

**Senate Counsel, Research,
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Senate

State of Minnesota

S.F. No. 3089 - Regulating Property Tax Abatements

Author: Senator Steve Murphy

Prepared by: John C. Fuller, Senate Counsel (651/296-3914)

Date: March 20, 2006



This bill regulates property tax abatements granted by local units of government to utilities under state law.

Section 1 provides that a property tax abatement granted under Minnesota Statutes, section 469.1813, whether or not to a utility, is not a business subsidy for purposes of the law regulating and requiring reporting of business subsidies.

Section 2 amends the authority of a political subdivision to grant abatements by authorizing prospective abatements, allowing abatements pursuant to contract or otherwise, and allowing abatements to apply to personal property and machinery. Utilities pay taxes on their personal property. The list of public interest concerns that can support a tax abatement is enlarged to include tax base stabilization through property tax equalization for a period of time with relation to property taxes on utilities.

Section 3 alters the commencement and duration of abatements. An economic abatement is not subject to the current law that requires an eight-year gap between abatements for the same parcel. This section permits successive abatements with no gap in time for utility property.

Section 4 adds a utility as a qualified business that may receive an abatement and qualify for an extended duration limit on the abatement. This section also exempts utility abatements from the prohibition against abatements with extended durations being granted after July 1, 2004.

Section 5 exempts abatements to utilities from limits on the dollar amount of abatements that a political subdivision may grant.

Section 6 prohibits grants of an abatement to a utility without the utility's consent.

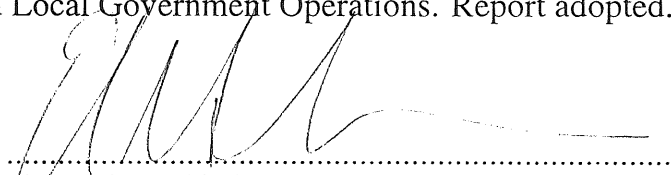
Section 7 limits the application of an abatement to property specified or described in the abatement contract or agreement with a utility.

JCF:cs

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.3 **S.F. No. 3089:** A bill for an act relating to taxation; modifying the property
1.4 tax abatement process as it applies to certain electric generating facilities; amending
1.5 Minnesota Statutes 2004, sections 116J.993, subdivision 3; 469.1813, subdivisions 1, 6b,
1.6 8, 9, by adding a subdivision; Minnesota Statutes 2005 Supplement, section 469.1813,
1.7 subdivision 6.

1.8 Reports the same back with the recommendation that the bill do pass and be
1.9 re-referred to the Committee on State and Local Government Operations. Report adopted.


.....
(Committee Chair)

1.10
1.11

1.12 March 22, 2006
1.13 (Date of Committee recommendation)

Senator Murphy introduced--

S.F. No. 3089: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act
 1.2 relating to taxation; modifying the property tax abatement process as it applies
 1.3 to certain electric generating facilities; amending Minnesota Statutes 2004,
 1.4 sections 116J.993, subdivision 3; 469.1813, subdivisions 1, 6b, 8, 9, by adding a
 1.5 subdivision; Minnesota Statutes 2005 Supplement, section 469.1813, subdivision
 1.6 6.

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

1.8 Section 1. Minnesota Statutes 2004, section 116J.993, subdivision 3, is amended to
 1.9 read:

1.10 Subd. 3. **Business subsidy.** "Business subsidy" or "subsidy" means a state or local
 1.11 government agency grant, contribution of personal property, real property, infrastructure,
 1.12 the principal amount of a loan at rates below those commercially available to the recipient,
 1.13 any reduction or deferral of any tax or any fee, any guarantee of any payment under any
 1.14 loan, lease, or other obligation, or any preferential use of government facilities given
 1.15 to a business.

