogen as
3 an energy resource; appropriating money; amending
4 Minnesota Statutes 2004, section 297A.67, by adding a
5 subdivision; proposing coding for new law in Minnesota
6 Statutes, chapter 216B.

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

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

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

12 Subd. 2. [CARBON-NEUTRAL.] "Carbon-neutral" means no net
13 carbon dioxide emissions; or, if there are those emissions, that
14 they are captured and permanently stored underground, or by some
15 other scientifically proven method.

16 Subd. 3. [FUEL CELL.] "Fuel cell" means an electrochemical
17 device that produces useful electricity, heat, and water vapor,
18 and operates as long as it is provided fuel.

19 Subd. 4. [HYDROGEN.] "Hydrogen" means hydrogen produced
20 using native energy sources and methods that are renewable or
21 carbon-neutral, or that could be made so in the future.

22 Subd. 5. [RELATED TECHNOLOGIES.] "Related technologies"
23 means balance of plant components necessary to make hydrogen and
24 fuel cell systems function; turbines, reciprocating, and other
25 combustion engines capable of operating on hydrogen; and
26 electrolyzers, reformers, and other equipment and processes

1 necessary to produce, purify, store, distribute, and use
2 hydrogen for energy.

3 Sec. 2. [216B.812] [FOSTERING THE TRANSITION TOWARD ENERGY
4 SECURITY.]

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

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

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

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

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

18 (4) foster economic development and job creation in the
19 state;

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

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

23 Subd. 2. [SUPPORT FOR STRATEGIC DEMONSTRATION PROJECTS
24 THAT ACCELERATE THE COMMERCIALIZATION OF HYDROGEN, FUEL CELLS,
25 AND RELATED TECHNOLOGIES.] (a) In consultation with appropriate
26 representatives from state agencies, local governments,
27 universities, businesses, and other interested parties, the
28 Department of Commerce shall report back to the legislature by
29 November 1, 2005, and every two years thereafter, with a slate
30 of proposed pilot projects that contribute to realizing
31 Minnesota's hydrogen economy goal as set forth in section
32 216B.013. The Department of Commerce must consider the
33 following nonexclusive list of priorities in developing the
34 proposed slate of pilot projects:

35 (1) demonstrate "bridge" technologies such as

36 hybrid-electric, off-road, and fleet vehicles running on

1 hydrogen or fuels blended with hydrogen;

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

4 (3) demonstrate nonvehicle applications for hydrogen;

5 (4) improve the cost and efficiency of hydrogen from
6 renewable energy sources; and

7 (5) improve the cost and efficiency of hydrogen production
8 using direct solar energy without electricity generation as an
9 intermediate step.

10 (b) For all demonstrations, individual system components of
11 the technology must meet commercial performance standards and
12 systems modeling must be completed to predict commercial
13 performance, risk, and synergies. In addition, the proposed
14 pilots should meet as many of the following criteria as possible:

15 (1) advance energy security;

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

17 (3) result in economically competitive infrastructure being
18 put in place;

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

22 (5) demonstrate multiple, integrated aspects of hydrogen
23 infrastructure;

24 (6) include an explicit public education and awareness
25 component;

26 (7) be scalable to respond to changing circumstances and
27 market demands;

28 (8) draw on firms and expertise within the state where
29 possible;

30 (9) include an assessment of its economic, environmental,
31 and social impact; and

32 (10) serve other needs beyond hydrogen development.

33 Subd. 3. [ESTABLISHING INITIAL, MULTIFUEL TRANSITION
34 INFRASTRUCTURE FOR HYDROGEN VEHICLES.] The commissioner of
35 commerce may accept federal funds, expend funds, and participate
36 in projects to design, site, and construct multifuel hydrogen

1 fueling stations that eventually link urban centers along key
2 trade corridors across the jurisdictions of Manitoba, the
3 Dakotas, Minnesota, Iowa, and Wisconsin.

4 These energy stations must serve the priorities listed in
5 subdivision 2 and, as transition infrastructure, should
6 accommodate a wide variety of vehicle technologies and fueling
7 platforms, including hybrid, flexible-fuel, and fuel cell
8 vehicles. They may offer, but not be limited to, gasoline,
9 diesel, ethanol (E-85), biodiesel, and hydrogen, and may
10 simultaneously test the integration of on-site combined heat and
11 power technologies with the existing energy infrastructure.

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

15 Sec. 3. [216B.813] [HYDROGEN PRODUCTION INCENTIVE AND
16 APPROPRIATION.]

17 Subdivision 1. [APPLICATION.] The incentive provided by
18 this section applies to qualified hydrogen generation facilities
19 beginning operation after July 1, 2005. Payment may only be
20 made upon receipt by the commissioner of finance of an incentive
21 payment application that establishes that the applicant is
22 eligible to receive an incentive payment. The application must
23 be in a form and submitted at a time the commissioner
24 establishes.

25 Subd. 2. [APPROPRIATION.] There is annually appropriated
26 from the general fund to the commissioner of commerce sums
27 sufficient to make the payments required under this section.

28 Subd. 3. [ELIGIBILITY WINDOW.] Payments may be made under
29 this section only for hydrogen generated from a qualified
30 hydrogen generation facility that is operational and producing
31 hydrogen before December 31, 2010.

32 Subd. 4. [PAYMENT PERIOD.] A facility may receive payments
33 under this section for a ten-year period. No payment under this
34 section may be made for hydrogen generated by a qualified
35 hydrogen generation facility after December 31, 2020. The
36 payment period begins and runs consecutively from the date the

1 facility begins generating hydrogen.

2 Subd. 5. [AMOUNT OF PAYMENT; HYDROGEN FACILITIES
3 LIMIT.] The production incentive is 48 cents per gallon of
4 gasoline equivalent used for transportation fuel, electricity,
5 heating, cooling, fertilizer production, or other new
6 commercially productive use.

7 Subd. 6. [ELIGIBILITY PROCESS.] A qualifying project is
8 eligible for the incentive on the date the commissioner of
9 commerce receives:

10 (1) an application for payment of the incentive;

11 (2) a copy of the purchase order for equipment to construct
12 the project with a delivery date and a copy of a signed receipt
13 for a nonrefundable deposit; and

14 (3) any other information the commissioner deems necessary
15 to determine whether the proposed project qualifies for the
16 incentive under this section.

17 The commissioner of commerce shall determine whether a
18 project qualifies for the incentive, and respond in writing to
19 the applicant approving or denying the application within 15
20 working days of receipt of the information required.

21 A project that is not operational within 18 months of
22 receipt of a letter of approval is no longer approved for the
23 incentive. The commissioner shall notify an applicant of
24 potential loss of approval not less than 60 days prior to the
25 end of the 18-month period.

26 Eligibility for a project that loses approval may be
27 reestablished as of the date the commissioner receives a new
28 completed application.

29 Sec. 4. [216B.814] [ENERGY INFRASTRUCTURE TRANSITION
30 ACCOUNT.]

31 Subdivision 1. [ACCOUNT CREATED.] There is established in
32 the state treasury an energy infrastructure transition account
33 in the special revenue fund. All repayments of financial
34 assistance granted under subdivision 2, including principal and
35 interest, must be deposited into the energy infrastructure
36 transition account.

1 Subd. 2. [ENERGY INFRASTRUCTURE TRANSITION LOAN
2 PROGRAM.] The Department of Commerce may establish, adopt rules
3 for, and implement a loan program to provide capital for the
4 construction of vehicle refueling facilities that deploy any
5 combination of renewable and carbon-neutral technologies that
6 provide transportation fuel, electricity, heating, or cooling.
7 The program may provide for secured or unsecured loans, loan
8 participations, and loan guarantees with respect to real or
9 personal property comprising all or part of the facilities and
10 the payment of costs incurred by the commissioner to establish
11 and administer the loan program. Fees collected for
12 administration of the program must be deposited in the energy
13 infrastructure transition account.

14 Sec. 5. [216B.815] [AUTHORIZE AND ENCOURAGE THE STATE'S
15 PUBLIC RESEARCH INSTITUTIONS TO COORDINATE AND LEVERAGE THEIR
16 STRENGTHS THROUGH A REGIONAL ENERGY RESEARCH AND EDUCATION
17 PARTNERSHIP.]

18 The state's public research and higher education
19 institutions must work with one another and with similar
20 institutions in the region to establish Minnesota and the Upper
21 Midwest as a center of research, education, outreach, and
22 technology transfer for the production of renewable and
23 carbon-neutral energy and products, including hydrogen, fuel
24 cells, and related technologies. The partnership must be
25 designed to create a critical mass of research and education
26 capability that can compete effectively for federal and private
27 investment in these areas.

28 The partnership must include an advisory committee
29 comprised of government, industry, academic, and nonprofit
30 representatives to help focus its research and education efforts
31 on the most critical issues. Initiatives undertaken by the
32 partnership may include:

33 (1) collaborative and interdisciplinary research,
34 demonstration projects, and commercialization of market-ready
35 technologies;

36 (2) creation of undergraduate and graduate course offerings

1 and eventually degreed and vocational programs with reciprocity;

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

5 (4) development and field-testing of relevant curricula,
6 teacher kits for all educational levels, and widespread teacher
7 training, in collaboration with state energy offices, teachers,
8 nonprofits, businesses, the United States Department of Energy,
9 and other interested parties.

10 Sec. 6. Minnesota Statutes 2004, section 297A.67, is
11 amended by adding a subdivision to read:

12 Subd. 32. [HYDROGEN.] Hydrogen, as defined in section
13 216B.811, subdivision 4, is exempt if the hydrogen is used for
14 transportation fuel, electricity generation, heating, cooling,
15 fertilizer production, or other new commercially productive use.

16 [EFFECTIVE DATE.] This section is effective for sales after
17 June 30, 2005, and before January 1, 2015.

18 Sec. 7. [APPROPRIATIONS.]

19 \$300,000 is appropriated in fiscal year 2006 and \$300,000
20 is appropriated in fiscal year 2007 from the general fund to the
21 commissioner of commerce for the purpose of matching federal and
22 private investments in three multifuel hydrogen refueling
23 stations in Moorhead, Alexandria, and the Twin Cities
24 respectively. The unencumbered balance in the first year does
25 not cancel but is available for the second year. Availability
26 of the appropriation is contingent upon securing the balance of
27 the total project costs from nonstate sources.

- 1 Senator moves to amend S.F. No. 1924 as follows:
- 2 Pages 1 to 7, delete sections 1 to 5
- 3 Page 7, delete section 7
- 4 Renumber the sections in sequence and correct the internal
- 5 references
- 6 Amend the title accordingly

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

3 S.F. No. 1924: A bill for an act relating to energy;
4 promoting the use of hydrogen as an energy resource;
5 appropriating money; amending Minnesota Statutes 2004, section
6 297A.67, by adding a subdivision; proposing coding for new law
7 in Minnesota Statutes, chapter 216B.

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

10 Pages 1 to 7, delete sections 1 to 5

11 Page 7, line 10, delete "Sec. 6." and insert "Section 1."

12 Page 7, delete section 7

13 Delete the title and insert:

14 "A bill for an act relating to taxation; providing a sales
15 tax exemption for certain purchases of hydrogen; amending
16 Minnesota Statutes 2004, section 297A.67, by adding a
17 subdivision."

18 And when so amended the bill do pass and be re-referred to
19 the Committee on Taxes. Amendments adopted. Report adopted.

20

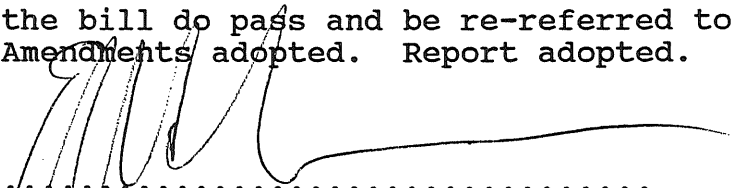
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.....
(Committee Chair)
April 11, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1368 - Omnibus Energy Bill (Committee Engrossment)

Author: Senator Ellen R. Anderson

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890) *MS*

Date: April 11, 2005

**Article 1
Transmission Companies**

Section 1 [Transmission Company] adds a definition of a transmission company to the chapter of Minnesota Statutes governing public utilities. Transmission company is defined as a legal entity other than a public utility, municipal power agency, cooperative electrical association, or generation and transmission cooperative power association, engaged in the business of operating, maintaining, or controlling equipment or facilities in this state for furnishing electric transmission service in Minnesota.

Section 2 [Transmission Cost Adjustment] creates a tariff mechanism for the automatic annual adjustment of charges for Minnesota jurisdictional costs of new transmission facilities upon filing with the Public Utilities Commission.

Section 3 [Transmission Assets Transfer] permits owners of transmission facilities to transfer operational control or ownership of those assets to a transmission company subject to Federal Energy Regulatory Commission jurisdiction. Transfer of such assets is subject to Minnesota Public Utilities Commission review, which must find that the transfer is: consistent with the public interest; facilitates the development of transmission infrastructure necessary to ensure reliability, encourages development of renewable resources, and accommodates energy transfer between states; protects Minnesota ratepayers against subsidization of wholesale transactions through retail rates; and ensures that the state retain jurisdiction over the transferring utility.

Section 4 [Large Energy Facility] amends the definition of a high-voltage transmission line to specify that it be greater than 1,500 feet in length, for purposes of certificates of need.

Section 5 [Showing Required for Construction] requires that no high-voltage transmission line be constructed without showing, for the purpose of a certificate of need, the relationship of the line to the regional energy needs in the State Transmission Plan, the benefits of enhanced regional reliability, access, or robustness of the transmission system, or to lower costs to consumers. Applicants must show that they are in compliance with the Renewable Energy Objective. If an applicant is proposing a nonrenewable generating plant, they must show an assessment of risk of environmental costs and regulation, and the means of allocating the costs of those risks, over the expected useful life of the plant.

Section 6 [Transmission Projects Report] requires the submission to the PUC on the part of public and municipal utilities, cooperative electrical associations, generation and transmission organizations, and transmission companies of a biannual transmission projects report.

Section 7 [Commission Approval Required] makes conforming changes with respect to PUC approval of the transfer of transmission assets in section 3.

Section 8 [Assessing Transmission Companies] permits the PUC and Department of Commerce to charge transmission companies their proportionate share of expenses incurred in regulatory review.

Section 9 [Preventive Maintenance] extends the PUC's authority to order adequate infrastructure investments and sufficient preventive maintenance to transmission companies owning or operating electric transmission lines in Minnesota.

Section 10 [Stakeholder Process and Report] requires the Legislative Electric Energy Task Force to convene a stakeholders group by June 15, 2005, to explore whether increased efficiencies and effectiveness can be obtained through modifying current state statutes and administrative processes to certify and route high-voltage transmission lines. The group must also consider and make recommendations whether and how to provide compensation above traditional eminent domain payments. The group must report to the Legislature by January 15, 2006.

Article 2

C-BED and Renewable Transmission

Section 1 [Community-Based Energy Development; Tariff] establishes a tariff to optimize local, regional and state benefits from wind energy development, and to facilitate widespread development of community-based wind energy projects throughout the state. This section imposes ownership qualifications similar to those required for eligibility under the renewable energy production incentive, with further requirement that no single qualified owner own more than 15 percent of a project consisting of two or more wind turbines, and that owners of property traversed by transmission lines serving the project be given the opportunity to invest in the project. This section also establishes a tariff at a rate of up to 2.7 cents per kilowatt hour net present value rate over the 20-year life of the power purchase agreement. The tariff rate must be higher in the first ten years of

the agreement than the last ten years. Utilities must file their tariff by December 31, 2005, and must give priority consideration to community-based projects in meeting their renewable energy objective.

Section 2 [Commission Authority] allows the PUC to approve investments and expenditures for studies necessary to identify new transmission needs associated with generating facilities constructed to meet the renewable energy objectives.

Section 3 [Transmission Needed to Support Renewable Resources] grants priority project status to transmission projects determined by the PUC to be necessary to meet a utility's renewable energy objective

Section 4 [Exemptions] exempts large energy facilities that generate electricity from wind energy conversion systems, serving retail customers in Minnesota, and are specifically intended to meet the renewable energy objectives, from the certificate of need requirement.

Section 5 [Renewable Energy Development] requires the Department of Commerce, in cooperation with others, to work to ensure cost-effective renewable energy development throughout the state.

Section 6 [Wind Integration Study] requires all electric utilities to finance and participate in a statewide study of the impacts on reliability and cost of increasing wind capacity to 20 percent of Minnesota retail electric sales by 2020. The Reliability Administrator shall manage the study and appoint a stakeholders group with experience in engineering and expertise in power systems or wind energy to review the study's proposed methods and assumptions. The study must be completed by November 30, 2006.

Section 7 [Expiration] specifies that section 3 of article 2 expires January 1, 2010.

Article 3 Routing and Siting Authority Transfer

Article 3 transfers authority for routing and siting of high-voltage electric lines and large energy facilities from the Environmental Quality Board to the Public Utilities Commission.

Sections 1 and 2 make conforming changes to definitions.

Sections 3, 4, 5, 8, and 9 make conforming changes

Section 6 [Department of Commerce To Provide Technical Expertise and Other Assistance] requires the Department of Commerce, in consultation with other state agencies, to provide technical expertise and other assistance with respect to siting and routing decisions to the PUC, which shall include the cost of such assistance in the relevant assessments.

Section 7 [Environmental Review] specifies that the Commissioner of Commerce shall prepare environmental assessments for the PUC for routing and siting issues.

Sections 10 and 11 [Site and Route Application Fees] modify the site and route permit application fees to cover all necessary and reasonable costs incurred by the PUC in carrying out its siting and routing authority.

Section 12 [Application for Certificate] permits applications for a certificate of need for a large energy facility and an application for a site or route permit to be filed at the same time, prior to construction, and permits a joint hearing on those applications.

Section 13 [Approval, Denial, or Modification] extends the time within which the PUC must approve or deny an application for a certificate of need from six to 12 months from the date of submission, and provides for further extension upon consent of the applicant or upon commission motion.

Section 14 [Reliability Administrator] transfers the position of reliability administrator from the Department of Commerce to the PUC. This section adds clarification to the reliability administrator's duties and removes a provision prohibiting the reliability administrator from being considered a party or participant in any proceeding before the PUC.

Section 15 [Transferring Power Plant Siting Responsibilities] transfers all responsibilities and relevant staff of the Environmental Quality Board related to routing and siting energy facilities to the PUC, except that EQB responsibilities for environmental review and assessment are transferred to the Department of Commerce.

Section 16 [Transferring Reliability Administrator Responsibilities] transfers all responsibilities of the Department of Commerce relating to the reliability administrator to the PUC.

Section 17 [Revisor's Instructions] instructs the Revisor of Statutes to make the necessary changes in statute and rules.

Section 18 [Effective Date] specifies that the changes in this article are effective July 1, 2005.

Article 4

Energy Assistance Technical Corrections

Article 4 recodifies statutes governing energy assistance programs into the chapter on energy planning and conservation, and makes related technical corrections. This article also deletes a provision that prohibited money received as settlement from a 1983 case or oil overcharge revenue received after 1988 from being dispensed for conservation purposes.

Article 5

Woody Biomass Mandate Project

Section 1 [Farm-Grown Closed-Loop Biomass] adds a definition of sustainably managed woody biomass.

Sections 2 to 6 [Municipal Waste-to-Energy Project] provide for a joint venture between the Virginia and Hibbing municipal utilities to retrofit coal-fired generation facilities to utilize biomass fuels; provide criteria and third-party oversight for harvesting woody biomass on state lands; require the preparation of annual fuel plans and the development guidelines or best management practices for sustainably managed woody biomass at the municipal utilities' expense; provide for an interim exception from and reduction in the biomass mandate under certain conditions; specify certain cost recovery criteria; and make conforming changes.

Article 6 E-Filing

Article 6 establishes the Department of Commerce's e-filing account, and authorizes the department to make a onetime assessment to all regulated utilities of \$515,000 for the purpose of establishing an e-filing system that allows documents to be filed and retrieved via the Internet.

Article 7 CIP Technical Corrections

Section 1 [Conservation Improvement by Cooperative Association or Municipality] eliminates an outdated provision regarding the percentage of conservation improvement spending for load management by municipalities and cooperative electrical associations, and clarifies that up to 50 percent of municipal and cooperative electrical association spending on CIP may be used for load management. This section also extends the frequency with which municipalities and cooperative electrical associations must file an overview of their CIP spending with the PUC from two to four years.

Section 2 [Programs] extends the period covered by public utilities' conservation improvement plans, and frequency with which such plans must be filed, from two to four years. This section also specifies that utilities make a good faith effort to ensure that their conservation improvement spending for low-income renters increases and decreases proportionate to total CIP spending changes.

Article 8 Power Quality Zones

Section 1 [Opportunities for Distributed Generation] requires the PUC to ensure that opportunities for the installation of distributed generation are considered in any resource planning, certificate of need, or state transmission need proceeding.

Section 2 [Local Power Quality Zones] allows the Public Utilities Commission, upon petition by a public utility or ratepayer, to establish local power quality zones within the utility's service territory, wherein ratepayers, through tariffs and surcharges, can obtain electrical service with a significantly lower number of service interruptions or voltage fluctuations.

Article 9
Biogas Incentive Payments

Article 9 eliminates a provision that prohibited payment of the biogas incentive to facilities that began generating electricity after July 1, 2001.

Article 10
Gas Infrastructure Cost

Article 10 provides a filing mechanism with the Public Utilities Commission, outside of a general rate case, for gas utilities to recover the costs of relocating and replacing infrastructure that must be moved because of public construction projects. The bill requires the Department of Commerce to review the mechanism and report to the Legislature four years after final enactment. This provision expires June 30, 2015.

Article 11
Eminent Domain Landowner Compensation

Article 11 requires the Legislative Electric Energy Task Force to convene by June 15, 2005, a working group consisting of up to 12 members, including representatives of transmission-owning investor-owned utilities, electrical cooperatives, municipal power agencies, the Farm Bureau, Farmers Union, county commissioners, real estate appraisers, and others to research alternative methods of compensating landowners on whose land high-voltage transmission lines have been constructed. Members of the working group shall be reimbursed for expenses up to a total of \$10,000 for the group, and shall report their findings and recommendations by January 15, 2006.

MSG:cs

Senators Anderson, Rosen, Ourada, Metzen and Kubly introduced--

S.F. No. 1368: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to utilities; requiring establishment and

3 adoption of community-based energy development

4 tariffs; modifying provisions relating to renewable

5 energy resources and objectives; making clarifying

6 changes; amending Minnesota Statutes 2004, sections

7 216B.1645, subdivision 1, by adding a subdivision;

8 216B.2425, subdivision 7; 216B.243, subdivision 8;

9 proposing coding for new law in Minnesota Statutes,

10 chapter 216B.

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

12 Section 1. [216B.1612] [COMMUNITY-BASED ENERGY

13 DEVELOPMENT; TARIFF.]

14 Subdivision 1. [DEFINITIONS.] (a) The terms used in this

15 section have the meanings given them in this subdivision.

16 (b) "C-BED tariff" or "tariff" means a community-based

17 energy development tariff.

18 (c) "Qualifying owner" means:

19 (1) a Minnesota resident domiciled in any county in which a

20 proposed wind energy project is to be located;

21 (2) a limited liability corporation that is organized under

22 the laws of this state and that is made up of members who are

23 Minnesota residents domiciled in counties in which proposed wind

24 energy projects are to be located;

25 (3) a Minnesota nonprofit organization organized under

26 chapter 317A;

27 (4) a Minnesota cooperative association organized under

28 chapter 308A or 308B, other than a rural electric cooperative

1 association or generation and transmission cooperative;

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

8 (6) a tribal council if the project is located within the
9 boundaries of the reservation.

10 Subd. 2. [COMMISSION TO DEVELOP TARIFF MODEL.] By January
11 15, 2006, the commission shall establish, by order, a model
12 C-BED tariff. The intent of the model tariff is to provide a
13 rate structure conducive to the financing of community-based
14 energy projects while balancing ratepayer interests and
15 benefits, by:

16 (1) providing a higher rate in the initial years of the
17 tariff, which generally corresponds to the initial debt service
18 period of a project, in which the rate paid by the utility is
19 higher during the initial years of the contract and lower in the
20 later years;

21 (2) providing a lower rate during the later years of the
22 tariff, when the initial debt has been retired;

23 (3) offering net present value rate that is no higher than
24 the rate that would have been paid by the utility absent the
25 front-end-loaded tariff but no lower than the utility's avoided
26 cost as calculated under section 216B.164; and

27 (4) ensuring that the qualifying owners using the tariff
28 agree to abide by the terms of the tariff for the full term of
29 the tariff, which must be no less than 20 years, in order to
30 provide ratepayers with the benefit of lower rates in the later
31 years of the tariff in return for paying higher rates during the
32 earlier, debt-servicing years.

33 Subd. 3. [ELIGIBILITY.] To be eligible for a
34 community-based energy development tariff, a proposed wind
35 project must:

36 (1) be owned by one or more qualifying owners; and

1 (2) have a resolution of support adopted by the county
2 board of each county in which the project is to be located or,
3 in the case of a project located within the boundaries of a
4 reservation, the tribal council.

5 Subd. 4. [JOINT VENTURES.] Any qualifying owner, or any
6 combination of qualifying owners, may develop a joint venture
7 project with a nonqualifying wind energy project developer.
8 However, the terms of the C-BED tariff may only apply to the
9 portion of the energy production of the total project that is
10 directly proportional to the equity share of the project owned
11 by the qualifying owners.

12 Subd. 5. [ALL UTILITIES TO OFFER TARIFF.] Within 90 days
13 after the commission issues an order under subdivision 2:

14 (1) each public utility providing electric service at
15 retail shall file for commission approval a community-based
16 energy development tariff consistent with the model tariff
17 established under subdivision 2; and

18 (2) each municipal utility and cooperative electric
19 association shall adopt a community-based energy development
20 tariff consistent with the model tariff issued under subdivision
21 2.

22 Subd. 6. [APPLICATION OF TARIFF.] A C-BED tariff applies
23 to:

24 (1) projects selected to meet an energy need identified in
25 a resource plan filed under section 216B.2422;

26 (2) community-based wind energy projects to satisfy an
27 order of the commission;

28 (3) projects to satisfy a statutory mandate; or

29 (4) projects to satisfy the renewable energy objective law
30 contained in section 216B.1691.

31 Subd. 7. [ELECTION BY PROJECT DEVELOPER.] At the
32 discretion of the developer, a community-based project developer
33 and a utility may negotiate a different rate and power purchase
34 agreement with terms different from the tariff established under
35 subdivision 2.

36 Sec. 2. Minnesota Statutes 2004, section 216B.1645,

1 subdivision 1, is amended to read:

2 Subdivision 1. [COMMISSION AUTHORITY.] Upon the petition
3 of a public utility, the Public Utilities Commission shall
4 approve or disapprove power purchase contracts, investments, or
5 expenditures entered into or made by the utility to satisfy the
6 wind and biomass mandates contained in sections 216B.169,
7 216B.2423, and 216B.2424, and to satisfy the Minnesota renewable
8 energy objectives under section 216B.1691, including reasonable
9 investments and expenditures made to transmit the electricity
10 generated from sources developed under those sections that is
11 ultimately used to provide service to the utility's retail
12 customers, or to develop renewable energy sources from the
13 account required in section 116C.779.

14 Sec. 3. Minnesota Statutes 2004, section 216B.1645, is
15 amended by adding a subdivision to read:

16 Subd. 5. [TRANSMISSION NEEDED TO SUPPORT RENEWABLE
17 RESOURCES.] In determining whether to approve accelerated
18 recovery of expenditures under this section for construction of
19 transmission facilities to satisfy the renewable energy
20 objective under section 216B.1691, the commission must find that
21 the applicant has met the following factors:

22 (1) that the transmission facility is needed to allow the
23 delivery of power from renewable sources of energy to retail
24 customers in Minnesota;

25 (2) that the applicant has signed or will sign power
26 purchase agreements for resources to meet the renewable energy
27 objective that will use or is dependent upon the capacity of the
28 transmission facility to serve retail customers in Minnesota;
29 and

30 (3) that the installation and commercial operation date of
31 the renewable resources to satisfy the renewable energy
32 objective will match the planned in-service date of the
33 transmission facility.

34 Sec. 4. Minnesota Statutes 2004, section 216B.2425,
35 subdivision 7, is amended to read:

36 Subd. 7. [TRANSMISSION NEEDED TO SUPPORT RENEWABLE

1 RESOURCES.] Each entity subject to this section shall determine
2 necessary transmission upgrades to support development of
3 renewable energy resources required to meet objectives under
4 section 216B.1691 and shall include those upgrades in its report
5 under subdivision 2. Transmission projects determined by the
6 commission to be necessary to support a utility's plan under
7 section 216B.1691 to meet its obligations under that section
8 must be certified as a priority electric transmission project,
9 satisfying the requirements of section 216B.243. In determining
10 that a proposed transmission project is necessary to support a
11 utility's plan under section 216B.1691, the commission must find
12 that the applicant has met the following factors:

13 (1) that the transmission facility is needed to allow the
14 delivery of power from renewable sources of energy to retail
15 customers in Minnesota;

16 (2) that the applicant has signed or will sign power
17 purchase agreements for resources to meet the renewable energy
18 objective that will use or is dependent upon the capacity of the
19 transmission facility to serve retail customers in Minnesota;
20 and

21 (3) that the installation and commercial operation date of
22 the renewable resources to satisfy the renewable energy
23 objective will match the planned in-service date of the
24 transmission facility.

25 Sec. 5. Minnesota Statutes 2004, section 216B.243,
26 subdivision 8, is amended to read:

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

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

1 (2) a high-voltage transmission line proposed primarily to
2 distribute electricity to serve the demand of a single customer
3 at a single location, unless the applicant opts to request that
4 the commission determine need under this section or section
5 216B.2425;

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

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

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

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

20 (7) a large energy facility that (i) generates electricity
21 from wind energy conversion systems, (ii) will serve retail
22 customers in Minnesota, and (iii) is specifically intended to be
23 used to meet the renewable energy objective under section
24 216B.1691 or addresses a resource need identified in a current
25 commission-approved or commission-reviewed resource plan under
26 section 216B.2424.

27 Sec. 6. [EFFECTIVE DATE.]

28 Sections 1 to 5 are effective the day following final
29 enactment.

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. 1368: A bill for an act relating to utilities;
6 requiring establishment and adoption of community-based energy
7 development tariffs; modifying provisions relating to renewable
8 energy resources and objectives; making clarifying changes;
9 amending Minnesota Statutes 2004, sections 216B.1645,
10 subdivision 1, by adding a subdivision; 216B.2425, subdivision
11 7; 216B.243, subdivision 8; proposing coding for new law in
12 Minnesota Statutes, chapter 216B.

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

15 Delete everything after the enacting clause and insert:

16 "ARTICLE 1

17 TRANSMISSION COMPANIES

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

20 Subd. 10. [TRANSMISSION COMPANY.] "Transmission company"
21 means persons, corporations, or other legal entities and their
22 lessees, trustees, and receivers, engaged in the business of
23 owning, operating, maintaining, or controlling in this state
24 equipment or facilities for furnishing electric transmission
25 service in Minnesota, but does not include public utilities,
26 municipal electric utilities, municipal power agencies,
27 cooperative electric associations, or generation and
28 transmission cooperative power associations.

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

31 Subd. 7b. [TRANSMISSION COST ADJUSTMENT.] (a)
32 Notwithstanding any other provision of this chapter, the
33 commission may approve a tariff mechanism for the automatic
34 annual adjustment of charges for the Minnesota jurisdictional
35 costs of new transmission facilities that have been separately
36 filed and reviewed and approved by the commission under section
37 216B.243 or are certified as a priority project or deemed to be
38 a priority transmission project under section 216B.2425.

39 (b) Upon filing by a public utility or utilities providing
40 transmission service, the commission may approve, reject or

1 modify, after notice and comment, a tariff that:

2 (1) allows the utility to recover on a timely basis the
3 costs net of revenues of facilities approved under section
4 216B.243 or certified or deemed to be certified under section
5 216B.2425;

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

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

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

16 (5) allocates project costs appropriately between wholesale
17 and retail customers;

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

21 (7) terminates recovery once costs have been fully
22 recovered or have otherwise been reflected in the utility's
23 general rates.

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

27 (1) a description of and context for the facilities
28 included for recovery;

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

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

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

33 (5) calculations to establish that the rate adjustment is
34 consistent with the terms of the tariff established in paragraph
35 (b).

36 (d) Upon receiving a filing for a rate adjustment pursuant

1 to the tariff established in paragraph (b), the commission shall
2 approve the annual rate adjustments provided that, after notice
3 and comment, the costs included for recovery through the tariff
4 were or are expected to be prudently incurred and achieve
5 transmission system improvements at the lowest feasible and
6 prudent cost to ratepayers.

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

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

21 (1) is consistent with the public interest;

22 (2) facilitates the development of transmission
23 infrastructure necessary to ensure reliability, encourages the
24 development of renewable resources, and accommodates energy
25 transfers within and between states;

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

28 (4) ensures, in the case of operational control of
29 transmission assets, that the state retains jurisdiction over
30 the transferring utility for all aspects of service under
31 chapter 216B.

32 (b) A transfer of operational control or ownership of
33 assets by a public utility under this subdivision is subject to
34 section 216B.50. The relationship between a public utility
35 transferring operational control of assets to another entity
36 under this subdivision is subject to the provisions of section

1 216B.48. If a public utility transfers ownership of its
2 transmission assets to a transmission provider subject to the
3 jurisdiction of the Federal Energy Regulatory Commission, the
4 Public Utilities Commission may permit the utility to file a
5 rate schedule providing for the automatic adjustment of charges
6 to recover the cost of transmission services purchased under
7 tariff rates approved by the Federal Energy Regulatory
8 Commission.