1.16 The following forms of financial assistance are not a business subsidy:

- 1.17 (1) a business subsidy of less than \$25,000;
- 1.18 (2) assistance that is generally available to all businesses or to a general class of
 1.19 similar businesses, such as a line of business, size, location, or similar general criteria;
- 1.20 (3) public improvements to buildings or lands owned by the state or local
 1.21 government that serve a public purpose and do not principally benefit a single business or
 defined group of businesses at the time the improvements are made;
- 1.23 (4) redevelopment property polluted by contaminants as defined in section 116J.552,
 1.24 subdivision 3;

2.1 (5) assistance provided for the sole purpose of renovating old or decaying building
2.2 stock or bringing it up to code and assistance provided for designated historic preservation
2.3 districts, provided that the assistance is equal to or less than 50 percent of the total cost;

2.4 (6) assistance to provide job readiness and training services if the sole purpose of
2.5 the assistance is to provide those services;

2.6 (7) assistance for housing;

2.7 (8) assistance for pollution control or abatement, including assistance for a tax
2.8 increment financing hazardous substance subdistrict as defined under section 469.174,
2.9 subdivision 23;

2.10 (9) assistance for energy conservation;

2.11 (10) tax reductions resulting from conformity with federal tax law;

2.12 (11) workers' compensation and unemployment insurance;

2.13 (12) benefits derived from regulation;

2.14 (13) indirect benefits derived from assistance to educational institutions;

2.15 (14) funds from bonds allocated under chapter 474A, bonds issued to refund
2.16 outstanding bonds, and bonds issued for the benefit of an organization described in section
2.17 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;

2.18 (15) assistance for a collaboration between a Minnesota higher education institution
2.19 and a business;

2.20 (16) assistance for a tax increment financing soils condition district as defined under
2.21 section 469.174, subdivision 19;

2.22 (17) redevelopment when the recipient's investment in the purchase of the site
2.23 and in site preparation is 70 percent or more of the assessor's current year's estimated
2.24 market value;

2.25 (18) general changes in tax increment financing law and other general tax law
2.26 changes of a principally technical nature;

2.27 (19) federal assistance until the assistance has been repaid to, and reinvested by, the
2.28 state or local government agency;

2.29 (20) funds from dock and wharf bonds issued by a seaway port authority;

2.30 (21) business loans and loan guarantees of \$75,000 or less; ~~and~~

2.31 (22) federal loan funds provided through the United States Department of
2.32 Commerce, Economic Development Administration; and

2.33 (23) property tax abatements granted under section 469.1813.

2.34 Sec. 2. Minnesota Statutes 2004, section 469.1813, subdivision 1, is amended to read:

3.1 Subdivision 1. **Authority.** The governing body of a political subdivision may grant
 3.2 ~~an~~ a current or prospective abatement, by contract or otherwise, of the taxes imposed by
 3.3 the political subdivision on a parcel of property, which may include personal property
 3.4 and machinery, or defer the payments of the taxes and abate the interest and penalty
 3.5 that otherwise would apply, if:

3.6 ~~(a)~~ (1) it expects the benefits to the political subdivision of the proposed abatement
 3.7 agreement to at least equal the costs to the political subdivision of the proposed agreement
 3.8 or intends the abatement to phase in a property tax increase, as provided in clause (b)(7);
 3.9 and

3.10 ~~(b)~~ (2) it finds that doing so is in the public interest because it will:

3.11 ~~(1)~~ (i) increase or preserve tax base;

3.12 ~~(2)~~ (ii) provide employment opportunities in the political subdivision;

3.13 ~~(3)~~ (iii) provide or help acquire or construct public facilities;

3.14 ~~(4)~~ (iv) help redevelop or renew blighted areas;

3.15 ~~(5)~~ (v) help provide access to services for residents of the political subdivision;

3.16 ~~(6)~~ (vi) finance or provide public infrastructure; ~~or~~

3.17 ~~(7)~~ (vii) phase in a property tax increase on the parcel resulting from an increase of
 3.18 50 percent or more in one year on the estimated market value of the parcel, other than
 3.19 increase attributable to improvement of the parcel; or

3.20 (viii) stabilize the tax base through equalization of property tax revenues for a
 3.21 specified period of time with respect to a taxpayer whose real and personal property is
 3.22 subject to valuation under Minnesota Rules, chapter 8100.

3.23 Sec. 3. Minnesota Statutes 2005 Supplement, section 469.1813, subdivision 6, is
 3.24 amended to read:

3.25 Subd. 6. **Duration limit.** (a) A political subdivision may grant an abatement for a
 3.26 period no longer than 15 years, except as provided under paragraph (b). The abatement
 3.27 period will commence in the first year in which the abatement granted is either paid or
 3.28 retained in accordance with section 469.1815, subdivision 2. The subdivision may specify
 3.29 in the abatement resolution a shorter duration. If the resolution does not specify a period
 3.30 of time, the abatement is for eight years. If an abatement has been granted to a parcel of
 3.31 property and the period of the abatement has expired, the political subdivision that granted
 3.32 the abatement may not grant another abatement for eight years after the expiration of the
 3.33 first abatement. This prohibition does not apply to improvements added after and not
 3.34 subject to the first abatement. Economic abatement agreements for real and personal

4.1 property subject to valuation under Minnesota Rules, chapter 8100, are not subject to this
 4.2 prohibition and may be granted successively.

4.3 (b) A political subdivision proposing to abate taxes for a parcel may request, in
 4.4 writing, that the other political subdivisions in which the parcel is located grant an
 4.5 abatement for the property. If one of the other political subdivisions declines, in writing,
 4.6 to grant an abatement or if 90 days pass after receipt of the request to grant an abatement
 4.7 without a written response from one of the political subdivisions, the duration limit
 4.8 for an abatement for the parcel by the requesting political subdivision and any other
 4.9 participating political subdivision is increased to 20 years. If the political subdivision
 4.10 which declined to grant an abatement later grants an abatement for the parcel, the 20-year
 4.11 duration limit is reduced by one year for each year that the declining political subdivision
 4.12 grants an abatement for the parcel during the period of the abatement granted by the
 4.13 requesting political subdivision. The duration limit may not be reduced below the limit
 4.14 under paragraph (a).

4.15 Sec. 4. Minnesota Statutes 2004, section 469.1813, subdivision 6b, is amended to read:

4.16 Subd. 6b. **Extended duration limit.** (a) Notwithstanding the provisions of
 4.17 subdivision 6, a political subdivision may grant an abatement for a period of up to 20
 4.18 years, if the abatement is for a qualified business.

4.19 (b) To be a qualified business for purposes of this subdivision, at least 50 percent of
 4.20 the payroll of the operations of the business that qualify for the abatement must be for
 4.21 employees engaged in one of the following lines of business or any combination of them:

- 4.22 (1) manufacturing;
- 4.23 (2) agricultural processing;
- 4.24 (3) mining;
- 4.25 (4) research and development;
- 4.26 (5) warehousing; or
- 4.27 (6) qualified high technology.

4.28 Alternatively, a qualified business also includes a taxpayer whose real and personal
 4.29 property is subject to valuation under Minnesota Rules, chapter 8100.

4.30 (c)(1) "Manufacturing" means the material staging and production of tangible
 4.31 personal property by procedures commonly regarded as manufacturing, processing,
 4.32 fabrication, or assembling which changes some existing material into new shapes, new
 4.33 qualities, or new combinations.

4.34 (2) "Mining" has the meaning given in section 613(c) of the Internal Revenue Code
 4.35 of 1986.

5.1 (3) "Agricultural processing" means transforming, packaging, sorting, or grading
5 livestock or livestock products, agricultural commodities, or plants or plant products into
5.3 goods that are used for intermediate or final consumption including goods for nonfood use.

5.4 (4) "Research and development" means qualified research as defined in section
5.5 41(d) of the Internal Revenue Code of 1986.