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

11 Subd. 2. [LARGE ENERGY FACILITY.] "Large energy facility"
12 means:

13 (1) any electric power generating plant or combination of
14 plants at a single site with a combined capacity of 50,000
15 kilowatts or more and transmission lines directly associated
16 with the plant that are necessary to interconnect the plant to
17 the transmission system;

18 (2) any high-voltage transmission line with a capacity of
19 200 kilovolts or more and greater than 1,500 feet in length;

20 (3) any high-voltage transmission line with a capacity of
21 100 kilovolts or more with more than ten miles of its length in
22 Minnesota or that crosses a state line;

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

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

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

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

35 (8) any nuclear fuel processing or nuclear waste storage or
36 disposal facility; and

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

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

6 Subd. 3. [SHOWING REQUIRED FOR CONSTRUCTION.] No proposed
7 large energy facility shall be certified for construction unless
8 the applicant can show that demand for electricity cannot be met
9 more cost effectively through energy conservation and
10 load-management measures and unless the applicant has otherwise
11 justified its need. In assessing need, the commission shall
12 evaluate:

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

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

18 (3) the relationship of the proposed facility to overall
19 state energy needs, as described in the most recent state energy
20 policy and conservation report prepared under section 216C.18,
21 or, in the case of a high-voltage transmission line, the
22 relationship of the proposed line to regional energy needs, as
23 presented in the transmission plan submitted under section
24 216B.2425;

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

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

30 (6) possible alternatives for satisfying the energy demand
31 or transmission needs including but not limited to potential for
32 increased efficiency and upgrading of existing energy generation
33 and transmission facilities, load-management programs, and
34 distributed generation;

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

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

5 (9) with respect to a high-voltage transmission line, the
6 benefits of enhanced regional reliability, access, or
7 deliverability to improve the robustness of the transmission
8 system or to lower costs to electric consumers;

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

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

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

23 Sec. 6. Minnesota Statutes 2004, section 216B.2425,
24 subdivision 2, is amended to read:

25 Subd. 2. [LIST DEVELOPMENT; TRANSMISSION PROJECTS REPORT.]

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

29 (1) is a public utility, a municipal utility, and a
30 cooperative electric association, or the generation and
31 transmission organization that serves each utility or
32 association, that or a transmission company; and

33 (2) owns or operates electric transmission lines in
34 Minnesota shall.

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

1 (c) The report must:

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

4 (2) identify alternative means of addressing each
5 inadequacy listed;

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

8 (4) provide a summary of public input ~~the-utilities-and~~
9 ~~associations-have-gathered~~ related to the list of inadequacies
10 and the role of local government officials and other interested
11 persons in assisting to develop the list and analyze
12 alternatives.

13 ~~(b)~~ (d) To meet the requirements of this subdivision,
14 entities reporting parties may rely on available information and
15 analysis developed by a regional transmission organization or
16 any subgroup of a regional transmission organization and may
17 develop and include additional information as necessary.

18 Sec. 7. Minnesota Statutes 2004, section 216B.50,
19 subdivision 1, is amended to read:

20 Subdivision 1. [COMMISSION APPROVAL REQUIRED.] No public
21 utility shall sell, acquire, lease, or rent any plant as an
22 operating unit or system in this state for a total consideration
23 in excess of \$100,000, or merge or consolidate with another
24 public utility or transmission company operating in this state,
25 without first being authorized so to do by the commission. Upon
26 the filing of an application for the approval and consent of the
27 commission ~~thereto,~~ the commission shall investigate, with or
28 without public hearing, ~~and in case of.~~ The commission shall
29 hold a public hearing, upon such notice as the commission may
30 require, and if it shall find. If the commission finds that the
31 proposed action is consistent with the public interest, it shall
32 give its consent and approval by order in writing. In reaching
33 its determination, the commission shall take into consideration
34 the reasonable value of the property, plant, or securities to be
35 acquired or disposed of, or merged and consolidated. ~~The~~
36 ~~provisions of~~

1 This section shall does not be construed as
2 applicable apply to the purchase of units-of property for
3 replacement-or-to-the-addition to replace or add to the plant of
4 the public utility by construction.

5 Sec. 8. Minnesota Statutes 2004, section 216B.62, is
6 amended by adding a subdivision to read:

7 Subd. 5a. [ASSESSING TRANSMISSION COMPANIES.] The
8 commission and department may charge transmission companies
9 their proportionate share of the expenses incurred in the review
10 and disposition of proceedings under sections 216B.2425,
11 216B.243, 216B.48, 216B.50, and 216B.79. A transmission company
12 is not liable for costs and expenses in a calendar year in
13 excess of the limitation on costs that may be assessed against
14 public utilities under subdivision 2. A transmission company
15 may object to and appeal bills of the commission and department
16 as provided in subdivision 4.

17 Sec. 9. Minnesota Statutes 2004, section 216B.79, is
18 amended to read:

19 216B.79 [PREVENTATIVE MAINTENANCE.]

20 The commission may order public utilities to make adequate
21 infrastructure investments and undertake sufficient preventative
22 maintenance with regard to generation, transmission, and
23 distribution facilities. The commission's authority under this
24 section also applies to any transmission company that owns or
25 operates electric transmission lines in Minnesota.

26 Sec. 10. [STAKEHOLDER PROCESS AND REPORT.]

27 Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the
28 Legislative Electric Energy Task Force shall convene a
29 stakeholder group consisting of one representative from each of
30 the following groups: transmission-owning investor-owned
31 utilities, electric cooperatives, municipal power agencies,
32 energy consumer advocates, business energy consumer advocates,
33 residential energy consumer advocates, environmental
34 organizations, the Minnesota Department of Commerce, the
35 Minnesota Environmental Quality Board, and the Minnesota Public
36 Utilities Commission.

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

6 (b) In developing its recommendations, the stakeholder
7 group shall consider:

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

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

13 (3) whether additional cooperation between state agencies
14 is needed to enhance the efficiency of the certification and
15 routing processes, and whether modifications to those processes
16 are appropriate.

17 (c) The stakeholder group shall also consider and make
18 recommendations regarding whether and how to provide
19 compensation above traditional eminent domain payments to
20 landowners over whose property a new transmission facility is
21 constructed.

22 Subd. 3. [REPORT.] By January 15, 2006, the task force
23 shall submit a report to the legislature summarizing the
24 stakeholder group findings and any recommended changes to the
25 certification and routing processes for high-voltage
26 transmission lines.

ARTICLE 2

C-BED AND RENEWABLE TRANSMISSION

29 Section 1. [216B.1612] [COMMUNITY-BASED ENERGY
30 DEVELOPMENT; TARIFF.]

31 Subdivision 1. [TARIFF ESTABLISHMENT.] A tariff shall be
32 established to optimize local, regional, and state benefits from
33 wind energy development, and to facilitate widespread
34 development of community-based wind energy projects throughout
35 Minnesota.

36 Subd. 2. [DEFINITIONS.] (a) The terms used in this section

1 have the meanings given them in this subdivision.

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

4 (c) "Qualifying owner" means:

5 (1) a Minnesota resident;

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

9 (3) a Minnesota nonprofit organization organized under
10 chapter 317A;

11 (4) a Minnesota cooperative association organized under
12 chapter 308A or 308B, other than a rural electric cooperative
13 association or a generation and transmission cooperative;

14 (5) a Minnesota political subdivision or local government
15 other than a municipal electric utility or municipal power
16 agency, including, but not limited to, a county, statutory or
17 home rule charter city, town, school district, or public or
18 private higher education institution or any other local or
19 regional governmental organization such as a board, commission,
20 or association; or

21 (6) a tribal council.

22 (d) "Net present value rate" means a rate equal to the net
23 present value of the nominal payments to a project divided by
24 the total expected energy production of the project over the
25 life of its power purchase agreement.

26 (e) "Standard reliability criteria" means:

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

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

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

35 (1) has no single qualifying owner owning more than 15
36 percent of a C-BED project that consists of more than two

1 turbines; or

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

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

10 Subd. 3. [TARIFF RATE.] (a) The tariff described in
11 subdivision 4 must have a rate schedule that allows for a rate
12 up to a 2.7 cents per kilowatt hour net present value rate over
13 the 20-year life of the power purchase agreement. The tariff
14 must provide for a rate that is higher in the first ten years of
15 the power purchase agreement than in the last ten years. The
16 discount rate required to calculate the net present value must
17 be the utility's normal discount rate used for its other
18 business purposes.

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

21 (c) The commission shall require that qualifying owners
22 provide sufficient security to secure performance under the
23 power purchase agreement, and shall prohibit the transfer of the
24 C-BED project to a nonqualifying owner during the initial 20
25 years of the contract.

26 Subd. 4. [UTILITIES TO OFFER TARIFF.] By December 1, 2005,
27 each public utility providing electric service at retail shall
28 file for commission approval a community-based energy
29 development tariff consistent with subdivision 3. Within 90
30 days of the first commission approval order under this
31 subdivision, each municipal power agency and generation and
32 transmission cooperative electric association shall adopt a
33 community-based energy development tariff as consistent as
34 possible with subdivision 3.

35 Subd. 5. [PRIORITY FOR C-BED PROJECTS.] (a) A utility
36 subject to section 216B.1691 that needs to construct new

1 generation, or purchase the output from new generation, as part
2 of its plan to satisfy its good faith objective under that
3 section should take reasonable steps to determine if one or more
4 C-BED projects are available that meet the utility's cost and
5 reliability requirements, applying standard reliability
6 criteria, to fulfill some or all of the identified need at
7 minimal impact to customer rates.

8 Nothing in this section shall be construed to obligate a
9 utility to enter into a power purchase agreement under a C-BED
10 tariff developed under this section.

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

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

19 Subd. 6. [PROPERTY OWNER PARTICIPATION.] To the extent
20 feasible, a developer of a C-BED project must provide, in
21 writing, an opportunity to invest in the C-BED project to each
22 property owner on whose property a high voltage transmission
23 line transmitting the energy generated by the C-BED project to
24 market currently exists or is to be constructed and who resides
25 in the county where the C-BED project is located or in an
26 adjacent Minnesota county.

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

31 (b) At the discretion of the developer, a community-based
32 project developer and a utility may negotiate a power purchase
33 agreement with terms different from the tariff established under
34 subdivision 4.

35 (c) A qualifying owner, or any combination of qualifying
36 owners, may develop a joint venture project with a nonqualifying

1 wind energy project developer. However, the terms of the C-BED
2 tariff may only apply to the portion of the energy production of
3 the total project that is directly proportional to the equity
4 share of the project owned by the qualifying owners.

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

9 (e) A public utility must receive commission approval of a
10 power purchase agreement for a C-BED tariffed project. The
11 commission shall provide the utility's ratepayers an opportunity
12 to address the reasonableness of the proposed power purchase
13 agreement.

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

16 Subdivision 1. [COMMISSION AUTHORITY.] Upon the petition
17 of a public utility, the Public Utilities Commission shall
18 approve or disapprove power purchase contracts, investments, or
19 expenditures entered into or made by the utility to satisfy the
20 wind and biomass mandates contained in sections 216B.169,
21 216B.2423, and 216B.2424, and to satisfy the renewable energy
22 objectives set forth in section 216B.1691, including reasonable
23 investments and expenditures made to:

24 (1) transmit the electricity generated from sources
25 developed under those sections that is ultimately used to
26 provide service to the utility's retail customers, ~~or to~~
27 including studies necessary to identify new transmission
28 facilities needed to transmit electricity to Minnesota retail
29 customers from generating facilities constructed to satisfy the
30 renewable energy objectives, provided that the costs of the
31 studies have not been recovered previously under existing
32 tariffs and the utility has filed an application for a
33 certificate of need or for certification as a priority project
34 under section 216B.2425 for the new transmission facilities
35 identified in the studies; or

36 (2) develop renewable energy sources from the account

1 required in section 116C.779.

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

4 Subd. 7. [TRANSMISSION NEEDED TO SUPPORT RENEWABLE
5 RESOURCES.] Each entity subject to this section shall determine
6 necessary transmission upgrades to support development of
7 renewable energy resources required to meet objectives under
8 section 216B.1691 and shall include those upgrades in its report
9 under subdivision 2. Transmission projects determined by the
10 commission to be necessary to support a utility's plan under
11 section 216B.1691 to meet its obligations under that section
12 must be certified as a priority electric transmission project,
13 satisfying the requirements of section 216B.243. In determining
14 that a proposed transmission project is necessary to support a
15 utility's plan under section 216B.1691, the commission must find
16 that the applicant has met the following factors:

17 (1) that the transmission facility is necessary to allow
18 the delivery of power from renewable sources of energy to retail
19 customers in Minnesota;

20 (2) that the applicant has signed or will sign power
21 purchase agreements, subject to commission approval, for
22 resources to meet the renewable energy objective that are
23 dependent upon or will use the capacity of the transmission
24 facility to serve retail customers in Minnesota;

25 (3) that the installation and commercial operation date of
26 the renewable resources to satisfy the renewable energy
27 objective will match the planned in-service date of the
28 transmission facility; and

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

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

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

35 (1) cogeneration or small power production facilities as
36 defined in the Federal Power Act, United States Code, title 16,

1 section 796, paragraph (17), subparagraph (A), and paragraph
2 (18), subparagraph (A), and having a combined capacity at a
3 single site of less than 80,000 kilowatts ~~or-to~~; plants or
4 facilities for the production of ethanol or fuel alcohol ~~nor-in~~;
5 or any case where the commission shall-determine has determined
6 after being advised by the attorney general that its application
7 has been preempted by federal law;

8 (2) a high-voltage transmission line proposed primarily to
9 distribute electricity to serve the demand of a single customer
10 at a single location, unless the applicant opts to request that
11 the commission determine need under this section or section
12 216B.2425;

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

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

21 (5) conversion of the fuel source of an existing electric
22 generating plant to using natural gas; ~~or~~

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

27 (7) a large energy facility that (i) generates electricity
28 from wind energy conversion systems, (ii) will serve retail
29 customers in Minnesota, (iii) is specifically intended to be
30 used to meet the renewable energy objective under section
31 216B.1691 or addresses a resource need identified in a current
32 commission-approved or commission-reviewed resource plan under
33 section 216B.2422; and (iv) derives at least 10 percent of the
34 total nameplate capacity of the proposed project from one or
35 more C-BED projects, as defined under section 216B.1612,
36 subdivision 2, paragraph (f).

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

2 The Department of Commerce shall assist utilities,
3 renewable energy developers, regulators, regional transmission
4 grid managers, and the public on issues related to renewable
5 energy development. The department shall work to ensure
6 cost-effective renewable energy development throughout the state.

7 Sec. 6. [WIND INTEGRATION STUDY.]

8 The commission shall order all electric utilities, as
9 defined in Minnesota Statutes, section 216B.1691, subdivision 1,
10 paragraph (b), to participate in a statewide wind integration
11 study. Utilities subject to Minnesota Statutes, section
12 216B.1691, shall jointly contract with an independent firm
13 selected by the reliability administrator to conduct an
14 engineering study of the impacts on reliability and costs
15 associated with increasing wind capacity to 20 percent of
16 Minnesota retail electric energy sales by the year 2020, and to
17 identify and develop options for utilities to use to manage the
18 intermittent nature of wind resources. The contracting
19 utilities shall cooperate with the firm conducting the study by
20 providing data requested. The reliability administrator shall
21 manage the study process and shall appoint a group of
22 stakeholders with experience in engineering and expertise in
23 power systems or wind energy to review the study's proposed
24 methods and assumptions and preliminary data. The study must be
25 completed by November 30, 2006. Using the study results, the
26 contracting utilities shall provide the commissioner of commerce
27 with estimates of the impact on their electric rates of
28 increasing wind capacity to 20 percent, assuming no reduction in
29 reliability. Electric utilities shall incorporate the study's
30 findings into their utility integrated resource plans prepared
31 under Minnesota Statutes, section 216B.2422. The costs of the
32 study are recoverable under Minnesota Statutes, section
33 216C.052, subdivision 2, paragraph (c), clause (2).

34 Sec. 7. [EXPIRATION.]

35 Section 3 expires on January 1, 2010.

36 ARTICLE 3

1 ROUTING AND CITING AUTHORITY TRANSFER

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

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

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

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

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

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

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

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

1 electric generating plant to the transmission system and whose
2 need is certified ~~as-part-of-the-generating-plant-project-by-the~~
3 ~~Public-Utilities-Commission~~ under section 216B.243.

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

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

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

22 Subd. 9. [DEPARTMENT OF COMMERCE TO PROVIDE TECHNICAL
23 EXPERTISE AND OTHER ASSISTANCE.] The commissioner of the
24 Department of Commerce shall consult with other state agencies
25 and provide technical expertise and other assistance to the
26 commission for activities and proceedings under this section,
27 sections 116C.51 to 116C.697, and chapter 116I. The
28 commissioner shall periodically report to the commission
29 concerning the Department of Commerce's costs of providing
30 assistance. The report shall conform to the schedule and
31 include the required contents specified by the commission. The
32 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 extend 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-Commeree~~ 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; 116C.691
7 to 116C.697; 216B.2422; 216B.2425; 216B.243; chapter 116I; and
8 rules associated with those sections. Subject to resource
9 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

ARTICLE 4

1 ENERGY ASSISTANCE TECHNICAL CORRECTIONS

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

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

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

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

16 (1) programs for the homeless under sections 116L.365 and
17 119A.43;

18 (2) emergency energy assistance and energy conservation
19 programs under sections ~~119A.40 and 119A.42~~ 216C.263 and
20 216C.265;

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

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

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

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

27 216C.09 [COMMISSIONER DUTIES.]

28 (a) The commissioner shall:

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

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

35 (3) undertake a continuing assessment of trends in the
36 consumption of all forms of energy and analyze the social,

1 economic, and environmental consequences of these trends;

2 (4) carry out energy conservation measures as specified by
3 the legislature and recommend to the governor and the
4 legislature additional energy policies and conservation measures
5 as required to meet the objectives of sections 216C.05 to
6 216C.30;

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

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

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

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

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

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

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

36 (12) design a comprehensive program for the development of

1 indigenous energy resources. The program shall include, but not
2 be limited to, providing technical, informational, educational,
3 and financial services and materials to persons, businesses,
4 municipalities, and organizations involved in the development of
5 solar, wind, hydropower, peat, fiber fuels, biomass, and other
6 alternative energy resources. The program shall be evaluated by
7 the alternative energy technical activity; and

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

21 (b) Further, the commissioner may participate fully in
22 hearings before the Public Utilities Commission on matters
23 pertaining to rate design, cost allocation, efficient resource
24 utilization, utility conservation investments, small power
25 production, cogeneration, and other rate issues. The
26 commissioner shall support the policies stated in section
27 216C.05 and shall prepare and defend testimony proposed to
28 encourage energy conservation improvements as defined in section
29 216B.241.

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

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

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

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

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

30 Sec. 6. [RECODIFICATION.]

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

35

ARTICLE 5

36

WOODY BIOMASS MANDATE PROJECT

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

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

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

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

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

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

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

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

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

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

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

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

35 (3) upland and lowland brush harvested from lands managed
36 in accordance with Minnesota Department of Natural Resources

1 "Best Management Practices for Managing Brushlands";

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

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

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

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

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

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

1 and certificates show that the project does not or will not
2 comply with the fuel requirements of this subdivision may file a
3 petition with the commission seeking such a determination.

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

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

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

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

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

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

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

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

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

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

26 Sec. 3. 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 as its
25 primary fuel if farm-grown closed-loop biomass comprises no less
26 than 25 percent of the fuel used over the life of the project.
27 For purposes of this subdivision, "life of the project" means 20
28 years from the date the project becomes operational or the term
29 of the applicable power purchase agreement between the project
30 owner and the public utility, whichever is longer.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 subject to this subdivision.

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

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

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

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

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

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

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

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

23 ARTICLE 6

24 E-FILING

25 Section 1. [ESTABLISHMENT OF FUND.]

26 The Department of Commerce's e-filing account is
27 established. The commission shall make a onetime assessment to
28 regulated utilities of \$515,000, which must be deposited in the
29 account. Each public utility, municipal utility, electric
30 cooperative association, generation and transmission cooperative
31 electric association, municipal power agency, telephone company,
32 and telecommunications carrier must be assessed in proportion to
33 its respective gross operating revenues for retail sales of gas,
34 electric, or telecommunications service in the state in the last
35 calendar year. Revenue in the account is appropriated to the
36 commission for the costs associated with establishing an

1 e-filing system that allows documents to be filed and retrieved
2 via the Internet. Revenue in the account remains available
3 until expended.

4 Sec. 2. [COMPLETION DATE.]

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

6 Sec. 3. [EFFECTIVE DATE.]

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

9 ARTICLE 7

10 CIP TECHNICAL CORRECTIONS

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

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

15 (1) a cooperative electric association that provides retail
16 service to its members;

17 (2) a municipality that provides electric service to retail
18 customers; and

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

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

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

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

35 (c) Each municipality and cooperative electric association
36 subject to this subdivision shall identify and implement energy

1 conservation improvement spending and investments that are
2 appropriate for the municipality or association, except that a
3 municipality or association may not spend or invest for energy
4 conservation improvements that directly benefit a large electric
5 customer facility for which the commissioner has issued an
6 exemption under subdivision 1a, paragraph (b).

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

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

20 (1)-2002---90-percent;

21 (2)-2003---80-percent;

22 (3)-2004---65-percent; and

23 (4)-2005-and-thereafter---50-percent.

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

1 not-for-profit entity and each municipal utility for funding the
2 investments.

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

30 (h) The commissioner shall also review each evaluation for
31 whether a portion of the money spent on residential conservation
32 improvement programs is devoted to programs that directly
33 address the needs of renters and low-income persons unless an
34 insufficient number of appropriate programs are available. For
35 the purposes of this subdivision and subdivision 2, "low-income"
36 means an income at or below 50 percent of the state median

1 income.

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

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

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

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

1 material, or project seller, installer, or contractor is duly
2 licensed, certified, approved, or qualified, including under the
3 residential conservation services program, where applicable.

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

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

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

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

1 (f) The commissioner shall ensure that a portion of the
2 money spent on residential conservation improvement programs is
3 devoted to programs that directly address the needs of renters
4 and low-income persons~~7--in-proportion-to-the-amount-the-utility~~
5 ~~has-historically-spent-on-such-programs-based-on-the-most-recent~~
6 ~~three-year-average-relative-to-the-utility's-total-conservation~~
7 ~~spending-under-this-section7~~. The utility shall make a good
8 faith effort to ensure that its conservation spending for the
9 needs of renters and low-income persons increases and decreases
10 in approximately the same proportion as the total increase or
11 decrease in the utility's overall conservation spending, unless
12 an insufficient number of appropriate programs are available.

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

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

1 spending and investments. The audit must evaluate the
 2 cost-effectiveness of the utility's conservation programs.

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

7 ARTICLE 8

8 POWER QUALITY ZONES

9 Section 1. [216B.2426] [OPPORTUNITIES FOR DISTRIBUTED
 10 GENERATION.]

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

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

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

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

35 (c) Nothing in this section limits the ability of the
 36 utility and any customer to enter into customer-specific

1 agreements pursuant to applicable statutory, rule, or tariff
2 provisions.

3 ARTICLE 9

4 BIOGAS INCENTIVE PAYMENTS

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

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

9 (b) "Qualified hydroelectric facility" means a
10 hydroelectric generating facility in this state that:

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

13 (2) begins generating electricity after July 1, 1994, or
14 generates electricity after substantial refurbishing of a
15 facility that begins after July 1, 2001.

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

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

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

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

28 (ii) owned by a Minnesota small business as defined in
29 section 645.445;

30 (iii) owned by a Minnesota nonprofit organization;

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

33 (v) owned by a Minnesota municipal utility or a Minnesota
34 cooperative electric association; or

35 (vi) owned by a Minnesota political subdivision or local
36 government, including, but not limited to, a county, statutory

1 or home rule charter city, town, school district, or any other
2 local or regional governmental organization such as a board,
3 commission, or association; or

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

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

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

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

14 (1) is located at the site of an agricultural
15 operation; and

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

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

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

23 ARTICLE 10

24 GAS INFRASTRUCTURE COST

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

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

30 (b) "Gas utility infrastructure costs" or "GUIC" means gas
31 utility projects that:

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

34 (2) are in service but were not included in the gas
35 utility's rate base in its most recent general rate case; and

36 (3) replace or modify existing infrastructure if the

1 replacement or modification does not constitute a betterment,
2 unless the betterment is required by a political subdivision, as
3 evidenced by specific documentation from the government entity
4 requiring the replacement or modification of infrastructure.

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

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

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

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

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

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

26 (ii) the location, description, and costs associated with
27 the project;

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

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

33 (v) the magnitude and timing of any known future gas
34 utility projects that the utility may seek to recover under this
35 section;

36 (vi) the magnitude of GUIC in relation to the gas utility's

1 base revenue as approved by the commission in the gas utility's
2 most recent general rate case, exclusive of gas purchase costs
3 and transportation charges;

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

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

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

11 Subd. 3. [COMMISSION AUTHORITY.] The commission may issue
12 orders and adopt rules necessary to implement and administer
13 this section.

14 [EFFECTIVE DATE.] This section is effective the day
15 following final enactment.

16 Sec. 2. [REPORT TO LEGISLATURE.]

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

23 Sec. 3. [SUNSET.]

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

ARTICLE 11

EMMINENT DOMAIN LANDOWNER COMPENSATION

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

28 Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the
29 Legislative Electric Energy Task Force shall convene a landowner
30 payments working group consisting of up to 12 members, including
31 representatives from each of the following groups:
32 transmission-owning investor-owned utilities, electric
33 cooperatives, municipal power agencies, Farm Bureau, Farmers
34 Union, county commissioners, real estate appraisers and others
35 with an interest and expertise in landowner rights and the
36 market value of rural property.

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

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

9 (b) In developing its recommendations, the working group
10 shall:

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

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

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

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

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

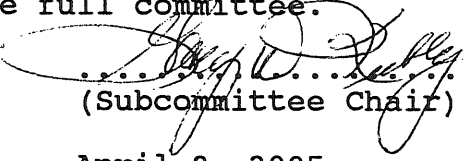
29 Delete the title and insert:

30 "A bill for an act relating to energy; providing for
31 expedited cost recovery for certain transmission investments;
32 authorizing and regulating transmission companies; permitting
33 the transfer of transmission assets and operation to
34 transmission companies; providing for expedited regulatory
35 approval of transmission projects related to renewable
36 generation; providing new criteria to analyze the need for
37 transmission projects; establishing the framework for a wind
38 energy tariff related to community development; requiring a wind
39 integration study; transferring generation plant siting and
40 transmission line routing authority from the Minnesota
41 Environmental Quality Board to the Public Utilities Commission;
42 providing for technical corrections to the energy assistance

1 program; providing for a sustainably managed woody biomass
 2 generation project to satisfy the biomass mandate; providing for
 3 an electronic mail filing system at the Public Utilities
 4 Commission and Department of Commerce; making changes to the
 5 conservation investment program recommended by the legislative
 6 auditor; authorizing the creation of energy quality zones;
 7 regulating eligibility of biogas projects for the renewable
 8 energy production incentive; providing for the recovery of
 9 certain infrastructure investments by gas utilities; requiring a
 10 study of compensation of landowners for transmission easements;
 11 amending Minnesota Statutes 2004, sections 13.681, by adding a
 12 subdivision; 116C.52, subdivisions 2, 4; 116C.53, subdivision 2;
 13 116C.57, subdivisions 1, 2c, by adding a subdivision; 116C.575,
 14 subdivision 5; 116C.577; 116C.58; 116C.69, subdivisions 2, 2a;
 15 119A.15, subdivision 5a; 216B.02, by adding a subdivision;
 16 216B.16, by adding subdivisions; 216B.1645, subdivision 1;
 17 216B.241, subdivisions 1b, 2; 216B.2421, subdivision 2;
 18 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a subdivision;
 19 216B.2425, subdivisions 2, 7; 216B.243, subdivisions 3, 4, 5, 8;
 20 216B.50, subdivision 1; 216B.62, by adding a subdivision;
 21 216B.79; 216C.052; 216C.09; 216C.41, subdivision 1; 462A.05,
 22 subdivisions 21, 23; proposing coding for new law in Minnesota
 23 Statutes, chapters 216B; 216C."

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

26
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 28
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 30


 (Subcommittee Chair)
 April 8, 2005.....
 (Date of Subcommittee action)

1 Senator moves to amend the Report of the Subcommittee
2 on Energy (SS1368SUB) to S.F. No. 1368 as follows:

3 Page 51, after line 28, insert:

4 "ARTICLE 12

5 HYDROGEN

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

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

10 Subd. 2. [FUEL CELL.] "Fuel cell" means an electrochemical
11 device that produces useful electricity, heat, and water vapor,
12 and operates as long as it is provided fuel.

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

15 Subd. 4. [RELATED TECHNOLOGIES.] "Related technologies"
16 means balance of plant components necessary to make hydrogen and
17 fuel cell systems function; turbines, reciprocating, and other
18 combustion engines capable of operating on hydrogen; and
19 electrolyzers, reformers, and other equipment and processes
20 necessary to produce, purify, store, distribute, and use
21 hydrogen for energy.

22 Sec. 2. [216B.812] [FOSTERING THE TRANSITION TOWARD ENERGY
23 SECURITY.]

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

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

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

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

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

1 (4) foster economic development and job creation in the
2 state;

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

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

6 Subd. 2. [SUPPORT FOR STRATEGIC DEMONSTRATION PROJECTS
7 THAT ACCELERATE THE COMMERCIALIZATION OF HYDROGEN, FUEL CELLS,
8 AND RELATED TECHNOLOGIES.] (a) In consultation with appropriate
9 representatives from state agencies, local governments,
10 universities, businesses, and other interested parties, the
11 Department of Commerce shall report back to the legislature by
12 November 1, 2005, and every two years thereafter, with a slate
13 of proposed pilot projects that contribute to realizing
14 Minnesota's hydrogen economy goal as set forth in section
15 216B.013. The Department of Commerce must consider the
16 following nonexclusive list of priorities in developing the
17 proposed slate of pilot projects:

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

21 (2) develop cost-competitive, on-site hydrogen production
22 technologies;

23 (3) demonstrate nonvehicle applications for hydrogen;

24 (4) improve the cost and efficiency of hydrogen from
25 renewable energy sources; and

26 (5) improve the cost and efficiency of hydrogen production
27 using direct solar energy without electricity generation as an
28 intermediate step.

29 (b) For all demonstrations, individual system components of
30 the technology must meet commercial performance standards and
31 systems modeling must be completed to predict commercial
32 performance, risk, and synergies. In addition, the proposed
33 pilots should meet as many of the following criteria as possible:

34 (1) advance energy security;

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

36 (3) result in economically competitive infrastructure being

1 put in place;

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

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

7 (6) include an explicit public education and awareness
8 component;

9 (7) be scalable to respond to changing circumstances and
10 market demands;

11 (8) draw on firms and expertise within the state where
12 possible;

13 (9) include an assessment of its economic, environmental,
14 and social impact; and

15 (10) serve other needs beyond hydrogen development.

16 Subd. 3. [ESTABLISHING INITIAL, MULTIFUEL TRANSITION
17 INFRASTRUCTURE FOR HYDROGEN VEHICLES.] The commissioner of
18 commerce may accept federal funds, expend funds, and participate
19 in projects to design, site, and construct multifuel hydrogen
20 fueling stations that eventually link urban centers along key
21 trade corridors across the jurisdictions of Manitoba, the
22 Dakotas, Minnesota, Iowa, and Wisconsin.

23 These energy stations must serve the priorities listed in
24 subdivision 2 and, as transition infrastructure, should
25 accommodate a wide variety of vehicle technologies and fueling
26 platforms, including hybrid, flexible-fuel, and fuel cell
27 vehicles. They may offer, but not be limited to, gasoline,
28 diesel, ethanol (E-85), biodiesel, and hydrogen, and may
29 simultaneously test the integration of on-site combined heat and
30 power technologies with the existing energy infrastructure.

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

34 Sec. 3. [216B.815] [AUTHORIZE AND ENCOURAGE THE STATE'S
35 PUBLIC RESEARCH INSTITUTIONS TO COORDINATE AND LEVERAGE THEIR
36 STRENGTHS THROUGH A REGIONAL ENERGY RESEARCH AND EDUCATION

1 PARTNERSHIP.]

2 The state's public research and higher education
3 institutions should work with one another and with similar
4 institutions in the region to establish Minnesota and the Upper
5 Midwest as a center of research, education, outreach, and
6 technology transfer for the production of renewable energy and
7 products, including hydrogen, fuel cells, and related
8 technologies. The partnership should be designed to create a
9 critical mass of research and education capability that can
10 compete effectively for federal and private investment in these
11 areas.

12 The partnership must include an advisory committee
13 comprised of government, industry, academic, and nonprofit
14 representatives to help focus its research and education efforts
15 on the most critical issues. Initiatives undertaken by the
16 partnership may include:

17 (1) collaborative and interdisciplinary research,
18 demonstration projects, and commercialization of market-ready
19 technologies;

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

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

25 (4) development and field-testing of relevant curricula,
26 teacher kits for all educational levels, and widespread teacher
27 training, in collaboration with state energy offices, teachers,
28 nonprofits, businesses, the United States Department of Energy,
29 and other interested parties.

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

31 The commissioner of commerce shall make assessments under
32 Minnesota Statutes, section 216C.052, of \$300,000 in fiscal year
33 2006 and \$300,000 in fiscal year 2007 for the purpose of
34 matching federal and private investments in three multifuel
35 hydrogen refueling stations in Moorhead, Alexandria, and the
36 Twin Cities respectively. The assessments and grants are

- 1 contingent upon securing the balance of the total project costs
- 2 from nonstate sources."
- 3 Amend the title accordingly

1 Senator moves to amend the Report of the Subcommittee
2 on Energy (SS1368SUB) to S.F. No. 1368 as follows:

3 Page 25, line 26, before "All" insert "To ensure greater
4 public participation in energy infrastructure approval
5 proceedings and to better integrate and align state energy and
6 environmental policy goals with economic decisions involving
7 large energy infrastructure,"

8 Page 26, after line 5, insert:

9 "The Department of Commerce and the Public Utilities Commission
10 shall carry out these duties in accordance with the provisions
11 of Minnesota Statutes, section 116D.03."