5.6 (5) "Qualified high technology" means one or more of the following activities:

5.7 (i) advanced computing, which is any technology used in the design and
5.8 development of any of the following:

5.9 (A) computer hardware and software;

5.10 (B) data communications; and

5.11 (C) information technologies;

5.12 (ii) advanced materials, which are materials with engineered properties created
5 through the development of specialized process and synthesis technology;

5.14 (iii) biotechnology, which is any technology that uses living organisms, cells,
5.15 macromolecules, microorganisms, or substances from living organisms to make or modify
5.16 a product, improve plants or animals, or develop microorganisms for useful purposes;

5.17 (iv) electronic device technology, which is any technology that involves
5.18 microelectronics, semiconductors, electronic equipment, and instrumentation, radio
5.19 frequency, microwave, and millimeter electronics, and optical and optic-electrical devices,
5.20 or data and digital communications and imaging devices;

5.21 (v) engineering or laboratory testing related to the development of a product;

5.22 (vi) technology that assists in the assessment or prevention of threats or damage to
5.23 human health or the environment, including, but not limited to, environmental cleanup
5.24 technology, pollution prevention technology, or development of alternative energy sources;

5.25 (vii) medical device technology, which is any technology that involves medical
5.26 equipment or products other than a pharmaceutical product that has therapeutic or
5.27 diagnostic value and is regulated; or

5.28 (viii) advanced vehicles technology which is any technology that involves electric
5.29 vehicles, hybrid vehicles, or alternative fuel vehicles, or components used in the
5.30 construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles. An electric
5.31 vehicle is a road vehicle that draws propulsion energy only from an on-board source of
5.32 electrical energy. A hybrid vehicle is a road vehicle that can draw propulsion energy from
both a consumable fuel and a rechargeable energy storage system.

5.34 (d) The authority to grant new abatements under this subdivision expires on July 1,
5.35 2004, except that the authority to grant new abatements for real and personal property
5.36 subject to valuation under Minnesota Rules, chapter 8100, does not expire.

6.1 Sec. 5. Minnesota Statutes 2004, section 469.1813, subdivision 8, is amended to read:

6.2 Subd. 8. **Limitation on abatements.** In any year, the total amount of property taxes
6.3 abated by a political subdivision under this section may not exceed (1) ten percent of
6.4 the current levy, or (2) \$200,000, whichever is greater. The limit under this subdivision
6.5 does not apply to:

6.6 (1) an uncollected abatement from a prior year that is added to the abatement levy; or

6.7 (2) a taxpayer whose real and personal property is subject to valuation under

6.8 Minnesota Rules, chapter 8100.

6.9 Sec. 6. Minnesota Statutes 2004, section 469.1813, subdivision 9, is amended to read:

6.10 Subd. 9. **Consent of property owner not required.** A political subdivision may
6.11 abate the taxes on a parcel under sections 469.1812 to 469.1815 without obtaining the
6.12 consent of the property owner. This subdivision does not apply to abatements granted to a
6.13 taxpayer whose real and personal property is valued under Minnesota Rules, chapter 8100.

6.14 Sec. 7. Minnesota Statutes 2004, section 469.1813, is amended by adding a subdivision
6.15 to read:

6.16 Subd. 10. **Applicability to utility properties.** When this statute is applied or
6.17 utilized with respect to a taxpayer whose real and personal property is subject to valuation
6.18 under Minnesota Rules, chapter 8100, the provisions of this section and sections 469.1814
6.19 and 469.1815 shall apply only to property specified or described in the abatement contract
6.20 or agreement.

6.21 Sec. 8. **EFFECTIVE DATE.**

6.22 Sections 1 to 7 are effective for abatements granted after June 30, 2006.

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**S.F. No. 3237 - Faribault Ethanol Plant Exclusive Service
Right**

Author: Senator Julie A. Rosen

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

Date: March 21, 2006

The bill exempts two wind turbines adjacent to an ethanol plant in Faribault County from the exclusive service right in Minnesota Statutes, section 216B.40, if the electricity generated by the turbines is primarily used for the operations of the ethanol plant. The exclusive service right provides that each electric utility shall have the exclusive right to provide retail electric service to each and every present and future customer in the utility's assigned service territory.

MSG:cs

Senators Rosen and Anderson introduced—

S.F. No. 3237: Referred to the Committee on Jobs, Energy and Community Development.

1. A bill for an act
1 relating to energy; clarifying that a certain facility does not violate the exclusive
1.3 service territory law.