1 Senator moves to amend the Report of the Subcommittee
2 on Energy (SS1368SUB) to S.F. No. 1368 as follows:

3 Page 20, after line 12, insert:

4 "Sec. 10. Minnesota Statutes 2004, section 116C.61,
5 subdivision 3, is amended to read:

6 Subd. 3. [STATE AGENCY PARTICIPATION.] (a) State agencies
7 authorized to issue permits required for construction or
8 operation of large electric power generating plants or high
9 voltage transmission lines shall participate during routing and
10 siting at public hearings and all other activities of the board
11 on specific site or route designations and design considerations
12 of the board, and shall clearly state whether the site or route
13 being considered for designation or permit and other design
14 matters under consideration for approval will be in compliance
15 with state agency standards, rules, or policies.

16 (b) An applicant for a permit under this section or under
17 chapter 116I shall notify the commissioner of agriculture if the
18 proposed project will impact cultivated agricultural land, as
19 that term is defined in section 116I.01, subdivision 4. The
20 commissioner may participate and advise the commission as to
21 whether to grant a permit for the project and the best options
22 for mitigating adverse impacts to agricultural lands if the
23 permit is granted. The Department of Agriculture shall be the
24 lead agency on the development of any agricultural mitigation
25 plan required for the project."

26 Page 22, after line 29, insert:

27 "Sec. 15. Minnesota Statutes 2004, section 216B.243,
28 subdivision 7, is amended to read:

29 Subd. 7. [PARTICIPATION BY OTHER AGENCY OR POLITICAL
30 SUBDIVISION.] (a) Other state agencies authorized to issue
31 permits for siting, construction or operation of large energy
32 facilities, and those state agencies authorized to participate
33 in matters before the commission involving utility rates and
34 adequacy of utility services, shall present their position
35 regarding need and participate in the public hearing process
36 prior to the issuance or denial of a certificate of need.

1 Issuance or denial of certificates of need shall be the sole and
2 exclusive prerogative of the commission and these determinations
3 and certificates shall be binding upon other state departments
4 and agencies, regional, county, and local governments and
5 special purpose government districts except as provided in
6 sections 116C.01 to 116C.08 and 116D.04, subdivision 9.

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

17 Renumber the sections in sequence and correct the internal
18 references

19 Amend the title accordingly

1 Senator moves to amend the SCS1368A-1 amendment to
2 S.F. No. 1368 as follows:

3 Page 5, after line 2, insert:

4 "Sec. 5. [FUEL CELL CURRICULUM DEVELOPMENT PILOT.]

5 Saint Paul College shall work with the Upper Midwest
6 Hydrogen Initiative and other interested parties to develop and
7 implement hydrogen and fuel cell curricula and training programs
8 that can be incorporated into existing relevant courses and
9 disciplines affected by these technologies. These disciplines
10 include, but are not limited to, chemical, electrical, and
11 mechanical engineering, including lab technicians; fuel cell
12 production, installation, and maintenance; fuel cell and
13 internal combustion vehicles, including hybrids, running on
14 hydrogen or biofuels; and the construction, installation, and
15 maintenance of facilities that will produce, use, or serve
16 hydrogen. The curricula should also be useful to secondary
17 educational institutions and should include, but not be limited
18 to, the production, purification, distribution, and use of
19 hydrogen in portable, stationary, and mobile applications such
20 as fuel cells, turbines, and reciprocating engines."

21 Amend the title accordingly

- 1 Senator moves to amend the Report of the Subcommittee
- 2 on Energy (SS1368SUB) to S.F. No. 1368 as follows:
- 3 Page 34, line 22, delete "implement" and insert "complete"
- 4 Page 35, line 25, after "fuel" insert "farm-grown
- 5 closed-loop biomass"

1 Senator moves to amend the Report of the Subcommittee
2 on Energy (SS1368SUB) to S.F. No. 1368 as follows:

3 Page 39, line 28, delete "which" and insert "no more than
4 \$300,000 to cover the actual cost of implementing this section.

5 The funds assessed"

6 Page 39, line 29, after the period, insert "Any excess
7 funds in the account upon completion must be refunded to the
8 utilities proportionately."

1 Senator moves to amend the Report of the Subcommittee
2 on Energy (SS1368SUB) to S.F. No. 1368 as follows:

3 Page 51, after line 28, insert:

4 "ARTICLE 12

5 TECHNICAL CORRECTION

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

8 Subd. 6d. [WIND ENERGY; PROPERTY TAX.] An owner of a wind
9 energy conversion facility which is required to pay property
10 taxes under section 272.02, subdivision 22, or production taxes
11 under section 272.029, and any related or successor provisions,
12 or a public utility regulated by the Public Utilities Commission
13 which purchases the wind generated electricity may petition the
14 commission to include in any power purchase agreement between
15 the owner of the facility and the public utility the amount of
16 property taxes and production taxes paid by the owner of the
17 facility. The Public Utilities Commission shall require the
18 public utility to amend the power purchase agreement to include
19 the property taxes and production taxes paid by the owner of the
20 facility in the price paid by the utility for wind generated
21 electricity if the commission finds:

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

24 (2) the power purchase agreement between the public utility
25 and the owner does not already require the utility to pay the
26 amount of property taxes or production taxes the owner has paid
27 under this subdivision, or, in the case of a power purchase
28 agreement entered into prior to 1997, the amount of property or
29 production taxes paid by the owner in any year of the power
30 purchase agreement exceeds the amount of such property or
31 production taxes included in the price paid by the utility to
32 the owner, as reflected in the owner's bid documents; and

33 (3) the commission has approved a rate schedule containing
34 provisions for the automatic adjustment of charges for utility
35 service in direct relation to the charges ordered by the
36 commission under section 272.02, subdivision 22, or section

1 272.029."

2 Amend the title accordingly

1 Senator moves to amend the subcommittee report
2 (SS1368SUB) to S.F. No. 1368 as follows:

3 Page 13, line 10, after the period, insert "The commission
4 shall make its approval decision within 30 days. If the
5 commission's decision is not made within 30 days, the agreement
6 is deemed approved."

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

3 S.F. No. 1368: A bill for an act relating to utilities;
4 requiring establishment and adoption of community-based energy
5 development tariffs; modifying provisions relating to renewable
6 energy resources and objectives; making clarifying changes;
7 amending Minnesota Statutes 2004, sections 216B.1645,
8 subdivision 1, by adding a subdivision; 216B.2425, subdivision
9 7; 216B.243, subdivision 8; proposing coding for new law in
10 Minnesota Statutes, chapter 216B.

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 "ARTICLE 1

15 TRANSMISSION COMPANIES

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

18 Subd. 10. [TRANSMISSION COMPANY.] "Transmission company"
19 means persons, corporations, or other legal entities and their
20 lessees, trustees, and receivers, engaged in the business of
21 owning, operating, maintaining, or controlling in this state
22 equipment or facilities for furnishing electric transmission
23 service in Minnesota, but does not include public utilities,
24 municipal electric utilities, municipal power agencies,
25 cooperative electric associations, or generation and
26 transmission cooperative power associations.

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

29 Subd. 7b. [TRANSMISSION COST ADJUSTMENT.] (a)
30 Notwithstanding any other provision of this chapter, the
31 commission may approve a tariff mechanism for the automatic
32 annual adjustment of charges for the Minnesota jurisdictional
33 costs of new transmission facilities that have been separately
34 filed and reviewed and approved by the commission under section
35 216B.243 or are certified as a priority project or deemed to be
36 a priority transmission project under section 216B.2425.

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

40 (1) allows the utility to recover on a timely basis the

1 costs net of revenues of facilities approved under section
2 216B.243 or certified or deemed to be certified under section
3 216B.2425;

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

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

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

14 (5) allocates project costs appropriately between wholesale
15 and retail customers;

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

19 (7) terminates recovery once costs have been fully
20 recovered or have otherwise been reflected in the utility's
21 general rates.

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

25 (1) a description of and context for the facilities
26 included for recovery;

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

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

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

31 (5) calculations to establish that the rate adjustment is
32 consistent with the terms of the tariff established in paragraph
33 (b).

34 (d) Upon receiving a filing for a rate adjustment pursuant
35 to the tariff established in paragraph (b), the commission shall
36 approve the annual rate adjustments provided that, after notice

1 and comment, the costs included for recovery through the tariff
2 were or are expected to be prudently incurred and achieve
3 transmission system improvements at the lowest feasible and
4 prudent cost to ratepayers.

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

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

19 (1) is consistent with the public interest;

20 (2) facilitates the development of transmission
21 infrastructure necessary to ensure reliability, encourages the
22 development of renewable resources, and accommodates energy
23 transfers within and between states;

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

26 (4) ensures, in the case of operational control of
27 transmission assets, that the state retains jurisdiction over
28 the transferring utility for all aspects of service under
29 chapter 216B.

30 (b) A transfer of operational control or ownership of
31 assets by a public utility under this subdivision is subject to
32 section 216B.50. The relationship between a public utility
33 transferring operational control of assets to another entity
34 under this subdivision is subject to the provisions of section
5 216B.48. If a public utility transfers ownership of its
36 transmission assets to a transmission provider subject to the

1 jurisdiction of the Federal Energy Regulatory Commission, the
2 Public Utilities Commission may permit the utility to file a
3 rate schedule providing for the automatic adjustment of charges
4 to recover the cost of transmission services purchased under
5 tariff rates approved by the Federal Energy Regulatory
6 Commission.

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

9 Subd. 2. [LARGE ENERGY FACILITY.] "Large energy facility"
10 means:

11 (1) any electric power generating plant or combination of
12 plants at a single site with a combined capacity of 50,000
13 kilowatts or more and transmission lines directly associated
14 with the plant that are necessary to interconnect the plant to
15 the transmission system;

16 (2) any high-voltage transmission line with a capacity of
17 200 kilovolts or more and greater than 1,500 feet in length;

18 (3) any high-voltage transmission line with a capacity of
19 100 kilovolts or more with more than ten miles of its length in
20 Minnesota or that crosses a state line;

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

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

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

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

33 (8) any nuclear fuel processing or nuclear waste storage or
34 disposal facility; and

35 (9) any facility intended to convert any material into any
36 other combustible fuel and having the capacity to process in

1 excess of 75 tons of the material per hour.

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

4 Subd. 3. [SHOWING REQUIRED FOR CONSTRUCTION.] No proposed
5 large energy facility shall be certified for construction unless
6 the applicant can show that demand for electricity cannot be met
7 more cost effectively through energy conservation and
8 load-management measures and unless the applicant has otherwise
9 justified its need. In assessing need, the commission shall
10 evaluate:

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

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

16 (3) the relationship of the proposed facility to overall
17 state energy needs, as described in the most recent state energy
18 policy and conservation report prepared under section 216C.18,
19 or, in the case of a high-voltage transmission line, the
20 relationship of the proposed line to regional energy needs, as
21 presented in the transmission plan submitted under section
22 216B.2425;

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

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

28 (6) possible alternatives for satisfying the energy demand
29 or transmission needs including but not limited to potential for
30 increased efficiency and upgrading of existing energy generation
31 and transmission facilities, load-management programs, and
32 distributed generation;

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

35 (8) any feasible combination of energy conservation
36 improvements, required under section 216B.241, that can (i)

1 replace part or all of the energy to be provided by the proposed
2 facility, and (ii) compete with it economically;

3 (9) with respect to a high-voltage transmission line, the
4 benefits of enhanced regional reliability, access, or
5 deliverability to improve the robustness of the transmission
6 system or to lower costs to electric consumers;

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

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

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

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

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

1 exceeding the application fee and reasonably necessary to
2 complete the evaluation of need for the proposed facility shall
3 be recovered from the applicant. If the applicant is a public
4 utility, a cooperative electric association, a generation and
5 transmission cooperative electric association, a municipal power
6 agency, a municipal electric utility, or a transmission company,
7 the recovery shall be done pursuant to section 216B.62. The
8 commission shall establish by rule pursuant to chapter 14 and
9 sections 216C.05 to 216C.30 and this section, a schedule of fees
10 based on the output or capacity of the facility and the
11 difficulty of assessment of need. Money collected in this
12 manner shall be credited to the general fund of the state
13 treasury.

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

16 Subd. 2. [LIST DEVELOPMENT; TRANSMISSION PROJECTS REPORT.]

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

20 (1) is a public utility, a municipal utility, and a
21 cooperative electric association, or the generation and
22 transmission organization that serves each utility or
23 association, ~~that~~ or a transmission company; and

24 (2) owns or operates electric transmission lines in
25 Minnesota shall.

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

28 (c) The report must:

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

31 (2) identify alternative means of addressing each
32 inadequacy listed;

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

35 (4) provide a summary of public input ~~the-utilities-and~~
36 ~~associations-have-gathered~~ related to the list of inadequacies

1 and the role of local government officials and other interested
2 persons in assisting to develop the list and analyze
3 alternatives.

4 ~~(b)~~ (d) To meet the requirements of this subdivision,
5 entities reporting parties may rely on available information and
6 analysis developed by a regional transmission organization or
7 any subgroup of a regional transmission organization and may
8 develop and include additional information as necessary.

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

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

28 This section ~~shall~~ does not be construed as
29 ~~applicable~~ apply to the purchase of ~~units of~~ property for
30 ~~replacement or to the addition to~~ replace or add to the plant of
31 the public utility by construction.

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

34 Subd. 5. [ASSESSING COOPERATIVES AND MUNICIPALS.] The
35 commission and department may charge cooperative electric
36 associations, generation and transmission cooperative electric

1 associations, municipal power agencies, and municipal electric
2 utilities their proportionate share of the expenses incurred in
3 the review and disposition of resource plans, adjudication of
4 service area disputes, proceedings under section 216B.1691,
5 216B.2425, or 216B.243, and the costs incurred in the
6 adjudication of complaints over service standards, practices,
7 and rates. Cooperative electric associations electing to become
8 subject to rate regulation by the commission pursuant to section
9 216B.026, subdivision 4, are also subject to this section.
10 Neither a cooperative electric association nor a municipal
11 electric utility is liable for costs and expenses in a calendar
12 year in excess of the limitation on costs that may be assessed
13 against public utilities under subdivision 2. A cooperative
14 electric association, generation and transmission cooperative
15 electric association, municipal power agency, or municipal
16 electric utility may object to and appeal bills of the
17 commission and department as provided in subdivision 4.

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

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

27 Subd. 5a. [ASSESSING TRANSMISSION COMPANIES.] The
28 commission and department may charge transmission companies
29 their proportionate share of the expenses incurred in the review
30 and disposition of proceedings under sections 216B.2425,
31 216B.243, 216B.48, 216B.50, and 216B.79. A transmission company
32 is not liable for costs and expenses in a calendar year in
33 excess of the limitation on costs that may be assessed against
34 public utilities under subdivision 2. A transmission company
35 may object to and appeal bills of the commission and department
36 as provided in subdivision 4.

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

3 216B.79 [PREVENTATIVE MAINTENANCE.]

4 The commission may order public utilities to make adequate
5 infrastructure investments and undertake sufficient preventative
6 maintenance with regard to generation, transmission, and
7 distribution facilities. The commission's authority under this
8 section also applies to any transmission company that owns or
9 operates electric transmission lines in Minnesota.

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

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

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

26 (b) In developing its recommendations, the stakeholder
27 group shall consider:

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

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

33 (3) whether additional cooperation between state agencies
34 is needed to enhance the efficiency of the certification and
35 routing processes, and whether modifications to those processes
36 are appropriate.

1 (c) The stakeholder group shall also consider and make
2 recommendations regarding whether and how to provide
3 compensation above traditional eminent domain payments to
4 landowners over whose property a new transmission facility is
5 constructed.

6 Subd. 3. [REPORT.] By January 15, 2006, the task force
7 shall submit a report to the legislature summarizing the
8 stakeholder group findings and any recommended changes to the
9 certification and routing processes for high-voltage
10 transmission lines.

11 ARTICLE 2

12 C-BED AND RENEWABLE TRANSMISSION

13 Section 1. [216B.1612] [COMMUNITY-BASED ENERGY
14 DEVELOPMENT; TARIFF.]

15 Subdivision 1. [TARIFF ESTABLISHMENT.] A tariff shall be
16 established to optimize local, regional, and state benefits from
17 wind energy development, and to facilitate widespread
18 development of community-based wind energy projects throughout
19 Minnesota.

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

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

24 (c) "Qualifying owner" means:

25 (1) a Minnesota resident;

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

29 (3) a Minnesota nonprofit organization organized under
30 chapter 317A;

31 (4) a Minnesota cooperative association organized under
32 chapter 308A or 308B, other than a rural electric cooperative
33 association or a generation and transmission cooperative;

34 (5) a Minnesota political subdivision or local government
35 other than a municipal electric utility or municipal power
36 agency, including, but not limited to, a county, statutory or

1 home rule charter city, town, school district, or public or
2 private higher education institution or any other local or
3 regional governmental organization such as a board, commission,
4 or association; or

5 (6) a tribal council.

6 (d) "Net present value rate" means a rate equal to the net
7 present value of the nominal payments to a project divided by
8 the total expected energy production of the project over the
9 life of its power purchase agreement.

10 (e) "Standard reliability criteria" means:

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

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

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

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

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

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

30 Subd. 3. [TARIFF RATE.] (a) The tariff described in
31 subdivision 4 must have a rate schedule that allows for a rate
32 up to a 2.7 cents per kilowatt hour net present value rate over
33 the 20-year life of the power purchase agreement. The tariff
34 must provide for a rate that is higher in the first ten years of
35 the power purchase agreement than in the last ten years. The
36 discount rate required to calculate the net present value must

1 be the utility's normal discount rate used for its other
2 business purposes.

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

5 (c) The commission shall require that qualifying owners
6 provide sufficient security to secure performance under the
7 power purchase agreement, and shall prohibit the transfer of the
8 C-BED project to a nonqualifying owner during the initial 20
9 years of the contract.

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

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

28 Nothing in this section shall be construed to obligate a
29 utility to enter into a power purchase agreement under a C-BED
30 tariff developed under this section.

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

35 (c) The commission shall consider the efforts and
36 activities of a utility to purchase energy from C-BED projects

1 when evaluating its good faith effort towards meeting the
2 renewable energy objective under section 216B.1691.

3 Subd. 6. [PROPERTY OWNER PARTICIPATION.] To the extent
4 feasible, a developer of a C-BED project must provide, in
5 writing, an opportunity to invest in the C-BED project to each
6 property owner on whose property a high voltage transmission
7 line transmitting the energy generated by the C-BED project to
8 market currently exists or is to be constructed and who resides
9 in the county where the C-BED project is located or in an
10 adjacent Minnesota county.

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

15 (b) At the discretion of the developer, a community-based
16 project developer and a utility may negotiate a power purchase
17 agreement with terms different from the tariff established under
18 subdivision 4.

19 (c) A qualifying owner, or any combination of qualifying
20 owners, may develop a joint venture project with a nonqualifying
21 wind energy project developer. However, the terms of the C-BED
22 tariff may only apply to the portion of the energy production of
23 the total project that is directly proportional to the equity
24 share of the project owned by the qualifying owners.

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

29 (e) A public utility must receive commission approval of a
30 power purchase agreement for a C-BED tariffed project. The
31 commission shall provide the utility's ratepayers an opportunity
32 to address the reasonableness of the proposed power purchase
33 agreement. Unless a party objects to a contract within 30 days
34 of submission of the contract to the commission the contract is
35 deemed approved.

36 Sec. 2. Minnesota Statutes 2004, section 216B.1645,

1 subdivision 1, is amended to read:

2 Subdivision 1. [COMMISSION AUTHORITY.] Upon the petition
3 of a public utility, the Public Utilities Commission shall
4 approve or disapprove power purchase contracts, investments, or
5 expenditures entered into or made by the utility to satisfy the
6 wind and biomass mandates contained in sections 216B.169,
7 216B.2423, and 216B.2424, and to satisfy the renewable energy
8 objectives set forth in section 216B.1691, including reasonable
9 investments and expenditures made to:

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

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

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

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

1 utility's plan under section 216B.1691, the commission must find
2 that the applicant has met the following factors:

3 (1) that the transmission facility is necessary to allow
4 the delivery of power from renewable sources of energy to retail
5 customers in Minnesota;

6 (2) that the applicant has signed or will sign power
7 purchase agreements, subject to commission approval, for
8 resources to meet the renewable energy objective that are
9 dependent upon or will use the capacity of the transmission
10 facility to serve retail customers in Minnesota;

11 (3) that the installation and commercial operation date of
12 the renewable resources to satisfy the renewable energy
13 objective will match the planned in-service date of the
14 transmission facility; and

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

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

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

21 (1) cogeneration or small power production facilities as
22 defined in the Federal Power Act, United States Code, title 16,
23 section 796, paragraph (17), subparagraph (A), and paragraph
24 (18), subparagraph (A); and having a combined capacity at a
25 single site of less than 80,000 kilowatts ~~or-to~~; plants or
26 facilities for the production of ethanol or fuel alcohol ~~ner-in~~;
27 or any case where the commission ~~shall-determine~~ has determined
28 after being advised by the attorney general that its application
29 has been preempted by federal law;

30 (2) a high-voltage transmission line proposed primarily to
31 distribute electricity to serve the demand of a single customer
32 at a single location, unless the applicant opts to request that
33 the commission determine need under this section or section
34 216B.2425;

35 (3) the upgrade to a higher voltage of an existing
36 transmission line that serves the demand of a single customer

1 that primarily uses existing rights-of-way, unless the applicant
2 opts to request that the commission determine need under this
3 section or section 216B.2425;

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

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

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

13 (7) a large energy facility that (i) generates electricity
14 from wind energy conversion systems, (ii) will serve retail
15 customers in Minnesota, (iii) is specifically intended to be
16 used to meet the renewable energy objective under section
17 216B.1691 or addresses a resource need identified in a current
18 commission-approved or commission-reviewed resource plan under
19 section 216B.2422; and (iv) derives at least 10 percent of the
20 total nameplate capacity of the proposed project from one or
21 more C-BED projects, as defined under section 216B.1612,
22 subdivision 2, paragraph (f).

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

24 The Department of Commerce shall assist utilities,
25 renewable energy developers, regulators, regional transmission
26 grid managers, and the public on issues related to renewable
27 energy development. The department shall work to ensure
28 cost-effective renewable energy development throughout the state.

29 Sec. 6. [WIND INTEGRATION STUDY.]

30 The commission shall order all electric utilities, as
31 defined in Minnesota Statutes, section 216B.1691, subdivision 1,
32 paragraph (b), to participate in a statewide wind integration
33 study. Utilities subject to Minnesota Statutes, section
34 216B.1691, shall jointly contract with an independent firm
35 selected by the reliability administrator to conduct an
36 engineering study of the impacts on reliability and costs

1 associated with increasing wind capacity to 20 percent of
 2 Minnesota retail electric energy sales by the year 2020, and to
 3 identify and develop options for utilities to use to manage the
 4 intermittent nature of wind resources. The contracting
 5 utilities shall cooperate with the firm conducting the study by
 6 providing data requested. The reliability administrator shall
 7 manage the study process and shall appoint a group of
 8 stakeholders with experience in engineering and expertise in
 9 power systems or wind energy to review the study's proposed
 10 methods and assumptions and preliminary data. The study must be
 11 completed by November 30, 2006. Using the study results, the
 12 contracting utilities shall provide the commissioner of commerce
 13 with estimates of the impact on their electric rates of
 14 increasing wind capacity to 20 percent, assuming no reduction in
 15 reliability. Electric utilities shall incorporate the study's
 16 findings into their utility integrated resource plans prepared
 17 under Minnesota Statutes, section 216B.2422. The costs of the
 18 study are recoverable under Minnesota Statutes, section
 19 216C.052, subdivision 2, paragraph (c), clause (2).

20 Sec. 7. [EXPIRATION.]

21 Section 3 expires on January 1, 2010.

22 ARTICLE 3

23 ROUTING AND SITING AUTHORITY TRANSFER

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

26 Subd. 2. [~~BEARD COMMISSION.~~] "~~Beard~~"-~~shall-mean-the~~
 27 ~~Minnesota-Environmental-Quality-Beard~~ "Commission" means the
 28 Public Utilities Commission.

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

31 Subd. 4. [HIGH VOLTAGE TRANSMISSION LINE.] "High voltage
 32 transmission line" means a conductor of electric energy and
 33 associated facilities designed for and capable of operation at a
 34 nominal voltage of 100 kilovolts or more and is greater than
 35 1,500 feet in length.

36 Sec. 3. Minnesota Statutes 2004, section 116C.53,

1 subdivision 2, is amended to read:

2 Subd. 2. [JURISDICTION.] The board commission is hereby
3 given the authority to provide for site and route selection for
4 large electric power facilities. The board commission shall
5 issue permits for large electric power facilities in a timely
6 fashion--~~When the Public Utilities Commission has determined~~
7 the and in a manner consistent with the overall determination of
8 need for the project under section 216B.243 or 216B.24257.

9 Questions of need, including size, type, and timing; alternative
10 system configurations; and voltage ~~are not within the board's~~
11 ~~siting and routing authority and~~ must not be included in the
12 scope of environmental review conducted under sections 116C.51
13 to 116C.69.

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

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

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

28 Subd. 2c. [ENVIRONMENTAL REVIEW.] The board commissioner
29 of the Department of Commerce shall prepare for the commission
30 an environmental impact statement on each proposed large
31 electric generating plant or high voltage transmission line for
32 which a complete application has been submitted. ~~For any~~
33 ~~project that has obtained a certificate of need from the Public~~
34 ~~Utilities Commission, the board~~ The commissioner shall not
35 consider whether or not the project is needed. No other state
36 environmental review documents shall be required. The board

1 commissioner shall study and evaluate any site or route proposed
2 by an applicant and any other site or route the board commission
3 deems necessary that was proposed in a manner consistent with
4 rules ~~adopted-by-the-board~~ concerning the form, content, and
5 timeliness of proposals for alternate sites or routes.

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

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

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

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

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

36 116C.577 [EMERGENCY PERMIT.]

1 (a) Any utility whose electric power system requires the
2 immediate construction of a large electric power generating
3 plant or high voltage transmission line due to a major
4 unforeseen event may apply to the board commission for an
5 emergency permit after-providing. The application shall provide
6 notice in writing ~~to the Public Utilities Commission~~ of the
7 major unforeseen event and the need for immediate construction.
8 The permit must be issued in a timely manner, no later than 195
9 days after the ~~board's~~ commission's acceptance of the
10 application and upon a finding by the board commission that (1)
11 a demonstrable emergency exists, (2) the emergency requires
12 immediate construction, and (3) adherence to the procedures and
13 time schedules specified in section 116C.57 would jeopardize the
14 utility's electric power system or would jeopardize the
15 utility's ability to meet the electric needs of its customers in
16 an orderly and timely manner.

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

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

23 116C.58 [ANNUAL HEARING.]

24 The board commission shall hold an annual public hearing at
25 a time and place prescribed by rule in order to afford
26 interested persons an opportunity to be heard regarding any
27 matters relating to the siting of large electric generating
28 power plants and routing of high voltage transmission lines. At
29 the meeting, the board commission shall advise the public of the
30 permits issued by the board commission in the past year.

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

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

1 Subd. 3. [STATE AGENCY PARTICIPATION.] (a) State agencies
 2 authorized to issue permits required for construction or
 3 operation of large electric power generating plants or high
 4 voltage transmission lines shall participate during routing and
 5 siting at public hearings and all other activities of the board
 6 on specific site or route designations and design considerations
 7 of the board, and shall clearly state whether the site or route
 8 being considered for designation or permit and other design
 9 matters under consideration for approval will be in compliance
 10 with state agency standards, rules, or policies.

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

21 Sec. 11. 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. 12. 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. 13. 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. 14. 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. 15. Minnesota Statutes 2004, section 216B.243,
3 subdivision 7, is amended to read:

4 Subd. 7. [PARTICIPATION BY OTHER AGENCY OR POLITICAL
5 SUBDIVISION.] (a) Other state agencies authorized to issue
6 permits for siting, construction or operation of large energy
7 facilities, and those state agencies authorized to participate
8 in matters before the commission involving utility rates and
9 adequacy of utility services, shall present their position
10 regarding need and participate in the public hearing process
11 prior to the issuance or denial of a certificate of need.

12 Issuance or denial of certificates of need shall be the sole and
13 exclusive prerogative of the commission and these determinations
14 and certificates shall be binding upon other state departments
15 and agencies, regional, county, and local governments and
16 special purpose government districts except as provided in
17 sections 116C.01 to 116C.08 and 116D.04, subdivision 9.

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

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

30 216C.052 [RELIABILITY ADMINISTRATOR.]

31 Subdivision 1. [RESPONSIBILITIES.] (a) There is
32 established the position of reliability administrator in the
33 ~~Department-of-Commerce~~ Public Utilities Commission. The
34 administrator shall act as a source of independent expertise and
35 a technical advisor to ~~the-commissioner,~~ the commission, and the
36 ~~public,-and-the-Legislative-Electric-Energy-Task-Force~~ on issues

1 related to the reliability of the electric system. In
 2 conducting its work, the administrator shall provide assistance
 3 to the commission in administering and implementing the
 4 commission's duties under sections 116C.51 to 116C.69; 116C.691
 5 to 116C.697; 216B.2422; 216B.2425; 216B.243; chapter 116I; and
 6 rules associated with those sections. Subject to resource
 7 constraints, the reliability administrator may also:

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

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

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

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

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

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

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

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

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

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

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

31 (d) For purposes of administrative efficiency, the
32 ~~department~~ commission shall assess energy utilities and issue
33 bills in accordance with the billing and assessment procedures
34 provided in section 216B.62, to the extent that these procedures
35 do not conflict with this subdivision. The amount of the bills
36 rendered by the ~~department~~ commission under paragraph (c) must

1 be paid by the energy utility into an account in the special
2 revenue fund in the state treasury within 30 days from the date
3 of billing and is appropriated to the ~~commissioner~~ commission
4 for the purposes provided in this section. The commission shall
5 approve or approve as modified a rate schedule providing for the
6 automatic adjustment of charges to recover amounts paid by
7 utilities under this section. All amounts assessed under this
8 section are in addition to amounts appropriated to the
9 commission ~~and the department~~ by other law.

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

20 Subd. 4. [EXPIRATION.] This section expires June 30,
21 ~~2006~~ 2007.

22 Sec. 17. [TRANSFERRING POWER PLANT SITING
23 RESPONSIBILITIES.]

24 To ensure greater public participation in energy
25 infrastructure approval proceedings and to better integrate and
26 align state energy and environmental policy goals with economic
27 decisions involving large energy infrastructure, all
28 responsibilities, as defined in Minnesota Statutes, section
29 15.039, subdivision 1, held by the Environmental Quality Board
30 relating to power plant siting and routing under Minnesota
31 Statutes, sections 116C.51 to 116C.69; wind energy conversion
32 systems under Minnesota Statutes, sections 116C.691 to 116C.697;
33 pipelines under Minnesota Statutes, chapter 116I; and rules
34 associated with those sections are transferred to the Public
35 Utilities Commission under Minnesota Statutes, section 15.039,
36 except that the responsibilities of the Environmental Quality

1 Board under Minnesota Statutes, section 116C.83, subdivision 6,
2 and Minnesota Rules, parts 4400.1700, 4400.2750, and 4410.7010
3 to 4410.7070, are transferred to the commissioner of the
4 Department of Commerce. The power plan siting staff of the
5 Environmental Quality Board are transferred to the Department of
6 Commerce. The department's budget shall be adjusted to reflect
7 the transfer.

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

11 Sec. 18. [TRANSFERRING RELIABILITY ADMINISTRATOR
12 RESPONSIBILITIES.]

13 All responsibilities, as defined in Minnesota Statutes
14 2004, section 15.039, subdivision 1, held by the Minnesota
15 Department of Commerce relating to the reliability administrator
16 under Minnesota Statutes, section 216C.052, are transferred to
17 the Minnesota Public Utilities Commission under Minnesota
18 Statutes, section 15.039.

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

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

30 (b) The revisor of statutes shall change the words
31 "Environmental Quality Board," "board," "chair of the board,"
32 "chair," "board's," and similar terms, when they refer to the
33 Environmental Quality Board or chair of the Environmental
34 Quality Board, to the term "commissioner of the Department of
35 Commerce," "commissioner," or "commissioner's," as appropriate,
36 where they appear in Minnesota Statutes, section 116C.83,

1 subdivision 6; and Minnesota Rules, parts 4400.1700, subparts 1
2 to 9, 11, and 12; 4400.2750; and 4410.7010 to 4410.7070.

3 Sec. 20. [EFFECTIVE DATE.]

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

5 ARTICLE 4

6 ENERGY ASSISTANCE TECHNICAL CORRECTIONS

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

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

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

14 Subd. 5a. [EXCLUDED PROGRAMS.] Programs transferred to the
15 Department of Education from the Department of Employment and
16 Economic Development may not be included in the consolidated
17 funding account and are ineligible for local consolidation. The
18 commissioner may not apply for federal waivers to include these
19 programs in funding consolidation initiatives. The programs
20 include the following:

21 (1) programs for the homeless under sections 116L.365 and
22 119A.43;

23 (2) emergency energy assistance and energy conservation
24 programs under sections ~~119A.40 and 119A.42~~ 216C.263 and
25 216C.265;

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

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

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

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

32 216C.09 [COMMISSIONER DUTIES.]