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

1.5 Section 1. **ETHANOL PLANT; RENEWABLE GENERATION FACILITY**
1.6 **CLARIFICATION.**

1.7 The owner and operator of an electric generation facility located in Faribault County
1.8 consisting of two wind turbines is not an electric utility for the purpose of Minnesota
1.9 Statutes, section 216B.40, if the turbines are located adjacent to an ethanol plant and the
1.10 electricity produced by the turbines is used primarily for the operations of the ethanol
1.11 plant. The providing of electric service by those two turbines to the ethanol plant is not
1.12 subject to Minnesota Statutes, section 216B.40, and does not require the consent of the
1.13 electric utility in whose service area the plant is located.

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**S.F. No. 3217 - Scott County Biomass Facility Exclusive
Service Right**

Author: Senator D. Scott Dibble

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

Date: March 21, 2006

The bill exempts a 15-megawatt or smaller biomass-fueled electric generation facility in Scott County from the exclusive service right in Minnesota Statutes, section 216B.40, if the facility is located adjacent to an agricultural product processing plant, which uses heat from the biomass facility in its production process and if the electricity generated by the biomass facility is primarily used for the operations of the owners of the biomass facility. The exclusive service right provides that each electric utility shall have the exclusive right to provide retail electric service to each and every present and future customer in the utility's assigned service territory.

MSG:cs

Senators Dibble and Robling introduced—

S.F. No. 3217: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act relating to energy; clarifying that a certain facility does not violate the exclusive service territory law.

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

Section 1. ETHANOL PLANT; RENEWABLE GENERATION FACILITY CLARIFICATION.

The owner and operator of an up-to-15-megawatt, biomass-fueled, electric generation facility located in Scott County is not an electric utility for the purpose of Minnesota Statutes, section 216B.40, if the biomass facility is located adjacent to an agricultural product processing plant that uses the heat from the biomass facility in its production process and if the electricity produced by the biomass facility is used primarily for the operations of the owners of the biomass facility. The providing of electric service by the biomass facility primarily to the owners of the facility is not subject to Minnesota Statutes, section 216B.40, and does not require the consent of the electric utility in whose service area the agricultural product processing plant is located.

1.1 Senator moves to amend S.F. No. 3217 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. **ETHANOL PLANT; RENEWABLE GENERATION FACILITY**
1.4 **CLARIFICATION.**

1.5 Consistent with Minnesota Statutes, section 216B.02, subdivision 4, that no person
1.6 shall be deemed a public utility if it produces or furnishes service to less than 25 persons,
1.7 the owner and operator of an up-to-15-megawatt, biomass-fueled, electric generation
1.8 facility located in Scott County, adjacent to an agricultural product processing plant that
1.9 uses the heat from the biomass facility in its production process, is not a public utility if
1.10 the electricity produced by the biomass facility is used solely for the operations of the
1.11 owners of the biomass facility and for wholesale sales. The providing of electric service
1.12 by the biomass facility to the owners of the facility does not require the consent of the
.13 public utility in whose service area the agricultural product processing plant is located.

1.14 **EFFECTIVE DATE.** This section is effective the day following final enactment."

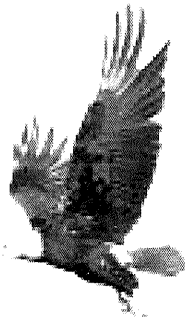
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1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. **ETHANOL PLANT; RENEWABLE GENERATION FACILITY**
1.4 **CLARIFICATION.**

1.5 Consistent with Minnesota Statutes, section 216B.02, subdivision 4, that no person
1.6 shall be deemed a public utility if it produces or furnishes service to less than 25 persons,
1.7 the owner and operator of an electric generation facility located in Faribault County
1.8 consisting of two wind turbines, adjacent to an ethanol plant is not a public utility if
1.9 the electricity produced by the turbines is used solely for the operations of the ethanol
1.10 plant. The providing of electric service by those two turbines to the ethanol plant does not
1.11 require the consent of the electric utility in whose service area the plant is located.

1.12 **EFFECTIVE DATE. This section is effective the day following final enactment.**"



Koda Energy Biomass to Energy Project Summary

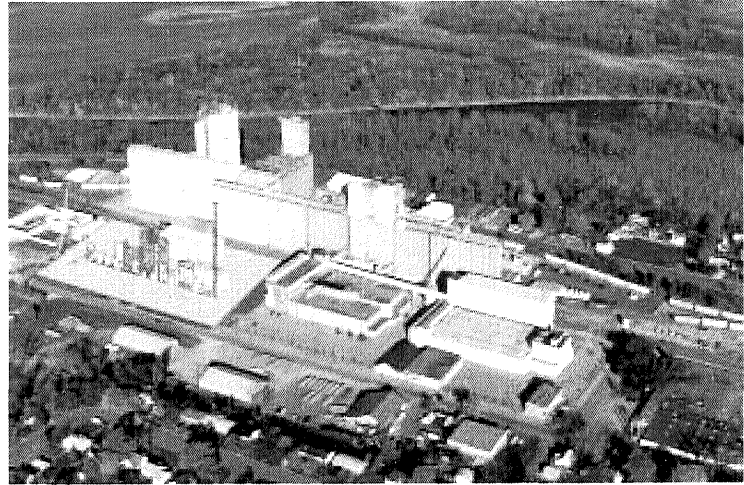
The Koda Energy Biomass to Energy Project will produce enough environmentally friendly electricity to power 10,000 homes and replace enough natural gas to heat 11,000 homes

The Shakopee Mdewakanton Sioux Community, a federally recognized Indian Tribe and Rahr Malting Company have joined together to form Koda Energy.

The Koda Energy combined heat and power plant will generate 11.5 megawatts of baseload electricity and deliver 125 million Btus per hour of process heat to the Rahr Malting Co. production facility. The reliable, dispatchable electricity produced by Koda Energy's biomass to energy facility will produce enough electricity to power 10,000 homes - from an environmentally friendly, renewable resource. Koda Energy will produce enough heat from biomass to replace all of the natural gas needed for the malting processes. This project will significantly reduce natural gas demand, replacing enough natural gas to heat 11,000 homes.

By being able to supply both partner's energy needs, the Koda Energy biomass to energy project will help insulate the Rahr Malting Company and the Shakopee Mdewakanton Sioux Community from fluctuating energy prices and uncertain supplies. Ensuring the long-term viability of Rahr Malting will protect over 100 local jobs and a major market for Midwest barley. In addition, the project will protect nearly 4,650 local jobs at the Shakopee Mdewakanton Sioux Community.

This project will create skilled jobs giving Koda Energy an annual payroll of



over \$750,000. Using accepted multiplier effects, these new jobs will increase the total local employment by up to 20 jobs with an annual payroll of \$1.5 million.

The development of a biofuels program will provide wildlife habitat, reduce soil erosion and reduce surface and groundwater pollution. To fuel its boilers Koda Energy will require up to 170,000 tons of biofuels. This will annually pump \$ 6.0 million into the local agricultural economy.

The project is located in the Minnesota River Basin - Minnesota's most polluted river. Energy crops such as switch grass can improve water quality by providing a continuous soil cover that stabilizes the soil, decreases nutrient transport and protects the soil from erosion. The Union of Concerned Scientists estimates that converting an average size farm (1,000 acres) from corn to switch-grass could save over 66 truck loads of soil per year from soil erosion. Koda Energy's use of dedicated energy crops will help reduce top soil erosion in this environmentally sensitive area.

The by-products from agricultural processing industries that Koda Energy will



*Friendly Energy Generated Through A Partnership Between
the Shakopee Mdewakanton Sioux Community and the Rahr Malting Company*





Construction of this project will inject \$40 million into the local economy.

When in operation this project will pump \$15 million per year into the local economy.

use as fuel are currently low value residues used to extend livestock feed. Because the material has little nutritional value, using it as fuel instead of mixing it with feed will raise the quality of livestock feed.