33 (a) The commissioner shall:

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

36 (2) prepare and adopt an emergency allocation plan

1 specifying actions to be taken in the event of an impending
2 serious shortage of energy, or a threat to public health,
3 safety, or welfare;

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

7 (4) carry out energy conservation measures as specified by
8 the legislature and recommend to the governor and the
9 legislature additional energy policies and conservation measures
10 as required to meet the objectives of sections 216C.05 to
11 216C.30;

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

14 (6) evaluate policies governing the establishment of rates
15 and prices for energy as related to energy conservation, and
16 other goals and policies of sections 216C.05 to 216C.30, and
17 make recommendations for changes in energy pricing policies and
18 rate schedules;

19 (7) study the impact and relationship of the state energy
20 policies to international, national, and regional energy
21 policies;

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

29 (9) inform and educate the public about the sources and
30 uses of energy and the ways in which persons can conserve
31 energy;

32 (10) dispense funds made available for the purpose of
33 research studies and projects of professional and civic
34 orientation, which are related to either energy conservation,
35 resource recovery, or the development of alternative energy
36 technologies which conserve nonrenewable energy resources while

1 creating minimum environmental impact;

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

5 (12) design a comprehensive program for the development of
6 indigenous energy resources. The program shall include, but not
7 be limited to, providing technical, informational, educational,
8 and financial services and materials to persons, businesses,
9 municipalities, and organizations involved in the development of
10 solar, wind, hydropower, peat, fiber fuels, biomass, and other
11 alternative energy resources. The program shall be evaluated by
12 the alternative energy technical activity; and

13 (13) dispense loans, grants, or other financial aid from
14 money received from litigation or settlement of alleged
15 violations of federal petroleum-pricing regulations made
16 available to the department for that purpose. The commissioner
17 shall adopt rules under chapter 14 for this purpose. Money
18 ~~dispersed under this clause must not include money received as a~~
19 ~~result of the settlement of the parties and order of the United~~
20 ~~States District Court for the District of Kansas in the case of~~
21 ~~In Re Department of Energy Stripper Well Exemption Litigation,~~
22 ~~578 F. Supp. 586 (D. Kan. 1983) and all money received after~~
23 ~~August 17, 1988, by the governor, the commissioner of finance, or~~
24 ~~any other state agency resulting from overcharges by oil~~
25 ~~companies in violation of federal law.~~

26 (b) Further, the commissioner may participate fully in
27 hearings before the Public Utilities Commission on matters
28 pertaining to rate design, cost allocation, efficient resource
29 utilization, utility conservation investments, small power
30 production, cogeneration, and other rate issues. The
31 commissioner shall support the policies stated in section
32 216C.05 and shall prepare and defend testimony proposed to
33 encourage energy conservation improvements as defined in section
34 216B.241.

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

1 Subd. 21. [RENTAL PROPERTY LOANS.] The agency may make or
2 purchase loans to owners of rental property that is occupied or
3 intended for occupancy primarily by low- and moderate-income
4 tenants and which does not comply with the standards established
5 in section ~~216E-27~~ 16B.61, subdivision 3 1, for the purpose of
6 energy improvements necessary to bring the property into full or
7 partial compliance with these standards. For property which
8 meets the other requirements of this subdivision, a loan may
9 also be used for moderate rehabilitation of the property. The
10 authority granted in this subdivision is in addition to and not
11 in limitation of any other authority granted to the agency in
12 this chapter. The limitations on eligible mortgagors contained
13 in section 462A.03, subdivision 13, do not apply to loans under
14 this subdivision. Loans for the improvement of rental property
15 pursuant to this subdivision may contain provisions that
16 repayment is not required in whole or in part subject to terms
17 and conditions determined by the agency to be necessary and
18 desirable to encourage owners to maximize rehabilitation of
19 properties.

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

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

35 Sec. 6. [RECODIFICATION.]

36 Minnesota Statutes 2004, sections 119A.40; 119A.41;

1 119A.42; 119A.425; and 216C.27, subdivision 8, are recodified as
2 sections 216C.263; 216C.264; 216C.265; 216C.266; and 16B.61,
3 subdivision 8, respectively.

4 ARTICLE 5

5 WOODY BIOMASS MANDATE PROJECT

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

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

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

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

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

20 (i) located within 400 miles of the site of the biomass
21 production; and

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

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

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

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

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

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

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

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

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

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

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

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

32 (c) The project must prepare a fuel plan on an annual basis
33 after commercial operation of the project as described in the
34 power contract between the project and the public utility, and
35 must also prepare annually certificates reflecting the types of
36 fuel used in the preceding year by the project, as described in

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

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

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

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

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

36 (h) Guidelines or best management practices for sustainably

1 managed woody biomass must be adopted by:

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

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

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

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

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

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

33 Subd. 2. [INTERIM EXEMPTION.] (a) A biomass project
34 proposing to use, as its primary fuel over the life of the
35 project, short-rotation woody crops, may use as an interim fuel
36 agricultural waste and other biomass which is not farm-grown

1 closed-loop biomass for up to six years after the project's
2 electric generating facility becomes operational; provided, the
3 project developer demonstrates the project will use the
4 designated short-rotation woody crops as its primary fuel after
5 the interim period and provided the location of the interim fuel
6 production meets the requirements of subdivision 1, paragraph
7 (a), clause (3).

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

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

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

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

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

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

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

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

1 ownership and any other amendments made necessary by those
2 changes. The commission shall also specifically find that:

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

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

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

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

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

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

33 Subd. 6. [REMAINING MEGAWATT COMPLIANCE PROCESS.] (a) If
34 there remain megawatts of biomass power generating capacity to
35 fulfill the mandate in subdivision 5 after the commission has
36 taken final action on all contracts filed by September 1, 2000,

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

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

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

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

35 (e) Nothing in this subdivision precludes a facility
36 proposed and approved under this subdivision from using fuel

1 sources that are not biomass in compliance with subdivision 3.

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

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

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

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

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

29 ARTICLE 6

30 E-FILING

31 Section 1. [ESTABLISHMENT OF FUND.]

32 The Department of Commerce's e-filing account is
33 established. The commission shall make a onetime assessment to
34 regulated utilities, no more than \$300,000 to cover the actual
35 cost of implementing this section. The funds assessed must be
36 deposited in the account. Any excess funds in the account upon

1 completion must be refunded to the utilities proportionately.
2 Each public utility, municipal utility, electric cooperative
3 association, generation and transmission cooperative electric
4 association, municipal power agency, telephone company, and
5 telecommunications carrier must be assessed in proportion to its
6 respective gross operating revenues for retail sales of gas,
7 electric, or telecommunications service in the state in the last
8 calendar year. Revenue in the account is appropriated to the
9 commission for the costs associated with establishing an
10 e-filing system that allows documents to be filed and retrieved
11 via the Internet. Revenue in the account remains available
12 until expended.

13 Sec. 2. [COMPLETION DATE.]

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

15 Sec. 3. [EFFECTIVE DATE.]

16 Sections 1 and 2 are effective the day following final
17 enactment.

18 ARTICLE 7

19 CIP TECHNICAL CORRECTIONS

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

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

24 (1) a cooperative electric association that provides retail
25 service to its members;

26 (2) a municipality that provides electric service to retail
27 customers; and

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

30 (b) Each cooperative electric association and municipality
31 subject to this subdivision shall spend and invest for energy
32 conservation improvements under this subdivision the following
33 amounts:

34 (1) for a municipality, 0.5 percent of its gross operating
35 revenues from the sale of gas and 1.5 percent of its gross
36 operating revenues from the sale of electricity, excluding gross

1 operating revenues from electric and gas service provided in the
2 state to large electric customer facilities; and

3 (2) for a cooperative electric association, 1.5 percent of
4 its gross operating revenues from service provided in the state,
5 excluding gross operating revenues from service provided in the
6 state to large electric customer facilities indirectly through a
7 distribution cooperative electric association.

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

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

24 (e) Load-management activities that do not reduce energy
25 use but that increase the efficiency of the electric system may
26 be used to meet ~~the following percentage~~ 50 percent of the
27 conservation investment and spending requirements of this
28 subdivision.

29 ~~(1)-2002---90-percent,~~

30 ~~(2)-2003---80-percent,~~

31 ~~(3)-2004---65-percent,-and~~

32 ~~(4)-2005-and-thereafter---50-percent.~~

33 (f) A generation and transmission cooperative electric
34 association that provides energy services to cooperative
35 electric associations that provide electric service at retail to
36 consumers may invest in energy conservation improvements on

1 behalf of the associations it serves and may fulfill the
2 conservation, spending, reporting, and energy savings goals on
3 an aggregate basis. A municipal power agency or other
4 not-for-profit entity that provides energy service to municipal
5 utilities that provide electric service at retail may invest in
6 energy conservation improvements on behalf of the municipal
7 utilities it serves and may fulfill the conservation, spending,
8 reporting, and energy savings goals on an aggregate basis, under
9 an agreement between the municipal power agency or
10 not-for-profit entity and each municipal utility for funding the
11 investments.

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

1 that municipality and certifying that the required amount has
2 been spent on conservation programs pursuant to this subdivision.

3 (h) The commissioner shall also review each evaluation for
4 whether a portion of the money spent on residential conservation
5 improvement programs is devoted to programs that directly
6 address the needs of renters and low-income persons unless an
7 insufficient number of appropriate programs are available. For
8 the purposes of this subdivision and subdivision 2, "low-income"
9 means an income at or below 50 percent of the state median
10 income.

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

19 (j) A municipality may spend up to 50 percent of its
20 required spending under this section to refurbish an existing
21 district heating or cooling system. This paragraph expires July
22 1, 2007.

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

25 Subd. 2. [PROGRAMS.] (a) The commissioner may require
26 public utilities to make investments and expenditures in energy
27 conservation improvements, explicitly setting forth the interest
28 rates, prices, and terms under which the improvements must be
29 offered to the customers. The required programs must cover no
30 more than a two-year four-year period. Public utilities shall
31 file conservation improvement plans by June 1, on a schedule
32 determined by order of the commissioner, but at least every four
33 years. Plans received by a public utility by June 1 must be
34 approved or approved as modified by the commissioner by December
35 1 of that same year. The commissioner shall give special
36 consideration and encouragement to programs that bring about

1 significant net savings through the use of energy-efficient
2 lighting. The commissioner shall evaluate the program on the
3 basis of cost-effectiveness and the reliability of technologies
4 employed. The commissioner's order must provide to the extent
5 practicable for a free choice, by consumers participating in the
6 program, of the device, method, material, or project
7 constituting the energy conservation improvement and for a free
8 choice of the seller, installer, or contractor of the energy
9 conservation improvement, provided that the device, method,
10 material, or project seller, installer, or contractor is duly
11 licensed, certified, approved, or qualified, including under the
12 residential conservation services program, where applicable.

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

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

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

35 (e) The commissioner may, by order, establish a list of
36 programs that may be offered as energy conservation improvements

1 by a public utility, municipal utility, cooperative electric
2 association, or other entity providing conservation services
3 pursuant to this section. The list of programs may include
4 rebates for high-efficiency appliances, rebates or subsidies for
5 high-efficiency lamps, small business energy audits, and
6 building recommissioning. The commissioner may, by order,
7 change this list to add or subtract programs as the commissioner
8 determines is necessary to promote efficient and effective
9 conservation programs.

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

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

36 (h) The commissioner may order a public utility to include,

1 with the filing of the utility's proposed conservation
 2 improvement plan under paragraph (a), the results of an
 3 independent audit of the utility's conservation improvement
 4 programs and expenditures performed by the department or an
 5 auditor with experience in the provision of energy conservation
 6 and energy efficiency services approved by the commissioner and
 7 chosen by the utility. The audit must specify the energy
 8 savings or increased efficiency in the use of energy within the
 9 service territory of the utility that is the result of the
 10 spending and investments. The audit must evaluate the
 11 cost-effectiveness of the utility's conservation programs.

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

16 ARTICLE 8

17 POWER QUALITY ZONES

18 Section 1. [216B.2426] [OPPORTUNITIES FOR DISTRIBUTED
 19 GENERATION.]

20 The commission shall ensure that opportunities for the
 21 installation of distributed generation, as that term is defined
 22 in section 216B.169, subdivision 1, paragraph (c), are
 23 considered in any proceeding under section 216B.2422, 216B.2425,
 24 or 216B.243.

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

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

36 (b) The commission shall authorize the utility to collect

1 all costs of the installation of any components under this
2 section, including initial investment, operation and maintenance
3 costs and taxes from all customers within the zone, through
4 tariffs and surcharges for service in a zone that appropriately
5 reflect the cost of service to those customers, provided the
6 customers agree to pay all costs for a predetermined period,
7 including costs of component removal, if appropriate.

8 (c) Nothing in this section limits the ability of the
9 utility and any customer to enter into customer-specific
10 agreements pursuant to applicable statutory, rule, or tariff
11 provisions.

12 ARTICLE 9

13 BIOGAS INCENTIVE PAYMENTS

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

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

18 (b) "Qualified hydroelectric facility" means a
19 hydroelectric generating facility in this state that:

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

22 (2) begins generating electricity after July 1, 1994, or
23 generates electricity after substantial refurbishing of a
24 facility that begins after July 1, 2001.

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

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

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

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

1 (ii) owned by a Minnesota small business as defined in
2 section 645.445;

3 (iii) owned by a Minnesota nonprofit organization;

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

6 (v) owned by a Minnesota municipal utility or a Minnesota
7 cooperative electric association; or

8 (vi) owned by a Minnesota political subdivision or local
9 government, including, but not limited to, a county, statutory
10 or home rule charter city, town, school district, or any other
11 local or regional governmental organization such as a board,
12 commission, or association; or

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

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

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

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

23 (1) is located at the site of an agricultural
24 operation; and

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

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

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

32 ARTICLE 10

33 GAS INFRASTRUCTURE COST

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

36 Subdivision 1. [DEFINITIONS.] (a) "Gas utility" means a

1 public utility as defined in section 216B.02, subdivision 4,
2 that furnishes natural gas service to retail customers.

3 (b) "Gas utility infrastructure costs" or "GUIC" means gas
4 utility projects that:

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

7 (2) are in service but were not included in the gas
8 utility's rate base in its most recent general rate case; and

9 (3) replace or modify existing infrastructure if the
10 replacement or modification does not constitute a betterment,
11 unless the betterment is required by a political subdivision, as
12 evidenced by specific documentation from the government entity
13 requiring the replacement or modification of infrastructure.

14 (c) "Gas utility projects" means relocation and replacement
15 of natural gas facilities located in the public right-of-way
16 required by the construction or improvement of a highway, road,
17 street, public building, or other public work by or on behalf of
18 the United States, the State of Minnesota, or a political
19 subdivision.

20 Subd. 2. [FILING.] (a) The commission may approve a gas
21 utility's petition for a rate schedule to recover GUIC under
22 this section. A gas utility may petition the commission to
23 recover a rate of return, income taxes on the rate of return,
24 incremental property taxes, plus incremental depreciation
25 expense associated with GUIC.

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

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

29 (2) a gas utility must file sufficient information to
30 satisfy the commission regarding the proposed GUIC or be subject
31 to denial by the commission. The information includes, but is
32 not limited to:

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

35 (ii) the location, description, and costs associated with
36 the project;

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

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

6 (v) the magnitude and timing of any known future gas
7 utility projects that the utility may seek to recover under this
8 section;

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

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

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

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

20 Subd. 3. [COMMISSION AUTHORITY.] The commission may issue
21 orders and adopt rules necessary to implement and administer
22 this section.

23 [EFFECTIVE DATE.] This section is effective the day
24 following final enactment.

25 Sec. 2. [REPORT TO LEGISLATURE.]

26 The Department of Commerce shall review the operation and
27 impact of the GUIC recovery mechanism established under
28 Minnesota Statutes, section 216B.1635, on ratepayers and the
29 utility and submit a report of its findings and recommendations
30 to the legislature four years after the effective date of this
31 section.

32 Sec. 3. [SUNSET.]

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

34 **ARTICLE 11**

35 **EMMINENT DOMAIN LANDOWNER COMPENSATION**

36 **Section. 1. [LANDOWNER PAYMENTS WORKING GROUP.]**

1 Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the
2 Legislative Electric Energy Task Force shall convene a landowner
3 payments working group consisting of up to 12 members, including
4 representatives from each of the following groups:
5 transmission-owning investor-owned utilities, electric
6 cooperatives, municipal power agencies, Farm Bureau, Farmers
7 Union, county commissioners, real estate appraisers and others
8 with an interest and expertise in landowner rights and the
9 market value of rural property.

10 Subd. 2. [APPOINTMENT.] The chairs of the Legislative
11 Electric Energy Task Force and the chairs of the senate and
12 house committees with primary jurisdiction over energy policy
13 shall jointly appoint the working group members.

14 Subd. 3. [CHARGE.] (a) The landowner payments working
15 group shall research alternative methods of remunerating
16 landowners on whose land high voltage transmission lines have
17 been constructed.

18 (b) In developing its recommendations, the working group
19 shall:

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

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

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

27 Subd. 4. [EXPENSES.] Members of the working group shall be
28 reimbursed for expenses as provided in Minnesota Statutes,
29 section 15.059, subdivision 6. Expenses of the landowner
30 payments working group shall not exceed \$10,000 without the
31 approval of the chairs of the Legislative Electric Energy Task
32 Force.

33 Subd. 5. [REPORT.] The landowner payments working group
34 shall present its findings and recommendations, including
35 legislative recommendations and model legislation, if any, in a
36 report to the Legislative Electric Energy Task Force by January

1 15, 2006.

2 ARTICLE 12

3 TECHNICAL CORRECTION

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

6 Subd. 6d. [WIND ENERGY; PROPERTY TAX.] An owner of a wind
7 energy conversion facility which is required to pay property
8 taxes under section 272.02, subdivision 22, or production taxes
9 under section 272.029, and any related or successor provisions,
10 or a public utility regulated by the Public Utilities Commission
11 which purchases the wind generated electricity may petition the
12 commission to include in any power purchase agreement between
13 the owner of the facility and the public utility the amount of
14 property taxes and production taxes paid by the owner of the
15 facility. The Public Utilities Commission shall require the
16 public utility to amend the power purchase agreement to include
17 the property taxes and production taxes paid by the owner of the
18 facility in the price paid by the utility for wind generated
19 electricity if the commission finds:

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

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

31 (3) the commission has approved a rate schedule containing
32 provisions for the automatic adjustment of charges for utility
33 service in direct relation to the charges ordered by the
34 commission under section 272.02, subdivision 22, or section
35 272.029.

36 ARTICLE 13

HYDROGEN

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

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

Subd. 2. [FUEL CELL.] "Fuel cell" means an electrochemical device that produces useful electricity, heat, and water vapor, and operates as long as it is provided fuel.

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

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

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

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

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

(1) provide needed performance data to the marketplace;

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

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

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

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

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

2 Subd. 2. [SUPPORT FOR STRATEGIC DEMONSTRATION PROJECTS

3 THAT ACCELERATE THE COMMERCIALIZATION OF HYDROGEN, FUEL CELLS,

4 AND RELATED TECHNOLOGIES.] (a) In consultation with appropriate

5 representatives from state agencies, local governments,

6 universities, businesses, and other interested parties, the

7 Department of Commerce shall report back to the legislature by

8 November 1, 2005, and every two years thereafter, with a slate

9 of proposed pilot projects that contribute to realizing

10 Minnesota's hydrogen economy goal as set forth in section

11 216B.013. The Department of Commerce must consider the

12 following nonexclusive list of priorities in developing the

13 proposed slate of pilot projects:

14 (1) demonstrate "bridge" technologies such as

15 hybrid-electric, off-road, and fleet vehicles running on

16 hydrogen or fuels blended with hydrogen;

17 (2) develop cost-competitive, on-site hydrogen production

18 technologies;

19 (3) demonstrate nonvehicle applications for hydrogen;

20 (4) improve the cost and efficiency of hydrogen from

21 renewable energy sources; and

22 (5) improve the cost and efficiency of hydrogen production

23 using direct solar energy without electricity generation as an

24 intermediate step.

25 (b) For all demonstrations, individual system components of

26 the technology must meet commercial performance standards and

27 systems modeling must be completed to predict commercial

28 performance, risk, and synergies. In addition, the proposed

29 pilots should meet as many of the following criteria as possible:

30 (1) advance energy security;

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

32 (3) result in economically competitive infrastructure being

33 put in place;

34 (4) be located where it will link well with existing and

35 related projects and be accessible to the public, now or in the

36 future;

1 (5) demonstrate multiple, integrated aspects of hydrogen
2 infrastructure;

3 (6) include an explicit public education and awareness
4 component;

5 (7) be scalable to respond to changing circumstances and
6 market demands;

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

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

11 (10) serve other needs beyond hydrogen development.

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

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

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

30 Sec. 3. [216B.815] [AUTHORIZE AND ENCOURAGE THE STATE'S
31 PUBLIC RESEARCH INSTITUTIONS TO COORDINATE AND LEVERAGE THEIR
32 STRENGTHS THROUGH A REGIONAL ENERGY RESEARCH AND EDUCATION
33 PARTNERSHIP.]

34 The state's public research and higher education
35 institutions should work with one another and with similar
36 institutions in the region to establish Minnesota and the Upper

1 Midwest as a center of research, education, outreach, and
2 technology transfer for the production of renewable energy and
3 products, including hydrogen, fuel cells, and related
4 technologies. The partnership should be designed to create a
5 critical mass of research and education capability that can
6 compete effectively for federal and private investment in these
7 areas.

8 The partnership must include an advisory committee
9 comprised of government, industry, academic, and nonprofit
10 representatives to help focus its research and education efforts
11 on the most critical issues. Initiatives undertaken by the
12 partnership may include:

13 (1) collaborative and interdisciplinary research,
14 demonstration projects, and commercialization of market-ready
15 technologies;

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

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

21 (4) development and field-testing of relevant curricula,
22 teacher kits for all educational levels, and widespread teacher
23 training, in collaboration with state energy offices, teachers,
24 nonprofits, businesses, the United States Department of Energy,
25 and other interested parties.

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

27 The commissioner of commerce shall make assessments under
28 Minnesota Statutes, section 216C.052, of \$300,000 in fiscal year
29 2006 and \$300,000 in fiscal year 2007 for the purpose of
30 matching federal and private investments in three multifuel
31 hydrogen refueling stations in Moorhead, Alexandria, and the
32 Twin Cities respectively. The assessments and grants are
33 contingent upon securing the balance of the total project costs
34 from nonstate sources.

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

36 The Board of Trustees of the Minnesota State Colleges and

1 Universities is encouraged to work with the Upper Midwest
2 Hydrogen Initiative and other interested parties to develop and
3 implement hydrogen and fuel cell curricula and training programs
4 that can be incorporated into existing relevant courses and
5 disciplines affected by these technologies. These disciplines
6 include, but are not limited to, chemical, electrical, and
7 mechanical engineering, including lab technicians; fuel cell
8 production, installation, and maintenance; fuel cell and
9 internal combustion vehicles, including hybrids, running on
10 hydrogen or biofuels; and the construction, installation, and
11 maintenance of facilities that will produce, use, or serve
12 hydrogen. The curricula should also be useful to secondary
13 educational institutions and should include, but not be limited
14 to, the production, purification, distribution, and use of
15 hydrogen in portable, stationary, and mobile applications such
16 as fuel cells, turbines, and reciprocating engines.

17 ARTICLE 14

18 CIP GEOTHERMAL PROGRAMS

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

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

23 (1) a cooperative electric association that provides retail
24 service to its members;

25 (2) a municipality that provides electric service to retail
26 customers; and

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

29 (b) Each cooperative electric association and municipality
30 subject to this subdivision shall spend and invest for energy
31 conservation improvements under this subdivision the following
32 amounts:

33 (1) for a municipality, 0.5 percent of its gross operating
34 revenues from the sale of gas and 1.5 percent of its gross
35 operating revenues from the sale of electricity, excluding gross
36 operating revenues from electric and gas service provided in the

1 state to large electric customer facilities; and

2 (2) for a cooperative electric association, 1.5 percent of
3 its gross operating revenues from service provided in the state,
4 excluding gross operating revenues from service provided in the
5 state to large electric customer facilities indirectly through a
6 distribution cooperative electric association.

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

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

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

- 29 (1) 2002 - 90 percent;
- 30 (2) 2003 - 80 percent;
- 31 (3) 2004 - 65 percent; and
- 32 (4) 2005 and thereafter - 50 percent.

33 (f) A generation and transmission cooperative electric
34 association that provides energy services to cooperative
35 electric associations that provide electric service at retail to
36 consumers may invest in energy conservation improvements on

1 behalf of the associations it serves and may fulfill the
2 conservation, spending, reporting, and energy savings goals on
3 an aggregate basis. A municipal power agency or other
4 not-for-profit entity that provides energy service to municipal
5 utilities that provide electric service at retail may invest in
6 energy conservation improvements on behalf of the municipal
7 utilities it serves and may fulfill the conservation, spending,
8 reporting, and energy savings goals on an aggregate basis, under
9 an agreement between the municipal power agency or
10 not-for-profit entity and each municipal utility for funding the
11 investments.

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

1 providing the amount of annual conservation spending required of
2 that municipality and certifying that the required amount has
3 been spent on conservation programs pursuant to this subdivision.

4 (h) The commissioner shall also review each evaluation for
5 whether a portion of the money spent on residential conservation
6 improvement programs is devoted to programs that directly
7 address the needs of renters and low-income persons unless an
8 insufficient number of appropriate programs are available. For
9 the purposes of this subdivision and subdivision 2, "low-income"
10 means an income at or below 50 percent of the state median
11 income.

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

20 (j) A municipality may spend up to 50 percent of its
21 required spending under this section to refurbish an existing
22 district heating or cooling system. This paragraph expires July
23 1, 2007.

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

26 Subd. 2. [PROGRAMS.] (a) The commissioner may require
27 public utilities to make investments and expenditures in energy
28 conservation improvements, explicitly setting forth the interest
29 rates, prices, and terms under which the improvements must be
30 offered to the customers. The required programs must cover a
31 two-year period. Public utilities shall file conservation
32 improvement plans by June 1, on a schedule determined by order
33 of the commissioner. Plans received by a public utility by June
34 1 must be approved or approved as modified by the commissioner
35 by December 1 of that same year. The commissioner shall give
36 special consideration and encouragement to programs that bring

1 about significant net savings through the use of
2 energy-efficient lighting. The commissioner shall require
3 public utilities to file programs offering rebates for the
4 installation of geothermal heating and cooling systems. The
5 commissioner shall evaluate the program on the basis of
6 cost-effectiveness and the reliability of technologies
7 employed. The commissioner's order must provide to the extent
8 practicable for a free choice, by consumers participating in the
9 program, of the device, method, material, or project
10 constituting the energy conservation improvement and for a free
11 choice of the seller, installer, or contractor of the energy
12 conservation improvement, provided that the device, method,
13 material, or project seller, installer, or contractor is duly
14 licensed, certified, approved, or qualified, including under the
15 residential conservation services program, where applicable.

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

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

31 (d) A public utility may not spend for or invest in energy
32 conservation improvements that directly benefit a large electric
33 customer facility for which the commissioner has issued an
34 exemption pursuant to subdivision 1a, paragraph (b). The
35 commissioner shall consider and may require a utility to
36 undertake a program suggested by an outside source, including a

1 political subdivision or a nonprofit or community organization.

2 (e) The commissioner may, by order, establish a list of
3 programs that may be offered as energy conservation improvements
4 by a public utility, municipal utility, cooperative electric
5 association, or other entity providing conservation services
6 pursuant to this section. The list of programs may include
7 rebates for high-efficiency appliances, rebates or subsidies for
8 high-efficiency lamps, small business energy audits, and
9 building recommissioning. The commissioner may, by order,
10 change this list to add or subtract programs as the commissioner
11 determines is necessary to promote efficient and effective
12 conservation programs.

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

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

35 (h) The commissioner may order a public utility to include,
36 with the filing of the utility's proposed conservation

1 improvement plan under paragraph (a), the results of an
2 independent audit of the utility's conservation improvement
3 programs and expenditures performed by the department or an
4 auditor with experience in the provision of energy conservation
5 and energy efficiency services approved by the commissioner and
6 chosen by the utility. The audit must specify the energy
7 savings or increased efficiency in the use of energy within the
8 service territory of the utility that is the result of the
9 spending and investments. The audit must evaluate the
10 cost-effectiveness of the utility's conservation programs.

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

15 ARTICLE 15

16 SOY-DIESEL

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

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

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

1 applications."

2 Delete the title and insert:

3 "A bill for an act relating to energy; providing for
4 expedited cost recovery for certain transmission investments;
5 authorizing and regulating transmission companies; permitting
6 the transfer of transmission assets and operation to
7 transmission companies; providing for expedited regulatory
8 approval of transmission projects related to renewable
9 generation; providing new criteria to analyze the need for
10 transmission projects; establishing the framework for a wind
11 energy tariff related to community development; requiring a wind
12 integration study; transferring generation plant siting and
13 transmission line routing authority from the Minnesota
14 Environmental Quality Board to the Public Utilities Commission;
15 providing for technical corrections to the energy assistance
16 program; providing for a sustainably managed woody biomass
17 generation project to satisfy the biomass mandate; providing for
18 an electronic mail filing system at the Public Utilities
19 Commission and Department of Commerce; making changes to the
20 conservation investment program recommended by the legislative
21 auditor; authorizing the creation of energy quality zones;
22 regulating eligibility of biogas projects for the renewable
23 energy production incentive; providing for the recovery of
24 certain infrastructure investments by gas utilities; requiring a
25 study of compensation of landowners for transmission easements;
26 providing for a geothermal rebate program under the conservation
27 investment program; promoting the use of soy-diesel; providing
28 for the adjustment of power purchase agreements to account for
29 production tax payments; promoting the use of hydrogen as an
30 energy source; amending Minnesota Statutes 2004, sections
31 13.681, by adding a subdivision; 116C.52, subdivisions 2, 4;
32 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c, by adding a
33 subdivision; 116C.575, subdivision 5; 116C.577; 116C.58;
34 116C.61, subdivision 3; 116C.69, subdivisions 2, 2a; 119A.15,
35 subdivision 5a; 216B.02, by adding a subdivision; 216B.16,
36 subdivision 6d, by adding subdivisions; 216B.1645, subdivision
37 1; 216B.241, subdivisions 1b, 2; 216B.2421, subdivision 2;
38 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a subdivision;
39 216B.2425, subdivisions 2, 7; 216B.243, subdivisions 3, 4, 5, 6,
40 7, 8; 216B.50, subdivision 1; 216B.62, subdivision 5, by adding
41 a subdivision; 216B.79; 216C.052; 216C.09; 216C.41, subdivision
42 1; 462A.05, subdivisions 21, 23; proposing coding for new law in
43 Minnesota Statutes, chapters 216B; 216C."

44 And when so amended the bill do pass. Amendments adopted.
45 Report adopted.

46
47 (Committee Chair)
48

49 April 11, 2005.....
50 (Date of Committee recommendation)

Senator Metzen introduced--

S.F. No. 1895: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to economic development; authorizing
3 metropolitan area counties to form economic
4 development authorities; amending Minnesota Statutes
5 2004, section 469.1082, subdivision 1.

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

7 Section 1. Minnesota Statutes 2004, section 469.1082,
8 subdivision 1, is amended to read:

9 Subdivision 1. [AUTHORITY TO CREATE.] A county located
10 ~~outside-the-metropolitan-area~~ may form a county economic
11 development authority or grant a housing and redevelopment
12 authority the powers specified in subdivision 4, clause (2), if
13 it receives a recommendation to do so from a committee formed
14 under subdivision 2. An economic development authority
15 established under this section has all the powers and rights of
16 an authority under sections 469.090 to 469.1081, except the
17 authority granted under section 469.094 if so limited under
18 subdivision 4. This section is in addition to any other
19 authority to create a county economic development authority or
20 service provider.

21 Sec. 2. [EFFECTIVE DATE.]

22 Section 1 is effective the day following final enactment.

1 Senator moves to amend S.F. No. 1895 as follows:

2 Page 1, after line 20, insert:

3 "Sec. 2. Minnesota Statutes 2004, section 469.1082, is
4 amended by adding a subdivision to read:

5 Subd. 8. [SPECIAL LAW AUTHORITIES.] Nothing in this
6 section shall alter or impair the powers and obligations of an
7 authority under the following special laws: Laws 1980, chapter
8 482, as amended; Minnesota Statutes, section 383D.41; and Laws
9 1974, chapter 473, as amended. Any county that has granted
10 economic development powers to a community development agency or
11 a county housing and redevelopment authority under any of such
12 provisions may not also form a county economic development
13 authority or grant a housing and redevelopment authority the
14 powers specified in subdivision 4, clause (2)."

15 Renumber the sections in sequence and correct the internal
16 references

17 Amend the title accordingly

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

3 S.F. No. 1895: A bill for an act relating to economic
4 development; authorizing metropolitan area counties to form
5 economic development authorities; amending Minnesota Statutes
6 2004, section 469.1082, subdivision 1.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

9

10

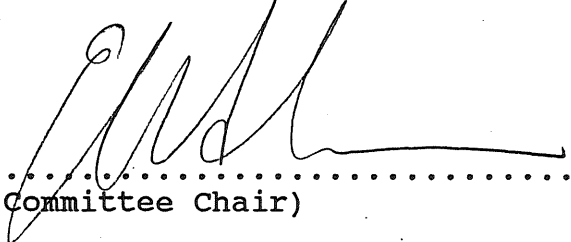
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.....
(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1886 - Small Business Growth Acceleration Program

Author: Senator Julie Rosen

Prepared by: Chris Turner, Senate Research (651/296-4350) *CT*

Date: April 11, 2005

Section 1, subdivision 1, establishes the small business growth acceleration program to help qualified companies implement technology and business improvements.

Subdivision 2 defines “qualified company” as a manufacturing or manufacturing-related service company that employs 50 or fewer full-time equivalent employees.

Subdivision 3 requires Minnesota Technology, Inc. to establish grant application procedures. Requires applicant companies to include with their application a technology and business improvement plan and prioritize the components of the plan.

Subdivision 4, paragraph (a), requires Minnesota Technology, Inc. to establish funding criteria and procedures. Grants may be awarded only if the improvements are unlikely to be financed any other way.

Paragraph (b) limits individual grants to \$25,000 in any calendar year and \$50,000 total. Requires 50 percent company match.

Paragraph (c) requires grants be used for business products and services that enhance the operation of the company. Contracts for services may be made only with Minnesota Technology, Inc approved vendors. Grants may not be used for refinancing, overhead costs, new construction, renovation, equipment, or computer hardware.

Paragraph (d) requires grants to be reimbursements to applicants for services documented according to the requirements of the corporation.

Subdivision 5 requires Minnesota Technology, Inc. to enter into written service agreements with each company awarded funds. Each agreement must include the company's need for service, the cost of the service, who will provide the service, the scope of the service, and the estimated impact of the service.

Subdivision 6 requires Minnesota Technology, Inc. to report annually to the Legislature on the funds dispersed in the preceding 12 months and their estimated impact, and the actual impact of funds dispersed in the past 24 months.

Section 2 is a \$1 million appropriation from the general fund to Minnesota Technology, Inc. for the purposes of the bill.

CT:vs

Senators Rosen, Kubly and Dille introduced--

S.F. No. 1886: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to employment and economic development;

3 establishing the small business growth acceleration

4 program; appropriating money; proposing coding for new

5 law in Minnesota Statutes, chapter 1160.

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

7 Section 1. [1160.115] [SMALL BUSINESS GROWTH ACCELERATION

8 PROGRAM.]

9 Subdivision 1. [ESTABLISHMENT; PURPOSE.] The small

10 business growth acceleration program is established. The

11 purpose of the program is to (1) help qualified companies

12 implement technology and business improvements; and (2) bridge

13 the gap between standard market pricing for technology and

14 business improvements and what qualified companies can afford to

15 pay.

16 Subd. 2. [QUALIFIED COMPANY.] A company is qualified to

17 receive assistance under the growth acceleration program if it

18 is a manufacturing company or a manufacturing-related service

19 company that employs 50 or fewer full-time equivalent employees.

20 Subd. 3. [APPLICATIONS FOR ASSISTANCE.] A company seeking

21 assistance under the growth acceleration program must file an

22 application according to the requirements of the corporation. A

23 company's application for growth acceleration program assistance

24 must include documentation of the company's overall plan for

25 technology and business improvement and prioritize the

1 components of the overall plan. The application must also
2 document the company's need for growth acceleration program
3 funds in order to carry forward the highest priority components
4 of the plan.

5 Subd. 4. [FUND AWARDS; USE OF FUNDS.] (a) The corporation
6 shall establish procedures for determining which applicants for
7 assistance under the growth acceleration program will receive
8 program funding. Funding shall be awarded only to accelerate a
9 qualified company's adoption of needed technology or business
10 improvements when the corporation concludes that it is unlikely
11 the improvements could be accomplished in any other way.

12 (b) The maximum amount of funds awarded to a qualified
13 company under the growth acceleration program for a particular
14 project must not exceed 50 percent of the total cost of a
15 project and must not under any circumstances exceed \$25,000
16 during a calendar year. The corporation shall not award to a
17 qualified company growth acceleration program funds in excess of
18 \$50,000 per year.

19 (c) Any funds awarded to a qualified company under the
20 growth acceleration program must be used for business services
21 and products that will enhance the operation of the company.
22 These business services and products must come either directly
23 from the corporation or from a network of expert providers
24 identified and approved by the corporation. No company
25 receiving growth acceleration program funds may use the funds
26 for refinancing, overhead costs, new construction, renovation,
27 equipment, or computer hardware.

28 (d) Any funds awarded must be disbursed to the qualified
29 company as reimbursement documented according to requirements of
30 the corporation.

31 Subd. 5. [SERVICE AGREEMENTS.] The corporation shall enter
32 a written service agreement with each company awarded funds
33 under the growth acceleration program. Each service agreement
34 shall clearly articulate the company's need for service, state
35 the cost of the service, identify who will provide the service,
36 and define the scope of the service that will be provided. The

1 service agreement must also include an estimate of the financial
2 impact of the service on the company and require the company to
3 report the actual financial impact of the service to the
4 corporation 24 months after the service is provided.

5 Subd. 6. [REPORTING.] The corporation shall report
6 annually to the legislative committees with fiscal jurisdiction
7 over the corporation (1) the funds awarded under the growth
8 acceleration program during the past 12 months; (2) the
9 estimated financial impact of the funds awarded to each company
10 receiving service under the program; and (3) the actual
11 financial impact of funds awarded during the past 24 months.

12 Sec. 2. [APPROPRIATION.]


13 \$1,000,000 in fiscal year 2006 and \$1,000,000 in fiscal
14 year 2007 are appropriated from the general fund to Minnesota
15 Technology, Inc. for the small business growth acceleration
16 program established under Minnesota Statutes, section 1160.115.

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

3 S.F. No. 1886: A bill for an act relating to employment
4 and economic development; establishing the small business growth
5 acceleration program; appropriating money; proposing coding for
6 new law in Minnesota Statutes, chapter 1160.

7 Reports the same back with the recommendation that the bill
8 do pass and be re-referred to the Committee on Finance. Report
9 adopted.

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(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

Senators Bakk and Michel introduced--

S.F. No. 1716: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act
2 relating to workers' compensation; adopting
3 recommendations of the Workers' Compensation Advisory
4 Council; amending Minnesota Statutes 2004, sections
5 176.011, subdivision 9; 176.041, by adding a
6 subdivision; 176.081, subdivision 1; 176.092,
7 subdivision 1a; 176.102, subdivision 3a; 176.106,
8 subdivision 1; 176.129, subdivisions 1b, 2a, 13;
9 176.135, subdivisions 1, 7; 176.1351, subdivision 5;
10 176.1812, subdivision 1; 176.185, subdivisions 1, 7;
11 by adding a subdivision; 176.231, subdivision 5;
12 176.238, subdivision 10; 176.391, subdivision 2;
13 repealing Minnesota Statutes 2004, section 176.1812,
14 subdivision 6.

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

16 Section 1. Minnesota Statutes 2004, section 176.011,
17 subdivision 9, is amended to read:

18 Subd. 9. [EMPLOYEE.] "Employee" means any person who
19 performs services for another for hire including the following:

20 (1) an alien;

21 (2) a minor;

22 (3) a sheriff, deputy sheriff, constable, marshal, police
23 officer, firefighter, county highway engineer, and peace officer
24 while engaged in the enforcement of peace or in the pursuit or
25 capture of a person charged with or suspected of crime;

26 (4) a person requested or commanded to aid an officer in
27 arresting or retaking a person who has escaped from lawful
28 custody, or in executing legal process, in which cases, for
29 purposes of calculating compensation under this chapter, the
30 daily wage of the person shall be the prevailing wage for

1 similar services performed by paid employees;

2 (5) a county assessor;

3 (6) an elected or appointed official of the state, or of a
4 county, city, town, school district, or governmental subdivision
5 in the state. An officer of a political subdivision elected or
6 appointed for a regular term of office, or to complete the
7 unexpired portion of a regular term, shall be included only
8 after the governing body of the political subdivision has
9 adopted an ordinance or resolution to that effect;

10 (7) an executive officer of a corporation, except those
11 executive officers excluded by section 176.041;

12 (8) a voluntary uncompensated worker, other than an inmate,
13 rendering services in state institutions under the commissioners
14 of human services and corrections similar to those of officers
15 and employees of the institutions, and whose services have been
16 accepted or contracted for by the commissioner of human services
17 or corrections as authorized by law. In the event of injury or
18 death of the worker, the daily wage of the worker, for the
19 purpose of calculating compensation under this chapter, shall be
20 the usual wage paid at the time of the injury or death for
21 similar services in institutions where the services are
22 performed by paid employees;

23 (9) a voluntary uncompensated worker engaged ~~in-peace-time~~
24 ~~in-the-civil-defense-program-when-ordered-to-training-or-other~~
25 ~~duty-by~~ in emergency management as defined in section 12.03,
26 subdivision 4, who is:

27 (i) registered with the state or any political subdivision
28 of it, according to the procedures set forth in the state or
29 political subdivision emergency operations plan; and

30 (ii) acting under the direction and control of, and within
31 the scope of duties approved by, the state or political
32 subdivision.

33 The daily wage of the worker, for the purpose of calculating
34 compensation under this chapter, shall be the usual wage paid at
35 the time of the injury or death for similar services performed
36 by paid employees;

1 (10) a voluntary uncompensated worker participating in a
2 program established by a local social services agency. For
3 purposes of this clause, "local social services agency" means
4 any agency established under section 393.01. In the event of
5 injury or death of the worker, the wage of the worker, for the
6 purpose of calculating compensation under this chapter, shall be
7 the usual wage paid in the county at the time of the injury or
8 death for similar services performed by paid employees working a
9 normal day and week;

10 (11) a voluntary uncompensated worker accepted by the
11 commissioner of natural resources who is rendering services as a
12 volunteer pursuant to section 84.089. The daily wage of the
13 worker for the purpose of calculating compensation under this
14 chapter, shall be the usual wage paid at the time of injury or
15 death for similar services performed by paid employees;

16 (12) a voluntary uncompensated worker in the building and
17 construction industry who renders services for joint
18 labor-management nonprofit community service projects. The
19 daily wage of the worker for the purpose of calculating
20 compensation under this chapter shall be the usual wage paid at
21 the time of injury or death for similar services performed by
22 paid employees;

23 (13) a member of the military forces, as defined in section
24 190.05, while in state active service, as defined in section
25 190.05, subdivision 5a. The daily wage of the member for the
26 purpose of calculating compensation under this chapter shall be
27 based on the member's usual earnings in civil life. If there is
28 no evidence of previous occupation or earning, the trier of fact
29 shall consider the member's earnings as a member of the military
30 forces;

31 (14) a voluntary uncompensated worker, accepted by the
32 director of the Minnesota Historical Society, rendering services
33 as a volunteer, pursuant to chapter 138. The daily wage of the
34 worker, for the purposes of calculating compensation under this
35 chapter, shall be the usual wage paid at the time of injury or
36 death for similar services performed by paid employees;

1 (15) a voluntary uncompensated worker, other than a
2 student, who renders services at the Minnesota State Academy for
3 the Deaf or the Minnesota State Academy for the Blind, and whose
4 services have been accepted or contracted for by the
5 commissioner of education, as authorized by law. In the event
6 of injury or death of the worker, the daily wage of the worker,
7 for the purpose of calculating compensation under this chapter,
8 shall be the usual wage paid at the time of the injury or death
9 for similar services performed in institutions by paid
10 employees;

11 (16) a voluntary uncompensated worker, other than a
12 resident of the veterans home, who renders services at a
13 Minnesota veterans home, and whose services have been accepted
14 or contracted for by the commissioner of veterans affairs, as
15 authorized by law. In the event of injury or death of the
16 worker, the daily wage of the worker, for the purpose of
17 calculating compensation under this chapter, shall be the usual
18 wage paid at the time of the injury or death for similar
19 services performed in institutions by paid employees;

20 (17) a worker who renders in-home attendant care services
21 to a physically handicapped person, and who is paid directly by
22 the commissioner of human services for these services, shall be
23 an employee of the state within the meaning of this subdivision,
24 but for no other purpose;

25 (18) students enrolled in and regularly attending the
26 Medical School of the University of Minnesota in the graduate
27 school program or the postgraduate program. The students shall
28 not be considered employees for any other purpose. In the event
29 of the student's injury or death, the weekly wage of the student
30 for the purpose of calculating compensation under this chapter,
31 shall be the annualized educational stipend awarded to the
32 student, divided by 52 weeks. The institution in which the
33 student is enrolled shall be considered the "employer" for the
34 limited purpose of determining responsibility for paying
35 benefits under this chapter;

36 (19) a faculty member of the University of Minnesota

1 employed for an academic year is also an employee for the period
2 between that academic year and the succeeding academic year if:

3 (a) the member has a contract or reasonable assurance of a
4 contract from the University of Minnesota for the succeeding
5 academic year; and

6 (b) the personal injury for which compensation is sought
7 arises out of and in the course of activities related to the
8 faculty member's employment by the University of Minnesota;

9 (20) a worker who performs volunteer ambulance driver or
10 attendant services is an employee of the political subdivision,
11 nonprofit hospital, nonprofit corporation, or other entity for
12 which the worker performs the services. The daily wage of the
13 worker for the purpose of calculating compensation under this
14 chapter shall be the usual wage paid at the time of injury or
15 death for similar services performed by paid employees;

16 (21) a voluntary uncompensated worker, accepted by the
17 commissioner of administration, rendering services as a
18 volunteer at the Department of Administration. In the event of
19 injury or death of the worker, the daily wage of the worker, for
20 the purpose of calculating compensation under this chapter,
21 shall be the usual wage paid at the time of the injury or death
22 for similar services performed in institutions by paid
23 employees;

24 (22) a voluntary uncompensated worker rendering service
25 directly to the Pollution Control Agency. The daily wage of the
26 worker for the purpose of calculating compensation payable under
27 this chapter is the usual going wage paid at the time of injury
28 or death for similar services if the services are performed by
29 paid employees;

30 (23) a voluntary uncompensated worker while volunteering
31 services as a first responder or as a member of a law
32 enforcement assistance organization while acting under the
33 supervision and authority of a political subdivision. The daily
34 wage of the worker for the purpose of calculating compensation
35 payable under this chapter is the usual going wage paid at the
36 time of injury or death for similar services if the services are

1 performed by paid employees; and

2 (24) a voluntary uncompensated member of the civil air
3 patrol rendering service on the request and under the authority
4 of the state or any of its political subdivisions. The daily
5 wage of the member for the purposes of calculating compensation
6 payable under this chapter is the usual going wage paid at the
7 time of injury or death for similar services if the services are
8 performed by paid employees.

9 If it is difficult to determine the daily wage as provided
10 in this subdivision, the trier of fact may determine the wage
11 upon which the compensation is payable.

12 [EFFECTIVE DATE.] This section is effective for injuries
13 occurring on or after the day following final enactment.

14 Sec. 2. Minnesota Statutes 2004, section 176.041, is
15 amended by adding a subdivision to read:

16 Subd. 5b. [NORTH DAKOTA EMPLOYERS.] Notwithstanding the
17 provisions of subdivision 4, workers' compensation benefits for
18 an employee hired in North Dakota by a North Dakota employer,
19 arising out of that employee's temporary work in Minnesota,
20 shall not be payable under this chapter. North Dakota workers'
21 compensation law provides the exclusive remedy available to the
22 injured worker. For purposes of this subdivision, temporary
23 work means work in Minnesota for a period of time not to exceed
24 15 consecutive calendar days or a maximum of 240 total hours
25 worked by that employee in a calendar year.

26 [EFFECTIVE DATE.] This section is effective for dates of
27 injury occurring on or after October 1, 2005.

28 Sec. 3. Minnesota Statutes 2004, section 176.081,
29 subdivision 1, is amended to read:

30 Subdivision 1. [LIMITATION OF FEES.] (a) A fee for legal
31 services of 25 percent of the first \$4,000 of compensation
32 awarded to the employee and 20 percent of the next \$60,000 of
33 compensation awarded to the employee is the maximum permissible
34 fee and does not require approval by the commissioner,
35 compensation judge, or any other party. All fees, including
36 fees for obtaining medical or rehabilitation benefits, must be

1 calculated according to the formula under this subdivision,
2 except as otherwise provided in clause (1) or (2).

3 (1) The contingent attorney fee for recovery of monetary
4 benefits according to the formula in this section is presumed to
5 be adequate to cover recovery of medical and rehabilitation
6 benefit or services concurrently in dispute. Attorney fees for
7 recovery of medical or rehabilitation benefits or services shall
8 be assessed against the employer or insurer only if the attorney
9 establishes that the contingent fee is inadequate to reasonably
10 compensate the attorney for representing the employee in the
11 medical or rehabilitation dispute. In cases where the
12 contingent fee is inadequate the employer or insurer is liable
13 for attorney fees based on the formula in this subdivision or in
14 clause (2).

15 For the purposes of applying the formula where the employer
16 or insurer is liable for attorney fees, the amount of
17 compensation awarded for obtaining disputed medical and
18 rehabilitation benefits under sections 176.102, 176.135, and
19 176.136 shall be the dollar value of the medical or
20 rehabilitation benefit awarded, where ascertainable.

21 (2) The maximum attorney fee for obtaining a change of
22 doctor or qualified rehabilitation consultant, or any other
23 disputed medical or rehabilitation benefit for which a dollar
24 value is not reasonably ascertainable, is the amount charged in
25 hourly fees for the representation or \$500, whichever is less,
26 to be paid by the employer or insurer.

27 (3) The fees for obtaining disputed medical or
28 rehabilitation benefits are included in the \$13,000 limit in
29 paragraph (b). An attorney must concurrently file all
30 outstanding disputed issues. An attorney is not entitled to
31 attorney fees for representation in any issue which could
32 reasonably have been addressed during the pendency of other
33 issues for the same injury.

34 (b) All fees for legal services related to the same injury
35 are cumulative and may not exceed \$13,000. If multiple injuries
36 are the subject of a dispute, the commissioner, compensation

1 judge, or court of appeals shall specify the attorney fee
2 attributable to each injury.

3 (c) If the employer or the insurer or the defendant is
4 given written notice of claims for legal services or
5 disbursements, the claim shall be a lien against the amount paid
6 or payable as compensation. Subject to the foregoing maximum
7 amount for attorney fees, up to 25 percent of the first \$4,000
8 of periodic compensation awarded to the employee and 20 percent
9 of the next \$60,000 of periodic compensation awarded to the
10 employee may be withheld from the periodic payments for attorney
11 fees or disbursements if the payor of the funds clearly
12 indicates on the check or draft issued to the employee for
13 payment the purpose of the withholding, the name of the
14 attorney, the amount withheld, and the gross amount of the
15 compensation payment before withholding. In no case shall fees
16 be calculated on the basis of any undisputed portion of
17 compensation awards. Allowable fees under this chapter shall be
18 based solely upon genuinely disputed claims or portions of
19 claims, including disputes related to the payment of
20 rehabilitation benefits or to other aspects of a rehabilitation
21 plan. The existence of a dispute is dependent upon a
22 disagreement after the employer or insurer has had adequate time
23 and information to take a position on liability. Neither the
24 holding of a hearing nor the filing of an application for a
25 hearing alone may determine the existence of a dispute. Except
26 where the employee is represented by an attorney in other
27 litigation pending at the department or at the Office of
28 Administrative Hearings, a fee may not be charged after June 1,
29 1996, for services with respect to a medical or rehabilitation
30 issue arising under section 176.102, 176.135, or 176.136
31 performed before the employee has consulted with the department
32 and the department certifies that there is a dispute and that it
33 has tried to resolve the dispute.

34 (d) An attorney who is claiming legal fees for representing
35 an employee in a workers' compensation matter shall file a
36 statement of attorney fees with the commissioner, compensation

1 judge before whom the matter was heard, or Workers' Compensation
2 Court of Appeals on cases before the court. A copy of the
3 signed retainer agreement shall also be filed. The employee and
4 insurer shall receive a copy of the statement. The statement
5 shall be on a form prescribed by the commissioner and shall
6 report the number of hours spent on the case.

7 (e) Employers and insurers may not pay attorney fees or
8 wages for legal services of more than \$13,000 per case.

9 ~~(f) Each insurer and self-insured employer shall file
10 annual statements with the commissioner detailing the total
11 amount of legal fees and other legal costs incurred by the
12 insurer or employer during the year. The statement shall
13 include the amount paid for outside and in-house counsel,
14 deposition and other witness fees, and all other costs relating
15 to litigation.~~

16 (g) An attorney must file a statement of attorney fees
17 within 12 months of the date the attorney has submitted the
18 written notice specified in paragraph (c). If the attorney has
19 not filed a statement of attorney fees within the 12 months, the
20 attorney must send a renewed notice of lien to the insurer. If
21 12 months have elapsed since the last notice of lien has been
22 received by the insurer and no statement of attorney fees has
23 been filed, the insurer must release the withheld money to the
24 employee, except that before releasing the money to the
25 employee, the insurer must give the attorney 30 days' written
26 notice of the pending release. The insurer must not release the
27 money if the attorney files a statement of attorney fees within
28 the 30 days.

29 [EFFECTIVE DATE.] This section is effective the day
30 following final enactment.

31 Sec. 4. Minnesota Statutes 2004, section 176.092,
32 subdivision 1a, is amended to read:

33 Subd. 1a. [PARENT AS GUARDIAN.] A parent is presumed to be
34 the guardian of the minor employee for purposes of this
35 section. Where the parents of the minor employee are divorced,
36 either parent with legal custody may be considered the guardian

1 for purposes of this section. Notwithstanding subdivision 1,
2 where the employee receives or is eligible for a lump sum
3 payment of permanent total disability benefits, supplementary
4 benefits, or permanent partial disability benefits totaling more
5 than \$3,000 or if the employee receives or is offered a
6 settlement that exceeds five times the statewide average weekly
7 wage, the compensation judge shall review such cases to
8 determine whether benefits should be paid in a lump sum or
9 through an annuity.

10 [EFFECTIVE DATE.] This section is effective the day
11 following final enactment.

12 Sec. 5. Minnesota Statutes 2004, section 176.102,
13 subdivision 3a, is amended to read:

14 Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority
15 to discipline qualified rehabilitation consultants and vendors
16 and may impose a penalty of up to \$3,000 per violation, payable
17 to the commissioner for deposit in the ~~special-compensation-fund~~
18 assigned risk safety account, and may suspend or revoke
19 certification. Complaints against registered qualified
20 rehabilitation consultants and vendors shall be made to the
21 commissioner who shall investigate all complaints. If the
22 investigation indicates a violation of this chapter or rules
23 adopted under this chapter, the commissioner may initiate a
24 contested case proceeding under the provisions of chapter 14.
25 In these cases, the rehabilitation review panel shall make the
26 final decision following receipt of the report of an
27 administrative law judge. The decision of the panel is
28 appealable to the Workers' Compensation Court of Appeals in the
29 manner provided by section 176.421. The panel shall
30 continuously study rehabilitation services and delivery, develop
31 and recommend rehabilitation rules to the commissioner, and
32 assist the commissioner in accomplishing public education.

33 The commissioner may appoint alternates for one-year terms
34 to serve as a member when a member is unavailable. The number
35 of alternates shall not exceed one labor member, one employer or
36 insurer member, and one member representing medicine,

1 chiropractic, or rehabilitation.

2 [EFFECTIVE DATE.] This section is effective the day
3 following final enactment.

4 Sec. 6. Minnesota Statutes 2004, section 176.106,
5 subdivision 1, is amended to read:

6 Subdivision 1. [SCOPE.] All determinations by the
7 commissioner or the commissioner's designee pursuant to section
8 176.102, 176.103, 176.135, or 176.136 shall be in accordance
9 with the procedures contained in this section. For medical
10 disputes under sections 176.135 and 176.136, the commissioner or
11 the commissioner's designee shall have jurisdiction to hold an
12 administrative conference and issue decisions and orders under
13 this section if the amount in dispute at the time the medical
14 request is filed is \$7,500 or less.

15 [EFFECTIVE DATE.] This section is effective for medical
16 requests filed on or after the day following final enactment.

17 Sec. 7. Minnesota Statutes 2004, section 176.129,
18 subdivision 1b, is amended to read:

19 Subd. 1b. [DEFINITIONS.] (a) For purposes of this section,
20 the terms defined in this subdivision have the meanings given
21 them.

22 (b) "Paid indemnity losses" means gross benefits paid for
23 temporary total disability, economic recovery compensation,
24 permanent partial disability, temporary partial disability,
25 impairment compensation, permanent total disability, ~~vocational~~
26 ~~rehabilitation-benefits~~ retraining compensation paid to the
27 employee as provided by section 176.102, subdivision 11, or
28 dependency benefits, exclusive of medical and supplementary
29 benefits. In the case of policy deductibles, paid indemnity
30 losses includes all benefits paid, including the amount below
31 deductible limits.

32 (c) "Standard workers' compensation premium" means the data
33 service organization's designated statistical reporting pure
34 premium after ~~the-application-of-experience-rating-plan~~
35 adjustments excluding retrospective rating plan adjustments,
36 other individual risk rating plan adjustments such as schedule

1 rating, premium credits for small and large deductible coverage,
 2 and other deviations from the data service organization's
 3 designated statistical reporting pure premiums and experience
 4 rating plan modification factors but prior to the application of
 5 premium discounts, policyholder dividends, other premium
 6 adjustments, and expense constants, ~~and other deviations from~~
 7 ~~the designated statistical reporting pure premium.~~

8 [EFFECTIVE DATE.] This section is effective the day
 9 following final enactment.

10 Sec. 8. Minnesota Statutes 2004, section 176.129,
 11 subdivision 2a, is amended to read:

12 Subd. 2a. [PAYMENTS TO FUND.] (a) On or before April 1 of
 13 each year, all self-insured employers shall report paid
 14 indemnity losses and insurers shall report paid indemnity losses
 15 and standard workers' compensation premium in the form and
 16 manner prescribed by the commissioner. On June 1 of each year,
 17 the commissioner shall determine the total amount needed to pay
 18 all estimated liabilities, including administrative expenses, of
 19 the special compensation fund for the following fiscal year.
 20 The commissioner shall assess this amount against self-insured
 21 employers and insurers. The total amount of the assessment must
 22 be allocated between self-insured employers and insured
 23 employers based on paid indemnity losses for the preceding
 24 calendar year, as provided by paragraph (b). The method of
 25 assessing self-insured employers must be based on paid indemnity
 26 losses, as provided by paragraph (c). The method of assessing
 27 insured employers is based on standard workers' compensation
 28 premium, collectible as provided by paragraph (c). Each insurer
 29 shall collect the assessment through a policyholder surcharge as
 30 provided by paragraph (d). On or before June 30 of each year,
 31 the commissioner shall provide notification to each self-insured
 32 employer and insurer of amounts due. Each self-insured employer
 33 and each insurer shall pay at least one-half of the payment
 34 ~~shall be made~~ amount due to the commissioner for deposit into
 35 the special compensation fund on or before August 1 of the same
 36 calendar year. The remaining balance is due on February 1 of

1 the following calendar year. Each insurer must pay the full
2 amount due as stated in the commissioner's notification,
3 regardless of the amount the insurer actually collects from the
4 premium surcharge.

5 (b) The portion of the total amount assessment that is
6 ~~collected-from~~ allocated to self-insured employers is ~~equal-to~~
7 ~~that~~ the proportion of ~~the~~ that paid indemnity losses ~~for-the~~
8 ~~preceding-calendar-year,-which-the-paid-indemnity-losses-of~~ made
9 by all self-insured employers bore to the total paid indemnity
10 losses made by all self-insured employers and insured employers
11 during the preceding calendar year. The portion of the
12 total amount assessment that is ~~collected-from~~ allocated to
13 insured employers is ~~equal-to-that~~ the proportion of ~~the-total~~
14 ~~that~~ paid indemnity losses made on behalf of all insured
15 employers bore to the total paid indemnity losses ~~on-behalf-of~~
16 made by all self-insured employers and insured employers during
17 the preceding calendar year.

18 (c) The portion of the total assessment allocated to
19 self-insured employers that shall be paid by each self-insured
20 employer must be based upon paid indemnity losses made by that
21 self-insured employer during the preceding calendar year. The
22 portion of the total assessment allocated to insured employers
23 that is ~~collected-from~~ paid by each insured-employer insurer
24 must be based on standard workers' compensation premium written
25 earned in the state by that insurer during the preceding
26 calendar year. An employer who has ceased to be self-insured
27 shall continue to be liable for assessments based on paid
28 indemnity losses ~~made-by-the-employer-in-the-preceding-calendar~~
29 ~~year-~~ arising out of injuries occurring during periods when the
30 employer was self-insured, unless the self-insured employer has
31 purchased a replacement policy covering those losses. An
32 insurer who assumes a self-insured employer's obligation under a
33 replacement policy shall separately report and pay assessments
34 based on indemnity losses paid by the insurer under the
35 replacement policy. The replacement policy may provide for
36 reimbursement of the assessment to the insurer by the

1 self-insured employer.

2 ~~(c)~~ (d) Insurers shall collect the assessments from their
3 insured employers through a surcharge based on standard workers'
4 compensation premium, as provided in paragraph (a) for each
5 employer. Assessments when collected do not constitute an
6 element of loss for the purpose of establishing rates for
7 workers' compensation insurance but for the purpose of
8 collection are treated as separate costs imposed on insured
9 employers. The premium surcharge is included in the definition
10 of gross premium as defined in section 297I.01. An insurer may
11 cancel a policy for nonpayment of the premium surcharge. The
12 premium surcharge is excluded from the definition of premium
13 except as otherwise provided in this paragraph.

14 (e) For purposes of this section, the workers' compensation
15 assigned-risk plan established under section 79.252, shall
16 report and pay assessments on standard workers' compensation
17 premium in the same manner as an insurer.

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

20 Sec. 9. Minnesota Statutes 2004, section 176.129,
21 subdivision 13, is amended to read:

22 Subd. 13. [EMPLOYER REPORTS.] All employers and insurers
23 shall make reports to the commissioner as required for the
24 proper administration of this section and Minnesota Statutes
25 1990, section 176.131, and Minnesota Statutes 1994, section
26 176.132. Employers and insurers may not be reimbursed from the
27 special compensation fund for any periods unless the employer or
28 insurer is up to date with all past due and currently due
29 assessments, penalties, and reports to the special compensation
30 fund under this section. The commissioner may allow an offset
31 of the reimbursements due an employer or insurer pursuant to
32 Minnesota Statutes 1990, section 176.131, and Minnesota Statutes
33 1994, section 176.132, against the assessment due under the
34 section.

35 [EFFECTIVE DATE.] This section is effective the day
36 following final enactment.

1 Sec. 10. Minnesota Statutes 2004, section 176.135,
2 subdivision 1, is amended to read:

3 Subdivision 1. [MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC,
4 PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish
5 any medical, psychological, chiropractic, podiatric, surgical
6 and hospital treatment, including nursing, medicines, medical,
7 chiropractic, podiatric, and surgical supplies, crutches and
8 apparatus, including artificial members, or, at the option of
9 the employee, if the employer has not filed notice as
10 hereinafter provided, Christian Science treatment in lieu of
11 medical treatment, chiropractic medicine and medical supplies,
12 as may reasonably be required at the time of the injury and any
13 time thereafter to cure and relieve from the effects of the
14 injury. This treatment shall include treatments necessary to
15 physical rehabilitation.

16 (b) The employer shall pay for the reasonable value of
17 nursing services provided by a member of the employee's family
18 in cases of permanent total disability.

19 (c) Exposure to rabies is an injury and an employer shall
20 furnish preventative treatment to employees exposed to rabies.

21 (d) The employer shall furnish replacement or repair for
22 artificial members, glasses or spectacles, artificial eyes,
23 podiatric orthotics, dental bridge work, dentures or artificial
24 teeth, hearing aids, canes, crutches, or wheel chairs damaged by
25 reason of an injury arising out of and in the course of the
26 employment. For the purpose of this paragraph, "injury"
27 includes damage wholly or in part to an artificial member. In
28 case of the employer's inability or refusal seasonably to
29 provide the items required to be provided under this paragraph,
30 the employer is liable for the reasonable expense incurred by or
31 on behalf of the employee in providing the same, including costs
32 of copies of any medical records or medical reports that are in
33 existence, obtained from health care providers, and that
34 directly relate to the items for which payment is sought under
35 this chapter, limited to the charges allowed by subdivision 7,
36 and attorney fees incurred by the employee.

1 (e) Both the commissioner and the compensation judges have
2 authority to make determinations under this section in
3 accordance with sections 176.106 and 176.305.

4 (f) An employer may require that the treatment and supplies
5 required to be provided by an employer by this section be
6 received in whole or in part from a managed care plan certified
7 under section 176.1351 except as otherwise provided by that
8 section.

9 (g) An employer may designate a pharmacy or network of
10 pharmacies that employees must use to obtain outpatient
11 prescription and nonprescription medications. An employee is
12 not required to obtain outpatient medications at a designated
13 pharmacy unless the pharmacy is located within 15 miles of the
14 employee's place of residence.

15 (h) Notwithstanding any fees established by rule adopted
16 under section 176.136, an employer may contract for the cost of
17 medication provided to employees.

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

20 Sec. 11. Minnesota Statutes 2004, section 176.135,
21 subdivision 7, is amended to read:

22 Subd. 7. [MEDICAL BILLS AND RECORDS.] Health care
23 providers shall submit to the insurer an itemized statement of
24 charges on a billing form prescribed by the commissioner. A
25 paper billing form is not required if the health care provider
26 and insurer agree to electronic submission under section 62J.535.

27 Health care providers shall also submit copies of medical
28 records or reports that substantiate the nature of the charge
29 and its relationship to the work injury. Health care providers
30 may charge for copies of any records or reports that are in
31 existence and directly relate to the items for which payment is
32 sought under this chapter. The commissioner shall adopt a
33 schedule of reasonable charges by rule.

34 A health care provider shall not collect, attempt to
35 collect, refer a bill for collection, or commence an action for
36 collection against the employee, employer, or any other party

1 until the information required by this section has been
2 furnished.

3 A United States government facility rendering health care
4 services to veterans is not subject to the uniform billing form
5 requirements of this subdivision.