Initial construction will pump \$40 million into the local economy. The long term effects of this project will annually cycle over \$15 million through the Minnesota economy.

By providing year-round, dispatchable renewable power, Koda Energy compliments other more intermittent renewable power sources such as wind and seasonally available sources such as hydroelectric and natural gas.

Located near an electrical substation and major power lines, this project can add 11.5 megawatts of renewable power without requiring expensive transmission line construction and infrastructure upgrades.

The Minnesota Pollution Control Agency has identified global warming as the 21st century's major energy and environmental issue. Requirements to cut greenhouse gas emissions such as CO₂ will drive up prices for energy produced by traditional fossil fuels. By replacing coal-fired base load, Koda Energy's biomass to energy project will cut CO₂ emissions by



over 180,000 tons per year. Reducing fuel combustion from trucks transporting low value agricultural by-products to Duluth for shipping could reduce CO₂ emissions from diesel fuel combustion by over 3,000 tons per year.

Janet Cushman with the DOE bio-energy feedstock program identifies switch grass as an

excellent source for sequestering carbon because the plant's roots can reach depths up to 20 feet. Planting 30,000 acres in switch grass or other biofuels could annually sequester another 15,000 to 30,000 tons of carbon.

Koda Energy will be located next to the Rahr Malting Co. Shakopee, Minnesota facility. Rahr is a family owned business that has operated since 1847. The Shakopee Rahr plant is currently the largest malting facility in the world. The Shakopee Mdewakanton Sioux Community is located 6 miles south of the Rahr Plant. Since 1969, SMSC has operated several successful businesses and community organizations, including a gaming commission employing 30 people, two casinos and entertainment complexes with over 4500 employees, and a Tribal Government staffed by 125 people that includes a fire department and a public works department.

*Friendly Energy Generated Through A Partnership Between
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S.F. No. 2879 - Energy Conservation Investments

Author: Senator Julie A. Rosen

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

Date: March 21, 2006

The bill adds renewable energy measures to the types of capital expenditures that qualify as energy conservation investments for the purpose of the energy conservation investment loan program. The energy conservation investment loan program makes loans to municipalities and school districts for capital expenditures associated with energy conservation.

MSG:cs

Senators Rosen, Senjem, Dibble and Anderson introduced—

S.F. No. 2879: Referred to the Committee on Jobs, Energy and Community Development.

1.1 A bill for an act
 1.2 relating to energy; authorizing renewable energy measures to be funded under
 1.3 the energy conservation investment loan program; amending Minnesota Statutes
 1.4 2004, section 216C.37, subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2004, section 216C.37, subdivision 1, is amended to read:

1.7 Subdivision 1. **Definitions.** In this section:

1.8 (a) "Commissioner" means the commissioner of commerce.

1.9 (b) "Energy conservation investments" means all capital expenditures that are
 1.10 associated with conservation measures identified in an energy project study, including
 1.11 renewable energy measures, and that have a ten-year or less payback period.

1.12 (c) "Municipality" means any county, statutory or home rule charter city, town,
 1.13 school district, or any combination of those units operating under an agreement to jointly
 1.14 undertake projects authorized in this section.

1.15 (d) "Energy project study" means a study of one or more energy-related capital
 1.16 improvement projects analyzed in sufficient detail to support a financing application. At a
 1.17 minimum, it must include one year of energy consumption and cost data, a description
 1.18 of existing conditions, a description of proposed conditions, a detailed description of the
 1.19 costs of the project, and calculations sufficient to document the proposed energy savings.

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2798A-1) to S.F. No. 2798 as follows:

1.3 Page 1, after line 23, insert:

1.4 "Sec. 2. **[325E.027] LOW-INCOME CUSTOMERS; DELIVERED HEATING**
1.5 **FUEL VENDOR'S OBLIGATION.**

1.6 A dealer or distributor of liquid propane gas or number 1 or number 2 fuel oil may
1.7 not refuse to deliver liquid propane gas or number 1 or number 2 fuel oil within their
1.8 normal delivery area to any person who receives direct grants under the low-income home
1.9 energy assistance program if that person has requested delivery, the dealer or distributor
1.10 has product available and the person requesting delivery is capable of making full payment
1.11 at the time of delivery, and is not in arrears regarding any previous fuel purchase from that
1.12 dealer or distributor. A distributor or dealer making delivery to a person receiving direct
1.13 grants from the low-income home energy assistance program may not charge that person
1.14 any additional costs or fees that would not be charged to any other customer and shall
1.15 make available to that person any discount programs on the same basis as the dealer or
1.16 distributor makes available to any other customer."