6 [EFFECTIVE DATE.] This section is effective the day
7 following final enactment.

8 Sec. 12. Minnesota Statutes 2004, section 176.1351,
9 subdivision 5, is amended to read:

10 Subd. 5. [REVOCAION, SUSPENSION, AND REFUSAL TO CERTIFY;
11 PENALTIES AND ENFORCEMENT.] (a) The commissioner shall refuse to
12 certify or shall revoke or suspend the certification of a
13 managed care plan if the commissioner finds that the plan for
14 providing medical or health care services fails to meet the
15 requirements of this section, or service under the plan is not
16 being provided in accordance with the terms of a certified plan.

17 (b) In lieu of or in addition to suspension or revocation
18 under paragraph (a), the commissioner may, for any noncompliance
19 with the managed care plan as certified or any violation of a
20 statute or rule applicable to a managed care plan, assess an
21 administrative penalty payable to the commissioner for deposit
22 in the ~~special-compensation-fund~~ assigned risk safety account in
23 an amount up to \$25,000 for each violation or incidence of
24 noncompliance. The commissioner may adopt rules necessary to
25 implement this subdivision. In determining the level of an
26 administrative penalty, the commissioner shall consider the
27 following factors:

28 (1) the number of workers affected or potentially affected
29 by the violation or noncompliance;

30 (2) the effect or potential effect of the violation or
31 noncompliance on workers' health, access to health services, or
32 workers' compensation benefits;

33 (3) the effect or potential effect of the violation or
34 noncompliance on workers' understanding of their rights and
35 obligations under the workers' compensation law and rules;

36 (4) whether the violation or noncompliance is an isolated

1 incident or part of a pattern of violations; and

2 (5) the potential or actual economic benefits derived by
3 the managed care plan or a participating provider by virtue of
4 the violation or noncompliance.

5 The commissioner shall give written notice to the managed
6 care plan of the penalty assessment and the reasons for the
7 penalty. The managed care plan has 30 days from the date the
8 penalty notice is issued within which to file a written request
9 for an administrative hearing and review of the commissioner's
10 determination pursuant to section 176.85, subdivision 1.

11 (c) If the commissioner, for any reason, has cause to
12 believe that a managed care plan has or may violate a statute or
13 rule or a provision of the managed care plan as certified, the
14 commissioner may, before commencing action under paragraph (a)
15 or (b), call a conference with the managed care plan and other
16 persons who may be involved in the suspected violation or
17 noncompliance for the purpose of ascertaining the facts relating
18 to the suspected violation or noncompliance and arriving at an
19 adequate and effective means of correcting or preventing the
20 violation or noncompliance. The commissioner may enter into
21 stipulated consent agreements with the managed care plan for
22 corrective or preventive action or the amount of the penalty to
23 be paid. Proceedings under this paragraph shall not be governed
24 by any formal procedural requirements, and may be conducted in a
25 manner the commissioner deems appropriate under the
26 circumstances.

27 (d) The commissioner may issue an order directing a managed
28 care plan or a representative of a managed care plan to cease
29 and desist from engaging in any act or practice that is not in
30 compliance with the managed care plan as certified, or that it
31 is in violation of an applicable statute or rule. Within 30
32 days of service of the order, the managed care plan may request
33 review of the cease and desist order by an administrative law
34 judge pursuant to chapter 14. The decision of the
35 administrative law judge shall include findings of fact,
36 conclusions of law and appropriate orders, which shall be the

1 final decision of the commissioner. In the event of
2 noncompliance with a cease and desist order, the commissioner
3 may institute a proceeding in district court to obtain
4 injunctive or other appropriate relief.

5 (e) A managed care plan, participating health care
6 provider, or an employer or insurer that receives services from
7 the managed care plan, shall cooperate fully with an
8 investigation by the commissioner. For purposes of this
9 section, cooperation includes, but is not limited to, attending
10 a conference called by the commissioner under paragraph (c),
11 responding fully and promptly to any questions relating to the
12 subject of the investigation, and providing copies of records,
13 reports, logs, data, and other information requested by the
14 commissioner to assist in the investigation.

15 (f) Any person acting on behalf of a managed care plan who
16 knowingly submits false information in any report required to be
17 filed by a managed care plan is guilty of a misdemeanor.

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

20 Sec. 13. Minnesota Statutes 2004, section 176.1812,
21 subdivision 1, is amended to read:

22 Subdivision 1. [REQUIREMENTS.] Upon appropriate filing,
23 the commissioner, compensation judge, Workers' Compensation
24 Court of Appeals, and courts shall recognize as valid and
25 binding a provision in a collective bargaining agreement between
26 a qualified employer or qualified groups of employers engaged-in
27 ~~construction, construction-maintenance, and-related-activities~~
28 and the certified and exclusive representative of its employees
29 to establish certain obligations and procedures relating to
30 workers' compensation. For purposes of this section, "qualified
31 employer" means any self-insured employer, any employer, through
32 itself or any affiliate as defined in section 60D.15,
33 subdivision 2, who is responsible for the first \$100,000 or more
34 of any claim, or a private employer developing or projecting an
35 annual workers' compensation premium, in Minnesota, of \$250,000
36 or more. For purposes of this section, a "qualified group of

1 employers" means a group of private employers engaged in
2 workers' compensation group self-insurance complying with
3 chapter 79A, or a group of private employers who purchase
4 workers' compensation insurance as a group, which develops or
5 projects annual workers' compensation insurance premiums of
6 \$2,000,000 or more. This agreement must be limited to, but need
7 not include, all of the following:

8 (a) an alternative dispute resolution system to supplement,
9 modify, or replace the procedural or dispute resolution
10 provisions of this chapter. The system may include mediation,
11 arbitration, or other dispute resolution proceedings, the
12 results of which may be final and binding upon the parties. A
13 system of arbitration shall provide that the decision of the
14 arbiter is subject to review either by the Workers' Compensation
15 Court of Appeals in the same manner as an award or order of a
16 compensation judge or, in lieu of review by the Workers'
17 Compensation Court of Appeals, by the Office of Administrative
18 Hearings, by the district court, by the Minnesota Court of
19 Appeals, or by the Supreme Court in the same manner as the
20 Workers' Compensation Court of Appeals and may provide that any
21 arbiter's award disapproved by a court be referred back to the
22 arbiter for reconsideration and possible modification;

23 (b) an agreed list of providers of medical treatment that
24 may be the exclusive source of all medical and related treatment
25 provided under this chapter which need not be certified under
26 section 176.1351;

27 (c) the use of a limited list of impartial physicians to
28 conduct independent medical examinations;

29 (d) the creation of a light duty, modified job, or return
30 to work program;

31 (e) the use of a limited list of individuals and companies
32 for the establishment of vocational rehabilitation or retraining
33 programs which list is not subject to the requirements of
34 section 176.102;

35 (f) the establishment of safety committees and safety
36 procedures; or

1 (g) the adoption of a 24-hour health care coverage plan if
 2 a 24-hour plan pilot project is authorized by law, according to
 3 the terms and conditions authorized by that law.

4 Sec. 14. Minnesota Statutes 2004, section 176.185,
 5 subdivision 1, is amended to read:

6 Subdivision 1. [~~NOTICE OF COVERAGE, TERMINATION,~~
 7 ~~CANCELLATION; NOTICE TO INSURED BEFORE POLICY CANCELLATION,~~
 8 ~~TERMINATION OR NONRENEWAL.~~] ~~(a)~~ Within ten days after the
 9 issuance or renewal of a policy of insurance covering the
 10 liability to pay compensation under this chapter written by an
 11 insurer licensed to insure such liability in this state, the
 12 insurer shall file notice of coverage with the commissioner
 13 under rules and on forms prescribed by the commissioner. No
 14 policy shall be canceled by the insurer within the policy period
 15 nor terminated upon its expiration date until a notice in
 16 writing is delivered or mailed to the insured ~~and filed with the~~
 17 ~~commissioner, fixing the date on which it is proposed to cancel~~
 18 ~~it, or declaring~~ that meets all of the requirements in
 19 paragraphs (a) to (c).

20 (a) The notice must specify the date the policy will be
 21 terminated if the premium is not paid, declare that the
 22 insurer intends to cancel the policy by the specified date, or
 23 does not intend to renew the policy upon the expiration date. A
 24 cancellation or termination is not effective until 30 days after
 25 written notice has been filed with the commissioner in a manner
 26 prescribed by the commissioner unless prior to the expiration of
 27 the 30-day period

28 (b) The notice must include the following statement, which
 29 must be placed on or sent with the premium invoice or other
 30 document sent by the insurer to notify the insured of the
 31 intended cancellation or termination: "You must maintain
 32 workers' compensation insurance, or obtain permission to
 33 self-insure for workers' compensation from the Minnesota
 34 Department of Commerce. The failure to maintain workers'
 35 compensation coverage is a violation of section 176.181, and
 36 could result in criminal prosecution and civil penalties of up

1 to \$1,000 per week per uninsured employee." This statement must
2 be in at least 12-point font, bold-faced type, and be set out in
3 a separate paragraph.

4 (c) The notice must be mailed or delivered to the insured
5 at least 60 days before the actual date the policy is due to
6 expire or be terminated or canceled. This 60-day advance notice
7 to the insured applies to cancellation, termination, or
8 nonrenewal of all workers' compensation policies for any reason,
9 notwithstanding any contrary time frame for notice to the
10 policyholder in section 60A.36 or 60A.37.

11 Subd. 1a. [NOTICE TO COMMISSIONER OF CANCELLATION OR
12 TERMINATION; EFFECTIVE DATE.] (a) Within ten calendar days after
13 the specified cancellation or termination date, the insurer must
14 send to the insured and file with the commissioner a written
15 notice of cancellation or termination in the manner prescribed
16 by the commissioner. Upon the commissioner's request, the
17 insurer shall provide documentation of the dates the notices
18 required by this subdivision and subdivision 1 were sent to the
19 insured. The effective dates of cancellation or termination
20 specified in paragraphs (b) to (e) apply notwithstanding any
21 contrary time frames in section 60A.36 or 60A.37.

22 (b) If within the ten calendar days after the specified
23 cancellation or termination date the notice of cancellation or
24 termination is both sent to the insured and received by the
25 commissioner, the cancellation or termination shall be effective
26 on the date specified on the notice of cancellation or
27 termination, except as otherwise provided in paragraph (d).

28 (c) If within the ten calendar days after the specified
29 cancellation or termination date the notice of cancellation or
30 termination is not sent to the insured and received by the
31 commissioner, the cancellation or termination shall not be
32 effective until the notice has been sent to the insured and
33 received by the commissioner, except as otherwise provided in
34 paragraph (d) or (e).

35 (d) If the notice required by subdivision 1 is not sent to
36 the insured or does not meet all of the requirements of

1 subdivision 1, the cancellation or termination shall not be
 2 effective until 60 days after the notice of cancellation or
 3 termination has been sent to the insured and received by the
 4 commissioner, except as otherwise provided in paragraph (e).

5 (e) Paragraphs (c) and (d) do not extend the effective date
 6 of cancellation or termination if, on or before the cancellation
 7 or termination date determined under paragraph (c) or (d), the
 8 employer obtains other insurance coverage or an order exempting
 9 the employer from carrying insurance as provided in section
 10 176.181. ~~Upon receipt of the notice,~~

11 Subd. 1b. [CONTINUED OR REPLACEMENT COVERAGE.] If, after
 12 receiving a notice of cancellation or termination of a policy
 13 under subdivision 1a, the commissioner does not receive a notice
 14 of continued or replacement coverage, the commissioner shall
 15 notify the insured that the insured must obtain coverage from
 16 some other licensed carrier and that, if unable to do so, the
 17 insured shall request the commissioner of commerce to require
 18 the issuance of a policy as provided in section 79.251,
 19 subdivision 4. Upon a cancellation or termination of a policy
 20 by the insurer, the employer is entitled to be assigned a policy
 21 in accordance with sections 79.251 and 79.252.

22 Subd. 1c. [CANCELLATION BY EMPLOYER.] (b) Notice of
 23 cancellation or termination by the insured shall be served upon
 24 the insurer by written statement mailed or delivered to the
 25 insurer. Upon receipt of the notice, the insurer shall notify
 26 the commissioner of the cancellation or termination and the
 27 commissioner shall ask the employer for the reasons for the
 28 cancellation or termination and notify the employer of the duty
 29 under this chapter to insure the employer's employees.

30 ~~(c)-In-addition-to-the-requirements-under-paragraphs-(a)~~
 31 ~~and-(b),-with-respect-to-any-trucker-employer-in-classification~~
 32 ~~72197-72307-72317-or-7360-pursuant-to-the-classification-plan~~
 33 ~~required-to-be-filed-under-section-79.617-if-the-insurer-or-its~~
 34 ~~agent-has-delivered-or-mailed-a-written-certificate-of-insurance~~
 35 ~~certifying-that-a-policy-in-the-name-of-a-trucker-employer-under~~
 36 ~~this-paragraph-is-in-force,-then-the-insurer-or-its-agent-shall~~

1 ~~also-deliver-or-mail-written-notice-of-any-midterm-cancellation~~
 2 ~~to-the-trucker-employer-recipient-of-the-certificate-of~~
 3 ~~insurance-at-the-address-listed-on-the-certificate.--If-an~~
 4 ~~insurer-or-its-agent-fails-to-mail-or-deliver-notice-of-any~~
 5 ~~midterm-cancellation-of-the-trucker-employer's-policy-to-the~~
 6 ~~trucker-employer-recipient-of-the-certificate-of-insurance,then~~
 7 ~~the-special-compensation-fund-shall-indemnify-and-hold-harmless~~
 8 ~~the-recipient-from-any-award-of-benefits-or-other-damages-under~~
 9 ~~this-chapter-resulting-from-the-failure-to-give-notice.~~

10 Sec. 15. Minnesota Statutes 2004, section 176.185,
 11 subdivision 7, is amended to read:

12 Subd. 7. [NOTICE, EFFECT.] Where an employer has properly
 13 insured the payment of compensation to an employee, and posts a
 14 notice in conspicuous places about the place of business stating
 15 that there is insurance and the name of the insurer, and files a
 16 copy of that notice with the commissioner of the Department of
 17 Labor and Industry, the employee, or the employee's dependent,
 18 shall proceed directly against the insurer. In such case but
 19 subject to subdivision 8 8a, the employer is released from
 20 further liability in this respect.

21 [EFFECTIVE DATE.] This section is effective the day
 22 following final enactment.

23 Sec. 16. Minnesota Statutes 2004, section 176.185, is
 24 amended by adding a subdivision to read:

25 Subd. 8a. [INSOLVENT INSURER.] (a) If an insurer is or
 26 becomes insolvent as defined in section 60C.03, subdivision 8,
 27 the insured employer is liable, as of May 23, 2003, for payment
 28 of the compensable workers' compensation claims that were
 29 covered under the employer's policy with the insolvent insurer,
 30 to the extent that the Insurance Guaranty Association has
 31 determined that the claims are not covered claims under chapter
 32 60C. This paragraph does not in any way limit the Insurance
 33 Guarantee Association's right of recovery from an employer under
 34 section 60C.11, subdivision 7, for workers' compensation claims
 35 that are covered claims under chapter 60C.

36 The Insurance Guaranty Association shall notify the

1 employer and the commissioners of the Departments of Commerce
2 and Labor and Industry of the association's determination and of
3 the employer's liability under this subdivision. The
4 association's failure to notify the employer or the
5 commissioners shall not relieve the employer of its liability
6 and obligations under this subdivision.

7 (b) An employer who is liable for payment of claims under
8 paragraph (a) shall have all of the rights, responsibilities,
9 and obligations of a self-insured employer under this chapter
10 for those claims only, but without the need for an order from
11 the commissioner of commerce. The employer shall not be
12 self-insured for purposes of the workers' compensation
13 self-insurers' security fund under chapter 79A for those
14 claims. The employer shall not be required to pay assessments
15 to the workers' compensation self-insurers' security fund, and
16 the security fund shall not be liable for the claims under
17 section 79A.10. Notwithstanding any contrary provision of
18 chapter 60C, the Insurance Guaranty Association shall pay the
19 claims as covered claims under chapter 60C if the employer fails
20 to pay the claims as required under chapter 176 and the
21 commissioner of commerce determines that:

22 (1) the employer is the subject of a voluntary or
23 involuntary petition under the United States Bankruptcy Code,
24 title 11;

25 (2) a court of competent jurisdiction has declared the
26 employer to be bankrupt or insolvent; or

27 (3) the employer is insolvent.

28 (c) If the employer contracts with an entity or person to
29 administer the claims under paragraph (a), the entity or person
30 must be a licensed workers' compensation insurer or a licensed
31 third-party administrator under section 60A.23, subdivision 8.
32 The commissioner of commerce may require the employer to
33 contract with a licensed third-party administrator when the
34 commissioner determines it is necessary to ensure proper payment
35 of compensation under this chapter.

36 (d) For all claims that an employer is liable for under

1 paragraph (a) and pays on or after the effective date of this
2 subdivision, and for all deductible amounts an employer pays on
3 or after the effective date of this subdivision under an
4 employer's policy with an insurer that became insolvent before
5 May 23, 2003:

6 (1) the employer shall file reports and pay assessments to
7 the special compensation fund, according to the requirements of
8 section 176.129 that apply to self-insured employers, based on
9 paid indemnity losses for the claims and deductible amounts it
10 paid; and

11 (2) the employer may request supplementary benefit and
12 second injury reimbursement from the special compensation fund
13 for the claims and deductible amounts it paid, subject to
14 section 176.129, subdivision 13. Reimbursement from the special
15 compensation fund is limited to claims that are eligible for
16 supplementary benefit and second injury reimbursement under
17 Minnesota Statutes 1990, section 176.131, and Minnesota Statutes
18 1994, section 176.132.

19 (e) For all claims for which an employer is liable under
20 paragraph (a) and paid between the date of the insurer's
21 insolvency and the effective date of this subdivision, and for
22 all deductible amounts an employer paid between the date of the
23 insurer's insolvency and the effective date of this subdivision
24 under an employer's policy with an insurer that became insolvent
25 before May 23, 2003, the employer may request supplementary
26 benefit and second injury reimbursement from the special
27 compensation fund, subject to section 176.129, subdivision 13,
28 if:

29 (1) the employer files reports and pays all past
30 assessments based on paid indemnity losses, for all claims and
31 deductible amounts it paid from the date of the insolvency of
32 the insurer to the effective date of this subdivision, at the
33 rate that was in effect for self-insured employers under section
34 176.129 during the applicable assessment reporting period;

35 (2) the employer has a pending request for reimbursement of
36 the claims and deductible amounts it paid from the special

1 compensation fund as of the effective date of this subdivision,
2 or files a request for reimbursement within one year after the
3 effective date of this subdivision; and

4 (3) the claims are eligible for supplementary benefit and
5 second injury reimbursement under Minnesota Statutes 1990,
6 section 176.131, and Minnesota Statutes 1994, section 176.132.

7 (f) An employer who is liable for claims under paragraph (a)
8 shall be eligible for reimbursement from the Workers'
9 Compensation Reinsurance Association under chapter 79 for those
10 claims to the extent they exceed the applicable retention limit
11 selected by the insolvent insurer and if the employer has
12 complied with the requirements for reimbursement established by
13 the Workers' Compensation Reinsurance Association for its
14 self-insured members. The employer is not responsible for
15 payment of premiums to the reinsurance association to the extent
16 the premiums have been paid by the insolvent insurer.

17 (g) The expenses of the employer in handling the claims
18 paid under paragraph (a) are accorded the same priority as the
19 liquidator's expenses. The employer must be recognized as a
20 claimant in the liquidation of an insolvent insurer for amounts
21 paid by the employer under this subdivision, and must receive
22 dividends and other distributions at the priority set forth in
23 chapter 60B. The receiver, liquidator, or statutory successor
24 of an insolvent insurer is bound by settlements of claims made
25 by the employer under this subdivision. The court having
26 jurisdiction shall grant the claims priority equal to that which
27 the claimant would have been entitled against the assets of the
28 insolvent insurer in the absence of this subdivision.

29 (h) The Workers' Compensation Reinsurance Association and
30 the special compensation fund, as a condition of directly
31 reimbursing an employer eligible for reimbursement, may require
32 the employer to hold it harmless from any claims by a
33 liquidator, receiver, or statutory successor to the insolvent
34 insurer that the Workers' Compensation Reinsurance Association
35 or special compensation fund improperly indemnified or
36 reimbursed the employer. In no event shall the Workers'

1 Compensation Reinsurance Association or the special compensation
2 fund be required to reimburse any amounts for any claim more
3 than once.

4 [EFFECTIVE DATE.] This section is effective the day
5 following final enactment.

6 Sec. 17. Minnesota Statutes 2004, section 176.231,
7 subdivision 5, is amended to read:

8 Subd. 5. [FORMS FOR REPORTS.] The commissioner shall
9 prescribe forms for use in making the reports required by this
10 section. ~~The first report of injury form which the employer~~
11 ~~submits shall include a declaration by the employer that the~~
12 ~~employer will pay the compensation the law requires.~~ Forms for
13 reports required by this section shall be as prescribed by the
14 commissioner and shall be the only forms used by an employer,
15 insurer, self-insurer, group self-insurer, and all health care
16 providers.

17 Sec. 18. Minnesota Statutes 2004, section 176.238,
18 subdivision 10, is amended to read:

19 Subd. 10. [FINES; VIOLATION.] An employer who violates
20 requirements set forth in this section or section 176.239 is
21 subject to a fine of up to \$1,000 for each violation payable to
22 the commissioner for deposit in the ~~special compensation~~
23 ~~fund~~ assigned risk safety account.

24 [EFFECTIVE DATE.] This section is effective the day
25 following final enactment.

26 Sec. 19. Minnesota Statutes 2004, section 176.391,
27 subdivision 2, is amended to read:

28 Subd. 2. [APPOINTMENT OF PHYSICIANS, SURGEONS, AND OTHER
29 EXPERTS.] The compensation judge assigned to a matter, or the
30 commissioner, may appoint one or more neutral physicians or
31 surgeons ~~from the list established by the commissioner~~ to
32 examine the injury of the employee and report thereon except as
33 provided otherwise pursuant to section 176.1361. Where
34 necessary to determine the facts, the services of other experts
35 may also be employed.

36 Sec. 20. [REPEALER.]

03/11/05

[REVISOR] CMG/BT 05-0773

- 1 Minnesota Statutes 2004, section 176.1812, subdivision 6,
- 2 is repealed.

APPENDIX
Repealed Minnesota Statutes for 05-0773

176.1812 COLLECTIVE BARGAINING AGREEMENTS.


Subd. 6. Pilot program. The commissioner shall establish a pilot program ending December 31, 2004, in which up to 20 private and up to 20 public employers shall be authorized to enter into valid agreements under this section with their employees. The agreements shall be recognized and enforced as provided by this section. Employers shall participate in the pilot program through collectively bargained agreements with the certified and exclusive representatives of their employees and without regard to the dollar insurance premium limitations in subdivision 1. A group of employers engaged in workers' compensation group self-insurance complying with chapter 79A, or a group of employers who purchase workers' compensation insurance as a group, may not participate in any pilot program under this subdivision.

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

3 S.F. No. 1716: A bill for an act relating to workers'
4 compensation; adopting recommendations of the Workers'
5 Compensation Advisory Council; amending Minnesota Statutes 2004,
6 sections 176.011, subdivision 9; 176.041, by adding a
7 subdivision; 176.081, subdivision 1; 176.092, subdivision 1a;
8 176.102, subdivision 3a; 176.106, subdivision 1; 176.129,
9 subdivisions 1b, 2a, 13; 176.135, subdivisions 1, 7; 176.1351,
10 subdivision 5; 176.1812, subdivision 1; 176.185, subdivisions 1,
11 7, by adding a subdivision; 176.231, subdivision 5; 176.238,
12 subdivision 10; 176.391, subdivision 2; repealing Minnesota
13 Statutes 2004, section 176.1812, subdivision 6.

14 Reports the same back with the recommendation that the bill
15 do pass. Report adopted.

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.....
(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1373 - Incumbent Worker Training Program

Author: Senator Sandra Pappas

Prepared by: Chris Turner, Senate Research (651/296-4350) *CT*

Date: April 11, 2005

Section 1 permits the Job Skills Partnership Board, after March 1 of any fiscal year, to use workforce development funds for:

- the partnership program (Minnesota Statutes, section 116L.04, subdivision 1);
- the pathways program (section 116L.04, subdivision 1a);
- the hire education loan program (section 116L.06);
- the health care and human services worker program (sections 116L.10 to 116L.15);
- distance-work grants (section 116L.16); or
- to provide incumbent worker training services as described in section 3 of the bill.

Provides that workforce development funds can be used for these programs only when the following conditions are met:

- the board examines relevant economic indicators;
- the board accounts for all allocations made for grants to workforce service areas;
- the board estimates future funding needs for services under the dislocated worker program;
- the board determines there will be unspent funds in the current fiscal year and sufficient revenue in the next fiscal year to meet the needs of dislocated workers; and
- the board reports all of these findings to the Legislature, the executive branch and the public.

Section 2 modifies the definition of “displaced homemaker” to include individuals receiving public assistance for dependents in the home.

Section 3, subdivision 1, authorizes incumbent worker training grants to expand opportunities for businesses and workers to gain new skills.

Subdivision 2 defines terms for the purposes of the section.

Subdivision 3 limits the size of individual grants to \$400,000.

Subdivision 4 provides a match requirement from qualifying employers.

Subdivision 5 requires funds to be used for direct training services that will measurably increase the job-related skills of participating incumbent workers or basic assessment, counseling and preemployment services. Prohibits the use of funds for support services.

Subdivision 6 requires the Commissioner of Employment and Economic Development and the board to consult with eligible organizations and develop performance outcome measures. Requires the Commissioner to report to the Legislature by March 1 of each year.

Section 4 is a conforming amendment to sections 1 and 3.

CT:vs

Senators Pappas, Anderson, Rosen, Bakk and Senjem introduced--

S.F. No. 1373: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to economic development; establishing the
3 incumbent worker program; amending Minnesota Statutes
4 2004, sections 116L.05, by adding a subdivision;
5 116L.17, subdivision 1; 116L.20, subdivision 2;
6 proposing coding for new law in Minnesota Statutes,
7 chapter 116L.

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

9 Section 1. Minnesota Statutes 2004, section 116L.05, is
10 amended by adding a subdivision to read:

11 Subd. 5. [USE OF WORKFORCE DEVELOPMENT FUNDS.] After March
12 1 of any fiscal year, the board may use workforce development
13 funds for the purposes outlined in sections 116L.04, 116L.06,
14 and 116L.10 to 116L.14, or to provide incumbent worker training
15 services under section 116L.18 if the following conditions have
16 been met:

17 (1) the board examines relevant economic indicators,
18 including the projected number of layoffs for the remainder of
19 the fiscal year and the next fiscal year, evidence of declining
20 and expanding industries, the number of initial applications for
21 and the number of exhaustions of unemployment benefits, job
22 vacancy data, and any additional relevant information brought to
23 the board's attention;

24 (2) the board accounts for all allocations made in section
25 116L.17, subdivision 2;

26 (3) based on the past expenditures and projected revenue,

1 the board estimates future funding needs for services under
2 section 116L.17 for the remainder of the current fiscal year and
3 the next fiscal year;

4 (4) the board determines there will be unspent funds after
5 meeting the needs of dislocated workers in the current fiscal
6 year and there will be sufficient revenue to meet the needs of
7 dislocated workers in the next fiscal year; and

8 (5) the board reports its findings in clauses (1) to (4) to
9 the chairs of legislative committees with jurisdiction over the
10 workforce development fund, to the commissioners of revenue and
11 finance, and to the public.

12 Sec. 2. Minnesota Statutes 2004, section 116L.17,
13 subdivision 1, is amended to read:

14 Subdivision 1. [DEFINITIONS.] (a) For the purposes of this
15 section, the following terms have the meanings given them in
16 this subdivision.

17 (b) "Commissioner" means the commissioner of employment and
18 economic development.

19 (c) "Dislocated worker" means an individual who is a
20 resident of Minnesota at the time employment ceased or was
21 working in the state at the time employment ceased and:

22 (1) has been permanently separated or has received a notice
23 of permanent separation from public or private sector employment
24 and is eligible for or has exhausted entitlement to unemployment
25 benefits, and is unlikely to return to the previous industry or
26 occupation;

27 (2) has been long-term unemployed and has limited
28 opportunities for employment or reemployment in the same or a
29 similar occupation in the area in which the individual resides,
30 including older individuals who may have substantial barriers to
31 employment by reason of age;

32 (3) has been self-employed, including farmers and ranchers,
33 and is unemployed as a result of general economic conditions in
34 the community in which the individual resides or because of
35 natural disasters; or

36 (4) is a displaced homemaker. A "displaced homemaker" is

1 an individual who has spent a substantial number of years in the
2 home providing homemaking service and (i) has been dependent
3 upon the financial support of another; and now due to divorce,
4 separation, death, or disability of that person, must find
5 employment to self support; or (ii) derived the substantial
6 share of support from public assistance on account of dependents
7 in the home ~~and no longer receives such support.~~

8 To be eligible under this clause, the support must have
9 ceased while the worker resided in Minnesota.

10 (d) "Eligible organization" means a state or local
11 government unit, nonprofit organization, community action
12 agency, business organization or association, or labor
13 organization.

14 (e) "Plant closing" means the announced or actual permanent
15 shutdown of a single site of employment, or one or more
16 facilities or operating units within a single site of employment.

17 (f) "Substantial layoff" means a permanent reduction in the
18 workforce, which is not a result of a plant closing, and which
19 results in an employment loss at a single site of employment
20 during any 30-day period for at least 50 employees excluding
21 those employees that work less than 20 hours per week.

22 Sec. 3. [116L.18] [SPECIAL INCUMBENT WORKER TRAINING
23 GRANTS.]

24 Subdivision 1. [PURPOSE.] The purpose of the special
25 incumbent worker training grants is to expand opportunities for
26 businesses and workers to gain new skills that are in demand in
27 the Minnesota economy. The board shall establish criteria for
28 incumbent worker grants under this section and may encourage
29 creative training models, innovative partnerships, and expansion
30 or replication of promising practices. Grants may be made from
31 workforce development funds, general fund appropriations, and
32 any other funding sources available to the board, provided the
33 requirements of those funding sources are satisfied.

34 Subd. 2. [DEFINITIONS.] (a) For the purposes of this
35 section, the following terms have the meanings given them.

36 (b) "Incumbent worker" means an individual employed by a

1 qualifying employer.

2 (c) "Qualifying employer" means a for-profit business or
3 nonprofit organization in Minnesota with at least one full-time
4 paid employee. Public sector organizations are not considered
5 qualifying employers.

6 (d) "Eligible organization" has the meaning given in
7 section 116L.17.

8 Subd. 3. [AMOUNT OF GRANTS.] A grant to an eligible
9 organization may not exceed \$400,000.

10 Subd. 4. [MATCHING FUNDS.] The board shall require
11 matching funds from qualifying employers in the form of funding,
12 equipment, or faculty.

13 Subd. 5. [USE OF FUNDS.] Eligible organizations shall use
14 funds granted under this section for direct training services to
15 provide a measurable increase in the job-related skills of
16 participating incumbent workers. Eligible organizations may
17 also provide basic assessment, counseling, and preemployment
18 training services requested by the qualifying employer. No
19 funds may be used for support services as described in section
20 116L.17, subdivision 4, clause (2).

21 Subd. 6. [PERFORMANCE OUTCOME MEASURES.] The board and the
22 commissioner of employment and economic development shall
23 jointly develop performance outcome measures and standards for
24 this program. The commissioner and board shall consult with
25 eligible organizations in establishing standards. Measures at a
26 minimum must include posttraining retention, promotion, and wage
27 increase. The board and commissioner shall provide a report to
28 the legislature by March 1 of each year on the previous fiscal
29 year's program performance. Eligible organizations must provide
30 performance data in a timely manner for the completion of this
31 report.

32 Sec. 4. Minnesota Statutes 2004, section 116L.20,
33 subdivision 2, is amended to read:

34 Subd. 2. [DISBURSEMENT OF SPECIAL ASSESSMENT FUNDS.] (a)
35 The money collected under this section shall be deposited in the
36 state treasury and credited to the workforce development fund to

1 provide for employment and training programs. The workforce
2 development fund is created as a special account in the state
3 treasury.

4 (b) All money in the fund not otherwise appropriated or
5 transferred is appropriated to the Job Skills Partnership Board
6 for the purposes of section 116L.17 and as provided for in
7 paragraph (d). The board must act as the fiscal agent for the
8 money and must disburse that money for the purposes of section
9 116L.17, not allowing the money to be used for any other
10 obligation of the state. All money in the workforce development
11 fund shall be deposited, administered, and disbursed in the same
12 manner and under the same conditions and requirements as are
13 provided by law for the other special accounts in the state
14 treasury, except that all interest or net income resulting from
15 the investment or deposit of money in the fund shall accrue to
16 the fund for the purposes of the fund.

17 (c) Reimbursement for costs related to collection of the
18 special assessment shall be in an amount negotiated between the
19 commissioner and the United States Department of Labor.

20 (d) If the board determines that the conditions of section
21 116L.05, subdivision 5, have been met, the board may use funds
22 for the purposes outlined in sections 116L.04, 116L.06, and
23 116L.10 to 116L.14, or to provide incumbent worker training
24 services under section 116L.18.

1 Senator moves to amend S.F. No. 1373 as follows:

2 Page 1, after line 8, insert:

3 "Section 1. Minnesota Statutes 2004, section 116L.03,
4 subdivision 2, is amended to read:

5 Subd. 2. [APPOINTMENT.] The Minnesota Job Skills
6 Partnership Board consists of: seven members appointed by the
7 governor, ~~the chair of the governor's Workforce Development~~
8 ~~Council~~, the commissioner of employment and economic
9 development, the chancellor, or the chancellor's designee, of
10 the Minnesota State Colleges and Universities, the president, or
11 the president's designee, of the University of Minnesota, and
12 two nonlegislator members, one appointed by the Subcommittee on
13 Committees of the senate Committee on Rules and Administration
14 and one appointed by the speaker of the house. If the
15 chancellor or the president of the university makes a
16 designation under this subdivision, the designee must have
17 experience in technical education. Four of the appointed
18 members must be members of the governor's Workforce Development
19 Council, of whom two must represent organized labor and two must
20 represent business and industry. One of the appointed members
21 must be a representative of a nonprofit organization that
22 provides workforce development or job training services."

23 Page 5, after line 24, insert:

24 "Sec. 6. [REPEALER.]

25 Minnesota Statutes 2004, section 116L.05, subdivision 4, is
26 repealed."

27 Renumber the sections in sequence and correct the internal
28 references

29 Amend the title accordingly

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

3 S.F. No. 1373: A bill for an act relating to economic
4 development; establishing the incumbent worker program; amending
5 Minnesota Statutes 2004, sections 116L.05, by adding a
6 subdivision; 116L.17, subdivision 1; 116L.20, subdivision 2;
7 proposing coding for new law in Minnesota Statutes, chapter 116L.

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

10 Page 1, after line 8, insert:

11 "Section 1. Minnesota Statutes 2004, section 116L.03,
12 subdivision 2, is amended to read:

13 Subd. 2. [APPOINTMENT.] The Minnesota Job Skills
14 Partnership Board consists of: seven members appointed by the
15 governor, ~~the chair of the governor's Workforce Development~~
16 ~~Council~~; the commissioner of employment and economic
17 development, the chancellor, or the chancellor's designee, of
18 the Minnesota State Colleges and Universities, the president, or
19 the president's designee, of the University of Minnesota, and
20 two nonlegislator members, one appointed by the Subcommittee on
21 Committees of the senate Committee on Rules and Administration
22 and one appointed by the speaker of the house. If the
23 chancellor or the president of the university makes a
24 designation under this subdivision, the designee must have
25 experience in technical education. Four of the appointed
26 members must be members of the governor's Workforce Development
27 Council, of whom two must represent organized labor and two must
28 represent business and industry. One of the appointed members
29 must be a representative of a nonprofit organization that
30 provides workforce development or job training services."

31 Page 1, line 15, after "116L.18" insert ". Incumbent
32 worker training services under section 116L.18 may be provided"

33 Pages 2 and 3, delete section 2

34 Page 5, after line 24, insert:

35 "Sec. 5. [REPEALER.]

36 Minnesota Statutes 2004, section 116L.05, subdivision 4, is
37 repealed."

38 Renumber the sections in sequence

1 Amend the title as follows:

2 Page 1, line 4, after "sections" insert "116L.03,
3 subdivision 2;"

4 Page 1, line 5, delete "116L.17, subdivision 1;"

5 Page 1, line 7, before the period, insert "; repealing
6 Minnesota Statutes 2004, section 116L.05, subdivision 4"

7 And when so amended the bill do pass and be re-referred to
8 the Committee on Finance. Amendments adopted. Report adopted.

9

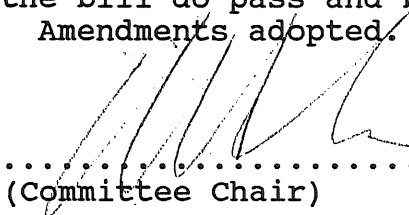
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(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

Senators Metzen, Tomassoni, Sparks and Anderson introduced--

S.F. No. 2123: Referred to the Committee on Jobs, Energy and Community Development.

A resolution

memorializing the President, Congress, and the United States Postal Service to maintain current levels of service.

WHEREAS, the United States Postal Service, founded in 1775, provides dependable, affordable mail service to all Minnesota communities, rich and poor, urban and rural, with uniform postage rates; and

WHEREAS, the United States Postal Service remains an important part of the nation's economic infrastructure through which nearly one trillion dollars of economic activity is conducted each year and in which 9,000,000 are employed; and

WHEREAS, millions of older, disabled and economically disadvantaged Minnesotans, especially in rural areas, do not have easy access to the Internet or to electronic banking and bill paying and are therefore heavily dependent on the United States Postal Service for communication and the conducting of business transactions; and

WHEREAS, Americans currently enjoy the most extensive postal service at the lowest postage rates of any major industrialized nation in the world; and

WHEREAS, excessive below-cost postage discounts to large business and advertising mailers drain billions of dollars in revenue from the United States Postal Service causing small

1 businesses and ordinary citizens to subsidize those discounts
2 through higher postage rates; and

3 WHEREAS, the commission on the United States Postal Service
4 has recommended changes to postal operations that would sever
5 postal employees from federal employee health, retirement, and
6 workers' compensation programs, and has recommended repeal of
7 laws that would pave the way towards reducing rank-and-file
8 wages and benefits while simultaneously eliminating the current
9 salary cap on executive-level postal positions; and

10 WHEREAS, the commission has recommended a new
11 President-appointed, corporate-style board of directors and a
12 new Postal Regulatory Board and the commission has proposed
13 giving these new politically appointed governing bodies broad
14 authority to set rates without prior approval or review; and

15 WHEREAS, the commission has proposed to refine the scope of
16 the United States Postal Service's "universal service"
17 obligation and uniform rate structure and change and restrict
18 the scope of services currently protected under postal monopoly
19 regulations; and

20 WHEREAS, the new board's broad authority would allow post
21 offices to be closed without community input and prices to be
22 set with a complicated postage rate structure or would turn over
23 postal operations to private for-profit enterprises despite a
24 recent survey whose respondents had an overwhelmingly favorable
25 view of the United States Postal Service, with three out of four
26 saying no major changes are needed; and

27 WHEREAS, replacing the United States Postal Service's
28 public service obligation with a profit-seeking mandate would
29 undermine the United States Postal Service's historical
30 "universal service" obligation, weaken its national
31 infrastructure, and divide our nation politically and
32 economically; NOW, THEREFORE,

33 BE IT RESOLVED by the Legislature of the State of Minnesota
34 that it urges the President, the Congress of the United States,
35 and the United States Postal Service to continue to maintain
36 affordable, dependable mail service at current levels because of

1 its social and economic importance to our nation.

2 BE IT FURTHER RESOLVED that the Legislature of the State of
3 Minnesota oppose any effort to undermine the United States
4 Postal Service's "universal service" obligation and its uniform
5 rate structure.

6 BE IT FURTHER RESOLVED that the Legislature of the State of
7 Minnesota urge that postal service hours be returned to levels
8 before the report of the president's Commission on the United
9 States Postal Service and prior to the implementation of the
10 Small Post Office Reviews and Standardization Program, and that
11 any recommendation from the commission that curtails public
12 services in the current postal service be rejected.

13 BE IT FURTHER RESOLVED that the Legislature of the State of
14 Minnesota go on record against any changes that would harm
15 workers of the United States Postal Service, including
16 legislation to close small offices, take away or modify the
17 collective bargaining system of postal workers, or change the
18 current bargaining system for employee benefits.

19 BE IT FURTHER RESOLVED that the Secretary of State of the
20 State of Minnesota is directed to prepare copies of this
21 memorial and transmit them to the President of the United
22 States, the President and the Secretary of the United States
23 Senate, the Speaker and the Clerk of the United States House of
24 Representatives, the Postmaster General of the United States
25 Postal Service, the Committee on Ways and Means, Rules, and
26 Budget of the United States House of Representatives, the Budget
27 Committee of the United States Senate, and Minnesota's Senators
28 and Representatives in Congress.

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

3 S.F. No. 2123: A resolution memorializing the President,
4 Congress, and the United States Postal Service to maintain
5 current levels of service.

6 Reports the same back with the recommendation that the
7 resolution do pass and be re-referred to the Committee on Rules
8 and Administration. Report adopted.

9

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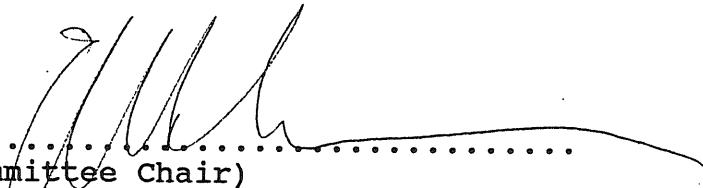
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.....
(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

Senators Sparks, Metzen and Michel introduced--
S.F. No. 2093: Referred to the Jobs and Environmental

1 A bill for an act

2 relating to commerce; modifying definition of "wage";
3 amending Minnesota Statutes 2004, section 177.23,
4 subdivision 4.

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

6 Section 1. Minnesota Statutes 2004, section 177.23,
7 subdivision 4, is amended to read:

8 Subd. 4. [WAGE.] "Wage" means compensation due to an
9 employee by reason of employment, payable ~~in~~ by legal tender of
10 the United States, by check on banks convertible into cash on
11 demand at full face value, or, except for instances of written
12 objection to the employer by the employee, by direct deposit to
13 the employee's choice of demand deposit account or electronic
14 transfer to a stored value or debit card, subject to allowances
15 permitted by rules of the department under section 177.28,
16 provided that for stored value or debit card payment, at least
17 one free transaction is provided per pay period and any other
18 fees or other charges are prominently disclosed to the employee.

1 Senator moves to amend S.F. No. 2093 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 177.23,
4 subdivision 4, is amended to read:

5 Subd. 4. [WAGE.] "Wage" means compensation due to an
6 employee by reason of employment, payable in:

7 (1) legal tender of the United States;

8 (2) check on banks convertible into cash on demand at full
9 face value or;

10 (3) except for instances of written objection to the
11 employer by the employee, direct deposit to the employee's
12 choice of demand deposit account; or

13 (4) an electronic fund transfer to a payroll card account
14 that meets all of the requirements of section 177.255, subject
15 to allowances permitted by rules of the department under section
16 177.28.

17 Sec. 2. [177.255] [PAYROLL CARD ACCOUNT.]

18 Subdivision 1. [DEFINITIONS.] For the purposes of this
19 section, the following terms shall have the meanings given them.

20 (a) "Payroll card" means a card issued to an employee to
21 access funds from the employee's payroll card account, in a
22 manner consistent with this section.

23 (b) "Payroll card account" means an arrangement whereby an
24 employer pays each participating employee's wages by making an
25 electronic fund transfer to an account. Each participating
26 employee must own the portion of the payroll card account that
27 corresponds to the employee's wages, and participating employees
28 receive a payroll card to access their funds.

29 (c) "Payroll card issuer" means an employer that
30 establishes payroll card accounts for paying wages to its
31 employees. The term also includes a bank or other entity that
32 issues a payroll card on behalf of an employer. An agreement
33 between the employer and the bank may specify which party is
34 responsible for the requirements of this section.

35 (d) "Free" means no fee is deducted from the employee's
36 payroll card account or charged to the employee by the

1 employee's payroll card issuer or issuers.

2 (e) "Fee" means any and all fees, charges, surcharges, or
3 costs deducted from an employee's payroll card account or
4 charged to an employee by the employee's payroll card issuer or
5 issuers.

6 Subd. 2. [FREE WITHDRAWAL.] A payroll card issuer must
7 allow an employee who chooses to receive wages through a payroll
8 card account to make a free withdrawal from the employee's
9 payroll account of an amount up to and including the employee's
10 entire net pay as stated on the employee's earnings statement.
11 This free transaction provided by the payroll card issuer must
12 be available on or after the employee's regular payday.

13 Subd. 3. [FEE DISCLOSURE.] When offering an employee the
14 option of receiving payment of wages through a payroll card
15 account, an employer must provide to the employee a written
16 disclosure of all the employee's wage payment options. The
17 disclosure shall state the terms and conditions of the payroll
18 card account option, including a complete itemized list of, and
19 dollar amounts for, all fees that may be deducted from the
20 employee's payroll card account or may be charged to the
21 employee by the employee's payroll card issuer or issuers,
22 including, but not limited to, automated teller machine fees,
23 card issuance fees, card activation fees, card replacement fees,
24 fees to close the payroll card account or withdraw remaining
25 funds, monthly fees, balance inquiry fees, fees per transaction,
26 fees for excess transactions, point of sale fees, inactivity or
27 dormancy fees, loading fees, fees for statements and transaction
28 histories, and fees related to the provision of customer
29 service. The disclosure must also state that third parties may
30 assess transaction fees in addition to the fees assessed by the
31 employee's payroll card issuer or issuers. A copy of the
32 written disclosure must be provided to the employee.

33 Subd. 4. [EMPLOYEE CONSENT TO ELECTRONIC PAYMENT.] The
34 employer may initiate payment by electronic fund transfer to a
35 payroll card account only after the employee has voluntarily
36 consented in writing to that method of payment. Consent to

1 payment by electronic fund transfer to a payroll card account
2 shall not be a condition of hire or of employment. On the
3 consent form, the employee must also acknowledge receiving the
4 payroll card issuer's written disclosure of the payroll card
5 account terms and conditions under subdivision 3. A copy of the
6 signed written consent must be provided to the employee.

7 Subd. 5. [MONTHLY TRANSACTION STATEMENT.] The payroll card
8 issuer shall provide an option for the employee to receive at
9 least one free transaction history each month that includes all
10 deposits, withdrawals, deductions, or charges by an entity from
11 or to the employee's payroll card account. Any fee assessed by
12 the employee's payroll card issuer that was not disclosed to the
13 employee may not be deducted from the employee's payroll card
14 account or charged to the employee.

15 Subd. 6. [TYING ARRANGEMENTS PROHIBITED.] A payroll card
16 issuer shall not link the payroll card or payroll card account
17 to any form of credit, including, but not limited to, a loan
18 against future pay or a cash advance on future pay.

19 Subd. 7. [EMPLOYER ACCESS TO ACCOUNT INFORMATION.] An
20 employer is not entitled to any information generated by the
21 employee's possession or use of a payroll card or payroll card
22 account except to process transactions and administer the
23 payroll card and payroll card account.

24 Subd. 8. [FOREIGN LANGUAGE DISCLOSURES.] Any employer who
25 offers a payroll card to an employee using written materials in
26 a language other than English shall ensure that the payroll card
27 account disclosures under subdivision 3 and all payroll card
28 account agreements are provided in that same language.

29 Subd. 9. [TERMINATION OF ELECTRONIC PAYMENT.] If an
30 employee who is being paid wages by electronic fund transfer to
31 a payroll card account requests in writing to be paid wages by
32 legal tender, check, or direct deposit, the employer shall,
33 within 14 days of the employee's request, begin payment by the
34 requested method.

35 Subd. 10. [PENALTIES.] Violation of this section is
36 considered a violation of section 181.79 and subject to the same

1 penalties."

2 Amend the title accordingly

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

3 S.F. No. 2093: A bill for an act relating to commerce;
4 modifying definition of "wage"; amending Minnesota Statutes
5 2004, section 177.23, subdivision 4.

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

8 Delete everything after the enacting clause and insert:

9 "Section 1. Minnesota Statutes 2004, section 177.23,
10 subdivision 4, is amended to read:

11 Subd. 4. [WAGE.] "Wage" means compensation due to an
12 employee by reason of employment, payable in:

13 (1) legal tender of the United States; i

14 (2) check on banks convertible into cash on demand at full
15 face value ~~or~~; i

16 (3) except for instances of written objection to the
17 employer by the employee, direct deposit to the employee's
18 choice of demand deposit account; or

19 (4) an electronic fund transfer to a payroll card account
20 that meets all of the requirements of section 177.255, subject
21 to allowances permitted by rules of the department under section
22 177.28.

23 Sec. 2. [177.255] [PAYROLL CARD ACCOUNT.]

24 Subdivision 1. [DEFINITIONS.] For the purposes of this
25 section, the following terms shall have the meanings given them.

26 (a) "Payroll card" means a card issued to an employee to
27 access funds from the employee's payroll card account, in a
28 manner consistent with this section.

29 (b) "Payroll card account" means an arrangement whereby an
30 employer pays each participating employee's wages by making an
31 electronic fund transfer to an account. Each participating
32 employee must own the portion of the payroll card account that
33 corresponds to the employee's wages, and participating employees
34 receive a payroll card to access their funds.

35 (c) "Payroll card issuer" means an employer that
36 establishes payroll card accounts for paying wages to its
37 employees. The term also includes a bank or other entity that
38 issues a payroll card on behalf of an employer. An agreement

1 between the employer and the bank may specify which party is
2 responsible for the requirements of this section.

3 (d) "Free" means no fee is deducted from the employee's
4 payroll card account or charged to the employee by the
5 employee's payroll card issuer or issuers.

6 (e) "Fee" means any and all fees, charges, surcharges, or
7 costs deducted from an employee's payroll card account or
8 charged to an employee by the employee's payroll card issuer or
9 issuers.

10 Subd. 2. [FREE WITHDRAWAL.] A payroll card issuer must
11 allow an employee who chooses to receive wages through a payroll
12 card account to make a free withdrawal from the employee's
13 payroll account of an amount up to and including the employee's
14 entire net pay as stated on the employee's earnings statement.
15 This free transaction provided by the payroll card issuer must
16 be available on or after the employee's regular payday.

17 Subd. 3. [FEE DISCLOSURE.] When offering an employee the
18 option of receiving payment of wages through a payroll card
19 account, an employer must provide to the employee a written
20 disclosure of all the employee's wage payment options. The
21 disclosure shall state the terms and conditions of the payroll
22 card account option, including a complete itemized list of, and
23 dollar amounts for, all fees that may be deducted from the
24 employee's payroll card account or may be charged to the
25 employee by the employee's payroll card issuer or issuers,
26 including, but not limited to, automated teller machine fees,
27 card issuance fees, card activation fees, card replacement fees,
28 fees to close the payroll card account or withdraw remaining
29 funds, monthly fees, balance inquiry fees, fees per transaction,
30 fees for excess transactions, point of sale fees, loading fees,
31 fees for statements and transaction histories, and fees related
32 to the provision of customer service. The disclosure must also
33 state that third parties may assess transaction fees in addition
34 to the fees assessed by the employee's payroll card issuer or
35 issuers. A copy of the written disclosure must be provided to
36 the employee.

1 Subd. 4. [EMPLOYEE CONSENT TO ELECTRONIC PAYMENT.] The
2 employer may initiate payment by electronic fund transfer to a
3 payroll card account only after the employee has voluntarily
4 consented in writing to that method of payment. Consent to
5 payment by electronic fund transfer to a payroll card account
6 shall not be a condition of hire or of employment. On the
7 consent form, the employee must also acknowledge receiving the
8 payroll card issuer's written disclosure of the payroll card
9 account terms and conditions under subdivision 3. A copy of the
10 signed written consent must be provided to the employee.

11 Subd. 5. [MONTHLY TRANSACTION STATEMENT.] The payroll card
12 issuer shall provide an option for the employee to receive at
13 least one free transaction history each month that includes all
14 deposits, withdrawals, deductions, or charges by an entity from
15 or to the employee's payroll card account. Any fee assessed by
16 the employee's payroll card issuer that was not disclosed to the
17 employee may not be deducted from the employee's payroll card
18 account or charged to the employee.

19 Subd. 6. [TYING ARRANGEMENTS PROHIBITED.] A payroll card
20 issuer shall not link the payroll card or payroll card account
21 to any form of credit, including, but not limited to, a loan
22 against future pay or a cash advance on future pay.

23 Subd. 7. [EMPLOYER ACCESS TO ACCOUNT INFORMATION.] An
24 employer is not entitled to any information generated by the
25 employee's possession or use of a payroll card or payroll card
26 account except to process transactions and administer the
27 payroll card and payroll card account.

28 Subd. 8. [FOREIGN LANGUAGE DISCLOSURES.] Any employer who
29 offers a payroll card to an employee using written materials in
30 a language other than English shall ensure that the payroll card
31 account disclosures under subdivision 3 and all payroll card
32 account agreements are provided in that same language.

33 Subd. 9. [TERMINATION OF ELECTRONIC PAYMENT.] If an
34 employee who is being paid wages by electronic fund transfer to
35 a payroll card account requests in writing to be paid wages by
36 legal tender, check, or direct deposit, the employer shall,

1 within 14 days of the employee's request, begin payment by the
2 requested method.

3 Subd. 10. [PROHIBITED FEES.] A payroll card issuer may not
4 charge an inactivity or a dormancy fee on a payroll card account.

5 Subd. 11. [PENALTIES.] Violation of this section is
6 considered a violation of section 181.79 and subject to the same
7 penalties."

8 Amend the title as follows:

9 Page 1, line 2, after the second semicolon, insert
10 "regulating payroll cards and payroll accounts;"

11 Page 1, line 4, before the period, insert "; proposing
12 coding for new law in Minnesota Statutes, chapter 177"

13 And when so amended the bill do pass. Amendments adopted.
14 Report adopted.

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16 (Committee Chair)

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18 April 11, 2005.....
19 (Date of Committee recommendation)

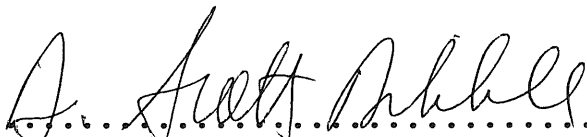
1 To: Senator Anderson, Chair
 2 Committee on Jobs, Energy and Community Development
 3 Senator Dibble,
 4 Chair of the Subcommittee on Housing, to which was referred

5 S.F. No. 1671: A bill for an act relating to taxation;
 6 providing a tax credit for qualifying affordable housing
 7 contributions; proposing coding for new law in Minnesota
 8 Statutes, chapter 290.

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

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 15 (Subcommittee Chair)

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

Senators Moua, Belanger, Limmer, Tomassoni and Bakk introduced--
S.F. No. 1671: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act
2 relating to taxation; providing a tax credit for
3 qualifying affordable housing contributions; proposing
4 coding for new law in Minnesota Statutes, chapter 290.

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

6 Section 1. [290.0661] [CREDIT FOR AFFORDABLE HOUSING
7 CONTRIBUTIONS.]

8 Subdivision 1. [CREDIT ALLOWED.] Subject to the
9 limitations and conditions in this section, a taxpayer is
10 allowed a credit equal to 50 percent of the amount certified to
11 the commissioner of revenue by the commissioner of the agency as
12 qualifying affordable housing contributions made by the taxpayer
13 during the taxable year. The credit applies to the liability
14 for tax, less nonrefundable credits, imposed by:

15 (1) sections 290.06, subdivision 1, and 290.0921 for
16 corporations; and

17 (2) sections 290.06, subdivision 2c, and 290.091 for
18 individuals.

19 Subd. 2. [DEFINITIONS.] (a) For purposes of this section,
20 the following terms have the meanings given.

21 (b) "Agency" means the Minnesota Housing Finance Agency.

22 (c) "Qualifying affordable housing contribution" means a
23 donation made during the taxable year for qualifying housing of:

24 (1) cash; or

25 (2)(i) the fair market value of land and improvements; (ii)

1 marketable securities; or (iii) construction materials and
2 supplies to be used for qualifying housing, if the aggregate
3 amount or value donated by the taxpayer equals at least \$1,000.
4 Fair market value of land and improvements must be determined by
5 a "qualified appraisal" prepared by a "qualified appraiser" as
6 those terms are defined in Code of Federal Regulations, title
7 26, section 1.170A-13.

8 (d) "Qualifying housing" means housing located in the state
9 of Minnesota, affordable to households with income equal to or
10 less than the greater of 80 percent of area or statewide median
11 income as established for the area or state by the United States
12 Department of Housing and Urban Development, the development or
13 improvement of which is financed in whole or in part by the
14 agency or allocated tax credits by the agency.

15 Subd. 3. [CREDIT ALLOCATION.] A taxpayer must apply each
16 year to the commissioner of the agency for an allocation of
17 qualifying affordable housing contribution tax credits. A
18 credit need not be allocated for all of a taxpayer's qualifying
19 contributions. The commissioner of the agency shall notify the
20 commissioner regarding the identity of each taxpayer that has
21 been allocated tax credits for the following calendar year by
22 September 1 of each year.

23 Subd. 4. [LIMITATIONS; CARRYOVER.] (a) The credit allowed
24 to any taxpayer under this section may not exceed \$250,000 for
25 any taxable year.

26 (b) The credit for the taxable year may not exceed the
27 liability for tax, as defined in subdivision 1, for the taxable
28 year.

29 (c) If the amount of the credit determined under this
30 section for any taxable year exceeds the limitation under
31 paragraph (b), the excess is a credit carryover to each of the
32 five succeeding taxable years. The entire amount of the excess
33 unused credit for the taxable year must be carried to the
34 earliest of the taxable years to which the credit may be carried
35 and then to each successive year to which the credit may be
36 carried. The amount of the unused credit, which may be added

1 under this paragraph, may not exceed the taxpayer's liability
2 for tax less any additional credit under this section for the
3 current taxable year.

4 (d) The total credit allocation allowed for all taxpayers
5 is limited to a total \$..... allocated amount for all taxable
6 years as follows:

7 (1) \$..... for the taxable year beginning during calendar
8 year 2005;

9 (2) \$..... for the taxable year beginning during calendar
10 year 2006; and

11 (3) \$..... for the taxable year beginning during calendar
12 year 2007.

13 Unallocated credits carry over from one year to the next.

14 Subd. 5. [REPORT.] The commissioner of the agency shall
15 report to the chairs of the committees of the legislature with
16 jurisdiction over taxes and housing policy by February 1, 2008,
17 on the effectiveness of the credit under this section. The
18 report must include, at least, the estimated number of
19 affordable housing units constructed or rehabilitated as a
20 result of credit.

21 [EFFECTIVE DATE.] This section is effective for taxable
22 years beginning after December 31, 2004, and before January 1,
23 2010.

GMHF

Greater Minnesota Housing Fund

A special project of Blandin Foundation and The McKnight Foundation

Minnesota's "Instant" Return on Investment In Support of Work Force Housing

| Return on State Investment in Funding Workforce Housing | |
|--|---------------|
| <i>State Gap Loan Per Affordable Housing Unit</i> | \$ 10,000 |
| Total Cost of Home | \$ 150,000 |
| <i>Return to State on Investment</i> | |
| Sales Tax on Materials (6.5% on 40% of Home Cost) | \$ 3,900 |
| State Income Tax Paid by Construction & Professional Labor at 60% of Home Cost | \$ 6,345 |
| Mortgage Registry Tax (Paid when home is financed .0023 debt) | \$ 345 |
| Deed Tax (paid when deed is recorded .0033 value) | \$ 495 |
| Year One Immediate Return to State on Gap Loan | 11,085 |
| Plus: | |
| <i>Gap Loan Returned at Year 30 (or before)</i> | 10,000 |

Instant Return

Plus 100% Payback

Assumes a 7.05% State Income Tax Rate.

Greater Minnesota Housing Fund

Greater Minnesota Only

Employer Assisted Housing

Track Record of Employer Participation
In Local Affordable Housing Production

| Employer Name | Employer Contribution | # Units | Location |
|--|-----------------------|--------------|--------------------|
| Chokio-Albena School District | \$59,982 | 3 | Alberta |
| Bell Farms | \$2,000 | 1 | Le Roy |
| Andetech Fabrics | \$80,000 | 22 | Blackduck |
| 20 local How Richland Employers | \$70,000 | 8 | How Richland |
| Cross Consulting, Northwest Financial | \$100,000 | 16 | Sabelia |
| Multiple Courtland Employers | \$60,000 | 9 | Courtland |
| Seven downtown Duluth employers | \$171,000 | 73 | Duluth |
| Fey Industries | \$5,000 | 1 | Edgerton |
| Nine local employers and the Lions Club | \$27,050 | 4 | Oryga |
| Hayfield Window & Door, Citizens State Bank | \$24,000 | 12 | Hayfield |
| Hendricks Hospital | \$0,000 | 3 | Hendricks |
| Multiple Hoffman Employers | \$32,000 | 3 | Hoffman |
| Multiple Northfield Employers | \$540,000 | 14 | Northfield |
| Derraco Foods | \$475,000 | 8 | Nicollet |
| Hornel Food Company | \$2,330,000 | 50 | Austin |
| Schwartz Food Company | \$1,600,000 | 190 | Marshall |
| Hornet Food Company | \$83,000 | 40 | Pelican Rapids |
| Peoples Bank | \$3,000 | 8 | Plainfield |
| Peoples Bank | \$2,000 | 4 | Elgin |
| Peoples Bank | \$5,000 | 10 | Plainfield |
| Multiple Perham Employers | \$40,000 | 6 | Perham |
| Grand Portage Casino | \$480,000 | 13 | Grand Portage |
| Grand Portage Lodge and Casino | \$250,762 | 16 | Grand Portage |
| Kenneth Katter Foundation | \$285,000 | 18 | Aitkin |
| Multiple Employers in the Southwest Region | \$78,000 | 78 | Southwest Region |
| Blue Fin Bay Resorts | \$175,000 | 5 | Tohn |
| Multiple Ulen & Hiltredal Employers | \$18,000 | 2 | Ulen and Hiltredal |
| Jennie-O Foods | \$225,000 | 48 | Willmar |
| Weerie Companies | incl. | incl. | Winnabago |
| Weerie Companies | \$120,000 | 8 | Winnabago |
| Xcel Energy & Goodhue County Family Services | | | Red Wing |
| Cooperative, Red Wing HRA | \$60,000 | 48 | Red Wing |
| Crystal Cabinetry | \$3,500 | 19 | Zimmerman |
| Kaupers Const., Bierner Foundation | \$4,600 | 24 | Spicer |
| Multiple Fergus Falls Employers | \$30,000 | 8 | Fergus Falls |
| MN Power, Lake Superior College | \$88,000 | 15 | Duluth |
| Stearns County Electric | \$108,224 | 36 | St. Cloud |
| Stearns County Electric | \$5,891 | 31 | St. Cloud |
| Multiple Elk River Employers | \$1,000 | 32 | Elk River |
| Multiple Park Rapids Employers | \$30,000 | 12 | Park Rapids |
| Multiple Mankato Employers | \$34,000 | 8 | Mankato |
| St. Mary's Hospital | \$10,000 | 15 | Duluth |
| Women's Transitional Housing Coalition | \$3,000 | 3 | Duluth |
| Minnesota Power | \$60,000 | 48 | Duluth |
| Rochester Area Employers* | \$11,000,000 | 185 | Rochester area |
| incl. | | 324 | Rochester area |
| TOTAL EAH IMPACT | \$18,562,709 | 1,498 | |

Employer Assisted Housing (EAH) is a program that allows employers to contribute to the construction of affordable housing units. The program is administered by the Minnesota Housing Finance Agency. The program is designed to help employers provide housing for their employees and to help the community as a whole. The program is a key component of the state's affordable housing strategy. The program is a key component of the state's affordable housing strategy. The program is a key component of the state's affordable housing strategy.

\$18.5 million
1,500 units

1998-2004 Employer Investment in Workforce Housing



HousingMinnesota

Homes For All By 2012

Support a Charitable Housing Tax Credit

Leverage additional housing resources by creating a state affordable housing tax credit.

A housing Charitable Tax Credit would reward those who make cash or in-kind donations to workforce housing with a tax credit valued at 50 percent of the contribution. For example, a person donating \$1,000 to a qualified affordable housing development in Minnesota would receive a tax credit, or reduction in their income taxes worth \$500. As proposed, the state would limit the amount of available credits to \$10 million. The Minnesota Housing Finance Agency would award the credits to individuals or companies donating to workforce housing projects and programs financed by the agency.

The tax credit provides incentives for businesses and individuals to invest in needed workforce housing development. Donations are tax deductible if the housing is located in Minnesota and affordable to households earning less than 80 percent of area median income and funded in part by MHFA. The contribution would only be tax deductible if the project is completed. Donations may range from \$1,000 (minimum for administrative efficiency) to \$250,000. In addition, the credit may not exceed the tax imposed on the taxpayer.

What are the Benefits of a State Charitable Tax Credit?

- ◆ **Can bring in more money for housing than it costs the state.** Because the value of the tax credit is worth 50 percent of the donation, more money goes into housing than it costs the state in lost taxes and to administer the program.
- ◆ **Provides donor a unique "return."** The contributing business can use the contribution to attract positive press or use the contribution as an advertisement tool.
- ◆ **Open to more types of investors/donors.** The charitable tax credit can be created to attract donations of individuals, as well as business.
- ◆ **Can be used in conjunction with existing programs.** For example, the goal of the Challenge Program, administered by MHFA, is to leverage private contributions with public dollars. A Charitable Tax Credit could be used in conjunction with the Challenge Program to act as an additional incentive for business to provide funding for affordable housing development.
- ◆ **A simpler investment tool.** Unlike the federal low-income housing tax credit, a charitable tax credit does not need a complex structuring of a multi-tiered ownership of a project in order to maximize the value of credits.
- ◆ **Provides flexibility in the type of contributions made.** The credit provides the ability of a donor to make non-cash contributions such as property, stocks/bonds, materials, and supplies.
- ◆ **Provides flexibility in type of housing assisted by the credit.** Charitable credits can be made available for ownership housing (such as that provided by Habitat for Humanity), or for small rural and urban infill rental projects, or affordable rental apartments created in a larger mixed-use project.

Solutions from other states:

Missouri and North Carolina utilize a state Low Income Housing Tax Credit. Illinois offers a 50 percent credit toward state income tax for every \$1 donated toward approved affordable housing development projects.


For more information about affordable housing contact (651) 649-1710 or info@mhponline.org, or go to www.housingminnesota.org.

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

3 S.F. No. 1671: A bill for an act relating to taxation;
4 providing a tax credit for qualifying affordable housing
5 contributions; proposing coding for new law in Minnesota
6 Statutes, chapter 290.

7 Reports the same back with the recommendation that the bill
8 do pass and be re-referred to the Committee on Taxes. Report
9 adopted.

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(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

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

5 S.F. No. 1953: A bill for an act relating to housing;
 6 increasing the deed tax to provide rental housing assistance;
 7 amending Minnesota Statutes 2004, sections 287.21, subdivision
 8 1; 462A.201, by adding a subdivision; 462A.33, by adding a
 9 subdivision.

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

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D. Scott Dibble

 (Subcommittee Chair)

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

Senators Cohen, Anderson and Dibble introduced--

S.F. No. 1953: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to housing; increasing the deed tax to
3 provide rental housing assistance; amending Minnesota
4 Statutes 2004, sections 287.21, subdivision 1;
5 462A.201, by adding a subdivision; 462A.33, by adding
6 a subdivision.

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

8 Section 1. Minnesota Statutes 2004, section 287.21,
9 subdivision 1, is amended to read:

10 Subdivision 1. [DETERMINATION OF TAX.] (a) A tax is
11 imposed on each deed or instrument by which any real property in
12 this state is granted, assigned, transferred, or otherwise
13 conveyed. The tax applies against the net consideration.

14 (b) The tax is determined in the following manner: (1)
15 when transfers are made by instruments pursuant to mergers,
16 consolidations, sales, or transfers of substantially all of the
17 assets of the entities as defined in section 287.20, subdivision
18 9, pursuant to plans of reorganization, the tax is \$1.65; (2)
19 when there is no consideration or when the consideration,
20 exclusive of the value of any lien or encumbrance remaining
21 thereon at the time of sale, is \$500 or less, the tax is \$1.65;
22 or (3) when the consideration, exclusive of the value of any
23 lien or encumbrance remaining at the time of sale, exceeds \$500,
24 the tax is ~~0033~~ .00358 of the net consideration.

25 (c) The tax is due at the time a taxable deed or instrument
26 is presented for recording.

1 Sec. 2. Minnesota Statutes 2004, section 462A.201, is
2 amended by adding a subdivision to read:

3 Subd. 8. [APPROPRIATION.] An amount equal to the proceeds
4 of the deed tax under section 287.21, subdivision 1, paragraph
5 (b), clause (3), on .00014 of the net consideration is
6 appropriated from the general fund to the commissioner of
7 finance for transfer to the housing development fund and credit
8 to the housing trust fund account to be used for rental
9 assistance.

10 Sec. 3. Minnesota Statutes 2004, section 462A.33, is
11 amended by adding a subdivision to read:

12 Subd. 9. [APPROPRIATION.] An amount equal to the proceeds
13 of the deed tax under section 287.21, subdivision 1, paragraph
14 (b), clause (3), on .00014 of the net consideration is
15 appropriated from the general fund to the commissioner of
16 finance for transfer to the housing development fund to be used
17 for the economic development and housing challenge program.

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

3 S.F. No. 1953: A bill for an act relating to housing;
4 increasing the deed tax to provide rental housing assistance;
5 amending Minnesota Statutes 2004, sections 287.21, subdivision
6 1; 462A.201, by adding a subdivision; 462A.33, by adding a
7 subdivision.

8 Reports the same back with the recommendation that the bill
9 do pass and be re-referred to the Committee on Taxes. Report
10 adopted.

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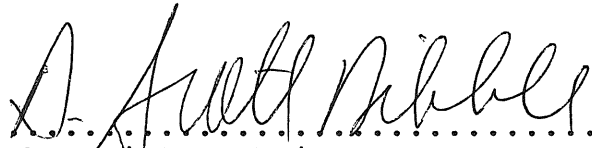

.....
(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

1 To: Senator Anderson, Chair
 2 Committee on Jobs, Energy and Community Development
 3 Senator Dibble,
 4 Chair of the Subcommittee on Housing, to which was referred
 5 S.F. No. 1646: A bill for an act relating to housing;
 6 providing assistance to stabilize housing for children to
 7 enhance school attendance and performance; appropriating money;
 8 amending Minnesota Statutes 2004, section 462A.204, subdivision
 9 8.

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

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 (Subcommittee Chair)
 April 7, 2005.....
 (Date of Subcommittee action)

Senators Kelley, Higgins, Scheid, Moua and Kiscaden introduced--

S.F. No. 1646: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to housing; providing assistance to stabilize
3 housing for children to enhance school attendance and
4 performance; appropriating money; amending Minnesota
5 Statutes 2004, section 462A.204, subdivision 8.

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

7 Section 1. Minnesota Statutes 2004, section 462A.204,
8 subdivision 8, is amended to read:

9 Subd. 8. [SCHOOL STABILITY.] ~~{a}-The agency in~~

10 ~~consultation with the Interagency Task Force on Homelessness may~~
11 ~~establish a school stability project under the family homeless~~
12 ~~prevention and assistance program. The purpose of the project~~
13 ~~is to secure stable housing for families with school-age~~
14 ~~children who have moved frequently and for unaccompanied youth.~~
15 ~~For purposes of this subdivision, "unaccompanied youth" are~~
16 ~~minors who are leaving foster care or juvenile correctional~~
17 ~~facilities, or minors who meet the definition of a child in need~~
18 ~~of services or protection under section 260C.007, subdivision 6,~~
19 ~~but for whom no court finding has been made pursuant to that~~
20 ~~statute.~~

21 ~~{b}-The agency shall make grants to family homeless~~
22 ~~prevention and assistance projects in communities with a school~~
23 ~~or schools that have a significant degree of student mobility.~~

24 ~~{c}-Each project must be designed to reduce school~~
25 ~~absenteeism, stabilize children in one home setting or, at a~~

1 minimum, in one school setting, and reduce shelter usage. Each
2 project must include plans for the following:

3 (1) targeting of families with children under age 12 who,
4 in the last 12 months have either:-- changed schools or homes at
5 least once or been absent from school at least 15 percent of the
6 school year and who have either been evicted from their housing,
7 are living in overcrowded conditions in their current housing,
8 or are paying more than 50 percent of their income for rent;

9 (2) targeting of unaccompanied youth in need of an
10 alternative residential setting;

11 (3) connecting families with the social services necessary
12 to maintain the families' stability in their home; and

13 (4) one or more of the following:

14 (i) provision of rental assistance for a specified period
15 of time, which may exceed 24 months; or

16 (ii) development of permanent supportive housing or
17 transitional housing.

18 (d) Notwithstanding subdivision 2, grants under this
19 section may be used to acquire, rehabilitate, or construct
20 transitional or permanent housing.

21 (e) Each grantee under the project must include
22 representatives of the local school district or targeted
23 schools, or both, and of the local community correction agencies
24 on its advisory committee.

25 (a) The agency must establish and operate a program under
26 the family homelessness prevention and assistance program to
27 stabilize housing for children attending elementary or secondary
28 school. The goal of the program is to eliminate or reduce
29 change of residence of a student so that both the student's home
30 and the school of attendance remain stable. The program may
31 include only elementary school children and may focus on
32 particular schools.

33 (b) Eligible participants must have a prior history of
34 school or residence mobility. The agency may contract with
35 others, including one or more city housing and redevelopment
36 authorities, to carry out any of its duties under this

1 subdivision.

2 (c) The program must provide additional rental assistance
3 above any amount for which the recipient is otherwise eligible
4 to the responsible adult with whom a child resides if the adult
5 signs an agreement that is also signed by a landlord and the
6 school district that obligates:

7 (1) the responsible adult to remain in the current
8 residence until the end of a school year except for conditions
9 specified in the agreement;

10 (2) the landlord to cooperate with the responsible adult on
11 housing issues; and

12 (3) the school district to monitor school attendance and
13 issues affecting school attendance.

14 (d) A family must pay no more than 25 percent of its income
15 for rent. Rent may not exceed fair market rent for an area.
16 The rental assistance may be paid directly to a landlord.

17 (e) The program must include the collection of information
18 from schools related to students' grades and attendance records
19 so that the program can evaluate its effect on school
20 performance and attendance. As a condition of receiving a rent
21 subsidy, the student and responsible adult must consent to the
22 release of that information for the purpose of the evaluation.

23 Sec. 2. [APPROPRIATION.]


24 \$..... is appropriated from the general fund for the
25 biennium ending June 30, 2007, for transfer to the housing
26 development fund for the Housing Finance Agency for purposes of
27 Minnesota Statutes, section 462A.204, subdivision 8.

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

3 S.F. No. 1646: A bill for an act relating to housing;
4 providing assistance to stabilize housing for children to
5 enhance school attendance and performance; appropriating money;
6 amending Minnesota Statutes 2004, section 462A.204, subdivision
7 8.

8 Reports the same back with the recommendation that the bill
9 do pass and be re-referred to the Committee on Finance. Report
10 adopted.

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(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

1 To: Senator Anderson, Chair

2 Committee on Jobs, Energy and Community Development

3 Senator Dibble,

4 Chair of the Subcommittee on Housing, to which was referred

5 S.F. No. 1509: A bill for an act relating to housing;
6 providing certain manufactured home park exclusions; amending
7 Minnesota Statutes 2004, section 327.23, by adding a subdivision.

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 327.23, is
12 amended by adding a subdivision to read:

13 Subd. 2a. [SEASONAL AGRICULTURAL OPERATIONS.] The term
14 "manufactured home park" shall not be construed to include up to
15 four manufactured homes maintained by an individual or a company
16 on premises associated with a seasonal agricultural operation,
17 in an area zoned agricultural, and used exclusively to house
18 individuals or families performing labor as defined in section
19 3121(g) of the Internal Revenue Code if:

20 (1) the manufactured homes are equipped with indoor
21 plumbing facilities and meet the standards for water and
22 sanitation established in Minnesota Rules, parts 4630.0600,
23 subpart 1; 4630.0700; 4630.1200; 4630.3500; and 4715.0310;

24 (2) each manufactured home provides at least 80 square feet
25 of indoor living space for each of its inhabitants;

26 (3) the manufactured homes and their installation comply
27 with section 327.34, subdivision 1, and Minnesota Rules, chapter
28 1350;

29 (4) the individual or company maintaining the manufactured
30 homes, with the assistance and approval of the political
31 subdivision where the homes are located, develops and posts in
32 conspicuous locations near the homes, a shelter or safe
33 evacuation plan in the event of severe weather conditions, such
34 as tornadoes, high winds, and floods; and

35 (5) the individual or company maintains the homes in a
36 clean, orderly, and sanitary condition.

37 Sec. 2. [EFFECTIVE DATE.]

1 Section 1 is effective the day following final enactment."

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

4
5 (Subcommittee Chair)

6
7 April 7, 2005.....
8 (Date of Subcommittee action)

Senators Kubly, Frederickson and Hottinger introduced--

S.F. No. 1509: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to housing; providing certain manufactured
3 home park exclusions; amending Minnesota Statutes
4 2004, section 327.23, by adding a subdivision.

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

6 Section 1. Minnesota Statutes 2004, section 327.23, is
7 amended by adding a subdivision to read:

8 Subd. 2a. [SEASONAL AGRICULTURAL OPERATIONS.] The term
9 "manufactured home park" shall not be construed to include up to
10 four manufactured homes maintained by an individual or a company
11 on premises associated with a seasonal agricultural operation
12 and used exclusively to house labor or other personnel occupied
13 in such operation if:

14 (1) the manufactured homes are equipped with indoor
15 plumbing facilities and meet the standards established in
16 Minnesota Rules, parts 4630.0600, subpart 1; 4630.0700;
17 4630.1200; 4630.3500; and 4715.0310;

18 (2) the manufactured homes provide at least 80 square feet
19 of indoor living space per inhabitant of each home;

20 (3) the manufactured homes are installed in compliance with
21 the State Building Code under Minnesota Rules, chapter 1350;

22 (4) the manufactured homes are in compliance with Minnesota
23 Statutes, section 326.243;

24 (5) the individual or company maintaining the manufactured
25 homes, with the assistance and approval of the city or town

1 where the homes are located, develops a plan to be posted in
2 conspicuous locations near the homes for the sheltering or the
3 safe evacuation to a safe place of shelter, of the residents of
4 the homes in time of severe weather conditions, such as
5 tornadoes, high winds, and floods; and

6 (6) the individual or company maintains the homes in a
7 clean, orderly, and sanitary condition.

8 Sec. 2. [EFFECTIVE DATE.]

9 Section 1 is effective the day following final enactment.

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

3 S.F. No. 1509: A bill for an act relating to housing;
4 providing certain manufactured home park exclusions; amending
5 Minnesota Statutes 2004, section 327.23, by adding a subdivision.

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

8 Delete everything after the enacting clause and insert:

9 "Section 1. Minnesota Statutes 2004, section 327.23, is
10 amended by adding a subdivision to read:

11 Subd. 2a. [SEASONAL AGRICULTURAL OPERATIONS.] The term
12 "manufactured home park" shall not be construed to include up to
13 four manufactured homes maintained by an individual or a company
14 on premises associated with a seasonal agricultural operation,
15 in an area zoned agricultural, and used exclusively to house
16 individuals or families performing labor as defined in section
17 3121(g) of the Internal Revenue Code if:

18 (1) the manufactured homes are equipped with indoor
19 plumbing facilities and meet the standards for water and
20 sanitation established in Minnesota Rules, parts 4630.0600,
21 subpart 1; 4630.0700; 4630.1200; 4630.3500; and 4715.0310;

22 (2) each manufactured home provides at least 80 square feet
23 of indoor living space for each of its inhabitants;

24 (3) the manufactured homes and their installation comply
25 with section 327.34, subdivision 1, and Minnesota Rules, chapter
26 1350;

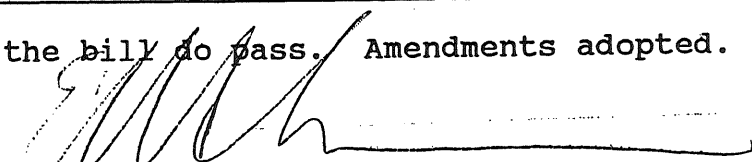
27 (4) the individual or company maintaining the manufactured
28 homes, with the assistance and approval of the political
29 subdivision where the homes are located, develops and posts in
30 conspicuous locations near the homes, a shelter or safe
31 evacuation plan in the event of severe weather conditions, such
32 as tornadoes, high winds, and floods; and

33 (5) the individual or company maintains the homes in a
34 clean, orderly, and sanitary condition.

35 Sec. 2. [EFFECTIVE DATE.]

36 Section 1 is effective the day following final enactment."

37 And when so amended the bill do pass. Amendments adopted.
38 Report adopted.


.....
(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

1 A bill for an act

2 relating to public safety; expanding the protection
3 against employer retaliation for crime victims;
4 amending Minnesota Statutes 2004, sections 518B.01, by
5 adding a subdivision; 609.748, by adding a
6 subdivision; 611A.036.

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

8 Section 1. Minnesota Statutes 2004, section 518B.01, is
9 amended by adding a subdivision to read:

10 Subd. 23. [PROHIBITION AGAINST EMPLOYER RETALIATION.] (a)

11 An employer shall not discharge, discipline, threaten, otherwise
12 discriminate against, or penalize an employee regarding the
13 employee's compensation, terms, conditions, location, or
14 privileges of employment, because the employee took reasonable
15 time off from work to obtain or attempt to obtain relief under
16 this chapter. Except in cases of imminent danger to the health
17 or safety of the employee or the employee's child, or unless
18 impracticable, an employee who is absent from the workplace
19 shall give 48 hours' advance notice to the employer. Upon
20 request of the employer, the employee shall provide verification
21 that supports the employee's reason for being absent from the
22 workplace. All information related to the employee's leave
23 pursuant to this section shall be kept confidential by the
24 employer.

5 (b) An employer who violates paragraph (a) is guilty of a
26 misdemeanor and may be punished for contempt of court. In

1 addition, the court shall order the employer to pay back wages
2 and offer job reinstatement to any employee discharged from
3 employment in violation of paragraph (a).

4 (c) In addition to any remedies otherwise provided by law,
5 an employee injured by a violation of paragraph (a) may bring a
6 civil action for recovery of damages, together with costs and
7 disbursements, including reasonable attorney's fees, and may
8 receive such injunctive and other equitable relief, including
9 reinstatement, as determined by the court.

10 [EFFECTIVE DATE.] This section is effective August 1, 2005,
11 and applies to crimes committed on or after that date.

12 Sec. 2. Minnesota Statutes 2004, section 609.748, is
13 amended by adding a subdivision to read:

14 Subd. 10. [PROHIBITION AGAINST EMPLOYER RETALIATION.] (a)
15 An employer shall not discharge, discipline, threaten, otherwise
16 discriminate against, or penalize an employee regarding the
17 employee's compensation, terms, conditions, location, or
18 privileges of employment, because the employee took reasonable
19 time off from work to obtain or attempt to obtain relief under
20 this section. Except in cases of imminent danger to the health
21 or safety of the employee or the employee's child, or unless
22 impracticable, an employee who is absent from the workplace
23 shall give 48 hours' advance notice to the employer. Upon
24 request of the employer, the employee shall provide verification
25 that supports the employee's reason for being absent from the
26 workplace. All information related to the employee's leave
27 pursuant to this section shall be kept confidential by the
28 employer.

29 (b) An employer who violates paragraph (a) is guilty of a
30 misdemeanor and may be punished for contempt of court. In
31 addition, the court shall order the employer to pay back wages
32 and offer job reinstatement to any employee discharged from
33 employment in violation of paragraph (a).

34 (c) In addition to any remedies otherwise provided by law,
35 an employee injured by a violation of paragraph (a) may bring a
36 civil action for recovery of damages, together with costs and

1 disbursements, including reasonable attorney's fees, and may
2 receive such injunctive and other equitable relief, including
3 reinstatement, as determined by the court.

4 [EFFECTIVE DATE.] This section is effective August 1, 2005,
5 and applies to crimes committed on or after that date.

6 Sec. 3. Minnesota Statutes 2004, section 611A.036, is
7 amended to read:

8 611A.036 [PROHIBITION AGAINST EMPLOYER RETALIATION.]

9 Subdivision 1. [VICTIM OR WITNESS.] An employer or
10 employer's agent who threatens to discharge or discipline must
11 allow a victim or witness, or who discharges, disciplines, or
12 causes a victim or witness to be discharged from employment or
13 disciplined because the victim or the witness who is subpoenaed
14 or requested by the prosecutor to attend court for the purpose
15 of giving testimony, is guilty of a misdemeanor and may be
16 punished for contempt of court. In addition, the court shall
17 order the employer to offer job reinstatement to any victim or
18 witness discharged from employment in violation of this section,
19 and to pay the victim or witness back wages as
20 appropriate reasonable time off from work to attend criminal
21 proceedings related to the victim's case.

22 Subd. 2. [VICTIM'S SPOUSE OR NEXT OF KIN.] An employer
23 must allow a victim of a heinous crime, as well as the victim's
24 spouse or next of kin, reasonable time off from work to attend
25 criminal proceedings related to the victim's case.

26 Subd. 3. [PROHIBITED ACTS.] An employer shall not
27 discharge, discipline, threaten, otherwise discriminate against,
28 or penalize an employee regarding the employee's compensation,
29 terms, conditions, location, or privileges of employment,
30 because the employee took reasonable time off from work to
31 attend a criminal proceeding pursuant to this section.

32 Subd. 4. [VERIFICATION; CONFIDENTIALITY.] An employee who
33 is absent from the workplace shall give 48 hours' advance notice
34 to the employer, unless impracticable or an emergency prevents
35 the employee from doing so. Upon request of the employer, the
36 employee shall provide verification that supports the employee's

1 reason for being absent from the workplace. All information
2 related to the employee's leave pursuant to this section shall
3 be kept confidential by the employer.

4 Subd. 5. [PENALTY.] An employer who violates this section
5 is guilty of a misdemeanor and may be punished for contempt of
6 court. In addition, the court shall order the employer to offer
7 job reinstatement to any employee discharged from employment in
8 violation of this section, and to pay the employee back wages as
9 appropriate.

10 Subd. 6. [CIVIL ACTION.] In addition to any remedies
11 otherwise provided by law, an employee injured by a violation of
12 this section may bring a civil action for recovery for damages,
13 together with costs and disbursements, including reasonable
14 attorney's fees, and may receive such injunctive and other
15 equitable relief, including reinstatement, as determined by the
16 court.

17 Subd. 7. [DEFINITION.] As used in this section, "heinous
18 crime" means:

19 (1) a violation or attempted violation of section 609.185
20 or 609.19;

21 (2) a violation of section 609.195 or 609.221; or

22 (3) a violation of section 609.342, 609.343, or 609.344, if
23 the offense was committed with force or violence or if the
24 complainant was a minor at the time of the offense.

25 [EFFECTIVE DATE.] This section is effective August 1, 2005,
26 and applies to crimes committed on or after that date.

TIME OFF FROM WORK FOR VICTIMS OF DOMESTIC OR SEXUAL VIOLENCE

In recent years, several states have enacted laws that provide domestic violence victims (and in some states, victims of sexual assault and stalking) time off from work to address the violence in their lives. *The details of each state's laws vary significantly.* In most cases leave is unpaid. Some laws provide leave only for court appearances; others provide leave to obtain support services, medical or legal assistance, or safe housing as well. Some states that have not passed domestic violence leave laws have victim protection laws that prohibit an employer from firing crime victims who take time off from work to appear in criminal court. Additionally, in certain circumstances, victims of domestic violence, stalking, or sexual assault may be able to take leave under the federal Family and Medical Leave Act (FMLA) or under comparable state or local laws. For more on FMLA protections, see Legal Momentum's Employment Rights for Survivors of Abuse fact sheets: "Taking Leave from Work for Your Own Serious Medical Condition" and "Taking Leave from Work for a Family Member's Serious Health Condition."

This fact sheet is divided into two main sections. The first section outlines existing state and county laws. The second section outlines proposed state legislation on this topic. Each of these sections is further divided into those laws or bills specific to domestic (and, where applicable, sexual) violence and those laws or bills that relate to crime victims more generally.

STATE AND COUNTY LAWS

Domestic and Sexual Violence Employment Leave Laws

CALIFORNIA: Cal. Lab. Code §§ 230 & 230.1.

An employer may not discharge or discriminate or retaliate against an employee who is a victim of domestic violence or sexual assault for taking time off to obtain or attempt to obtain a restraining order or any other judicial relief to help ensure his or her health, safety, or welfare or that of his or her child. The employee must give the employer reasonable notice unless advance notice is not feasible. The employer may require that the employee provide documents or other certification verifying that the employee was a victim of domestic violence or sexual assault. The employer is also required, to the extent allowed by law, to maintain the confidentiality of an employee requesting such leave. In addition, employers with 25 or more employees may not discharge or discriminate or retaliate against an employee who is a victim of domestic violence or sexual assault for taking time off to seek medical attention, obtain services from a domestic violence shelter or program or rape crisis center, obtain psychological counseling, participate in safety planning, or relocate. An employee who is discriminated against or discharged for exercising his or her rights under this law may be entitled to reinstatement and reimbursement for lost wages and benefits. The provisions applying to larger employers do not create a right for employees to take unpaid leave that exceeds the amount of leave allowed under, or is in addition to leave permitted by, the federal FMLA (which permits up to 12 weeks of leave).

I have been a women's advocate for 7 years in Duluth, at the Domestic Abuse Intervention Project.

I have heard many stories of women having their jobs in jeopardy or being penalized for attending Order for Protection court hearings.

Here are a few stories:

Amy:

Amy managed a restaurant in a hotel. She missed work to get an order for protection and she was simply fired.

Toni:

Toni worked for a Law office for many years. She had several hearings to attend for her OFP. She was put on probation for 6 months and could not miss one single day. Toni is a mother of 4 children.

April:

April worked at McDonald's she is mother of two small children. She is married but separated from her husband. She missed work to get an order for protection. Lisa was fired also. When she worked she was able to support her children and stay safe. Lisa ended up going back to her husband and the next assault he broke her wrist.

Kami:

Kami worked at Trillium an assisted living center. Kami's OFP court hearing was scheduled on her day off. The hearing was continued for the following week, which is not uncommon. She asked for the time off. Her employer penalized her by cutting her hours from 37 to 17

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January 19, 2005

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Safety

More States Give Abuse Victims Right to Time Off

Run Date: 01/16/05

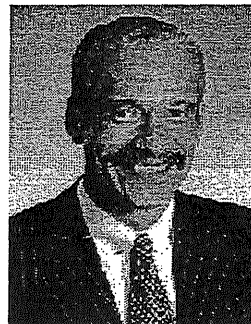
By Marie Tessier
WeNews correspondent

Maine and California were the first states to give victims of domestic violence the right to take time off from work to put their lives on a better track. A growing number of states are following their lead.

(WOMENSENEWS)--Sophia Apessos was a newspaper reporter in Plymouth, Mass., when her husband assaulted her one weekend in July 2000.

At first, the legal and justice system seemed to work.

She phoned the police, he was arrested and charged. Apessos obtained a temporary protection order requiring her husband to have no contact. Over the weekend, he violated the court order by phoning her from jail.



Meanwhile, as she looked ahead, she knew that it would be hard to get to work on Monday. That day she was required to appear at her husband's arraignment, to testify his initial assault, about his violation of the protection order, and seek an extension of the temporary protection order. She also needed to have police photos taken of her injuries for evidence. In between, she needed to get the locks changed on her home, as the police suggested.

So over the weekend, Apessos phoned her supervisor at work. She left a message saying she would not be in on Monday morning because she had been assaulted and needed to attend proceedings in civil and criminal court. On Monday, she phoned again to say that the procedures were going to take all day.

Nasty and Common Surprise

When she came to work Tuesday, Apessos was in for a nasty, but remarkably common, surprise. The human resources director called her into her office and fired her, according to court filings.

Like about 1-in-3 victims of domestic violence, Apessos lost her job because of

the violence and harassment of an abuser and because she took the steps necessary to make it stop.

Later, Apessos filed a lawsuit for wrongful termination that was backed by the NOW Legal Defense and Education Fund, a New York-based group now known as Legal Momentum. Contacted through Legal Momentum, Apessos declined comment. Information on her case was gathered from Legal Momentum and public court records.

Versions of Apessos' story are played out on domestic-violence hotlines around the nation, day in and day out, by many of the one-in-four women who will experience abuse in her lifetime. To stay safe, a woman may need to appear at a hearing during regular office hours. Another might need to meet with prosecutors or detectives. Another might need to meet a landlord to sign a lease on a new apartment so she and her children can start a new life.

And yet many women may not be allowed to take time off work. Many fear reprisal if they even ask, advocates say.

State-by-state, however, that has begun to change as a growing number of legislatures are giving victims of domestic violence the right to take time off from work in order to address the violence in their lives.

First Domestic-Violence Leave Law in 1999

Maine and California passed the first domestic violence leave laws in 1999. Colorado, Hawaii, Illinois, and New York followed, along with some municipalities, such as Miami-Dade County, Fla. The latest is North Carolina's law, which took effect in October 2004, according to Legal Momentum. In recent years, seven other states have considered proposed legislation focused on domestic and sexual violence. Others considered protections for crime victims in general.

Many more states have specific protections for victims who need time off work to attend or testify at criminal proceedings, but these do not extend to civil matters such as seeking a protection order.

Domestic violence-leave laws are a critical piece of protection for battered women, making it possible for them to make use of the court system, lawyers and other advocates for battered women say.

"A lot of people lose their jobs because of domestic violence, and we need to make sure that the full array of legal options is available to victims," says Robert J. Grey Jr., president of the American Bar Association, which has promoted employment rights for victims of domestic and sexual violence in recent years.

Being able to hold on to jobs is also fundamental to helping women change their violent circumstances, advocates say.

Help Separating From Abuser

"Economic security is one of the most important factors in determining

whether a victim of domestic violence will be able to separate effectively from her abuser," says Deborah Widiss, a staff attorney who specializes in domestic-violence law at Legal Momentum. "There's still a lot of stigma around domestic violence and sexual violence, so it's a difficult conversation to have with your employer. Having the legal right to take the time helps victims take the necessary steps to be safe."

For Sophia Apossos, taking steps to stay safe cost her a job, and several years' involvement with a lawsuit against her employer, Memorial Press Group, an independent newspaper group based in Plymouth, Mass. The group did not return a call seeking comment.

Along the way to a settlement in the Apossos case, the Massachusetts Superior Court had to decide whether to allow the suit to proceed--in essence whether she had a legitimate claim under the law. Its decision in Apossos' favor was succinct: "[A] victim should not have to seek physical safety at the cost of her employment," the court wrote.

That decision was the first such case to establish an employer's obligation to accommodate victims of domestic violence, Widiss says.

Filing a lawsuit is a step that is theoretically available to everyone, but is highly impractical--not to say far-fetched--given how strapped victims are for time, money, emotion or energy, advocates say.

Trend in Employment Law, Business Practice

Guaranteeing the legal right to take domestic-violence leave is part of a broader trend in employment law and business practices that assist victims in solving problems, rather than making them worse, attorneys and advocates say.

Leave laws are one approach, but other pieces help, too. Many states offer unemployment compensation for victims whose jobs are affected. Written personnel policies build a climate of support rather than workplace punishment for a victim and they are good for business, too, Widiss says.

"Workplace policies are a good way for an employer to indicate that they want to help correct a problem by providing time off or by making simple changes to keep someone safe," Widiss says. "Things as easy as changing someone's phone extension, adjusting work hours, or transferring to another work site can make a big difference and many are very low cost."

Educating employers on the signs of abuse and on the cost to their businesses is an important step in improving the climate for victims, the Bar Association's Grey and others say.

"Domestic violence is an issue that's difficult for employers to get their arms around, because it's rarely obvious what's going on," Grey says. "A measured response can help victims get to the solution while keeping their personal dignity and their workplace productivity intact."

Pervasive Impact on Women at Work

During training sessions, employers often express surprise at the extent to which abusers' behavior targeted at one of their employees makes its way into their workplace, says Robin Runge, the Washington, D.C., based director of the American Bar Association's Commission on Domestic Violence.

As many as 19 out of every 20 victims say that they experience problems at work related to domestic violence, Runge says. Among the most common forms of workplace disruption are repeated phone calls from batterers who are monitoring or threatening a woman or just harassing her.

Batterers sabotage women's careers in other ways. They might make them late for work, wreck child care arrangements, try to damage their professional reputations or interfere with their jobs to make them look unproductive, advocates say.

The result is that someone who is being victimized can look as if she is the problem, instead of the abuser, Runge says. That ends up endangering a woman's job and makes it even more difficult for her to seek remedies. Often, the employer doesn't even know what is going on. In turn, victims may be compelled to face a Hobson's choice between their jobs and their safety.

"Too often, victims are being forced to choose between staying safe and keeping their jobs secure," Runge says. "The services available in the courts and in our communities won't work unless victims can access them, and that means time off."

Marie Tessier is a frequent contributor to Women's eNews who writes about violence against women and other national affairs.

For more information:

Legal Momentum:

<http://www.legalmomentum.org/issues/vio/laws-leave.shtml>

American Bar Association Commission on Domestic Violence:

<http://www.abanet.org/domviol/home.html>

National Domestic Violence Hotline:

1-800-799-SAFE 1-800-787-3224 (TTY)

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Women's eNews is a nonprofit independent news service covering issues of concern to women and children.

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

3 S.F. No. 1438: A bill for an act relating to public
4 safety; expanding the protection against employer retaliation
5 for crime victims; amending Minnesota Statutes 2004, sections
6 518B.01, by adding a subdivision; 609.748, by adding a
7 subdivision; 611A.036.

8 Reports the same back with the recommendation that the bill
9 do pass. Report adopted.

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.....
(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)

Senator Cohen introduced--

S.F. No. 2021: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to energy; providing funding for certain
3 biomass-fueled community energy systems; appropriating
4 money.

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

6 Section 1. [BIOMASS-FUELED COMMUNITY ENERGY SYSTEMS;
7 APPROPRIATION.]

8 \$1,000,000 is appropriated from the general fund to the
9 commissioner of commerce for grants to fund predesign costs of
10 four to five biomass-fueled, municipal and state college or
11 university-owned community heating and cooling systems. Grant
12 money shall be used to cover:

13 (1) preliminary planning to determine the economic,
14 engineering, and environmental feasibility of the project;

15 (2) other preliminary investigation studies; and

16 (3) surveys, designs, specifications, and other actions
17 necessary to the planning, design, and future construction of
18 the project.

19 The fuel source for the projects must be biomass that is
20 procured in an environmentally sustainable manner. Eligible
21 biomass includes sustainably harvested agricultural and forest
22 residues, waste wood, mill residues, biogas, and dedicated
23 energy crops.

24 Existing community energy systems seeking upgrades, as well
25 as new projects, are eligible to apply.

1 Projects planning for future conversion to cogeneration and
2 projects seeking federal matching funds shall be given
3 preference.

4 Proposals submitted by interested municipalities or state
5 colleges and universities will be evaluated by a technically
6 knowledgeable, nonpartisan organization, such as the United
7 States Department of Energy's National Renewable Energy
8 Laboratory.

9 Sec. 2. [EFFECTIVE DATE.]

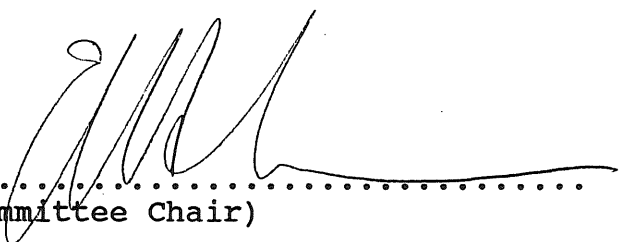
10 Section 1 is effective the day following final enactment.

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

3 S.F. No. 2021: A bill for an act relating to energy;
4 providing funding for certain biomass-fueled community energy
5 systems; appropriating money.

6 Reports the same back with the recommendation that the bill
7 do pass and be re-referred to the Committee on Finance. Report
8 adopted.

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.....
(Committee Chair)

April 11, 2005.....
(Date of Committee recommendation)