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS2798A-1) to S.F. No. 2798 as follows:

1.3 Page 1, after line 23, insert:

1.4 "Section 1. **PETROLEUM VIOLATION ESCROW FUNDS.**

1.5 Petroleum violation escrow funds appropriated to the commissioner of commerce by
1.6 Laws 1988, chapter 686, article 1, section 38, for state energy loan programs for schools,
1.7 hospitals, and public buildings may also be used for energy grants to those entities."

1.8 Renumber the sections in sequence and correct the internal references

1.9 Amend the title accordingly

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

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Senate

State of Minnesota

**S.F. No. 1263 - Wind Energy Loan Guarantee (delete-
everything amendment)**

Author: Senator Gary W. Kubly

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

Date: March 21, 2006

The bill, as amended in the SCS1263A-2 delete-everything amendment, establishes a wind energy loan guarantee program to be administered by the Commissioner of Commerce for the purpose of encouraging the financing, construction, and operation of wind energy conversion systems in Minnesota. The bill also creates a wind energy loan guarantee account in the special revenue fund. The program would guarantee up to 15 percent of the amount financed, not to exceed \$300,000 per system, with one percent of the outstanding balance charged annually as a loan guarantee fee to be deposited in the wind energy loan guarantee account. The bill as amended also appropriates an unspecified sum from the general fund for deposit in the wind energy loan guarantee account.

MSG:cs

Senators Kubly, Anderson, Vickerman, Rosen and Senjem introduced--

S.F. No. 1263: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to energy; establishing goal of wind power
3 usage at 20 percent by 2020; establishing wind energy
4 conversion system loan guarantee program; amending
5 Minnesota Statutes 2004, section 216B.1691,
6 subdivision 1, by adding a subdivision; proposing
7 coding for new law in Minnesota Statutes, chapter 216C.

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

9 Section 1. Minnesota Statutes 2004, section 216B.1691,
10 subdivision 1, is amended to read:

11 Subdivision 1. [DEFINITIONS.] (a) Unless otherwise
12 specified in law, "eligible energy technology" means an energy
13 technology that:

14 (1) generates electricity from the following renewable
15 energy sources: solar; wind; hydroelectric with a capacity of
16 less than 60 megawatts; hydrogen, provided that after January 1,
17 2010, the hydrogen must be generated from the resources listed
18 in this clause; or biomass, which includes an energy recovery
19 facility used to capture the heat value of mixed municipal solid
20 waste or refuse-derived fuel from mixed municipal solid waste as
21 a primary fuel; and

22 (2) was not mandated by Laws 1994, chapter 641, or by
23 commission order issued pursuant to that chapter prior to August
24 1, 2001.

25 (b) "Electric utility" means a public utility providing
26 electric service, a generation and transmission cooperative

1 electric association, or a municipal power agency.

2 (c) "Total retail electric sales" means the kilowatt-hours
3 of electricity sold in a year by an electric utility to retail
4 customers of the electric utility or to a distribution utility
5 for distribution to the retail customers of the distribution
6 utility.

7 (d) "Wind energy conversion system" (WECS) has the meaning
8 given it in section 216C.09, subdivision 19, and also includes a
9 qualified wind energy conversion facility defined in section
10 216C.41, subdivision 1, paragraph (c), and any size WECS
11 described in section 272.029, subdivision 1, paragraph (a).

12 Sec. 2. Minnesota Statutes 2004, section 216B.1691, is
13 amended by adding a subdivision to read:

14 Subd. 2a. [WIND ENERGY OBJECTIVE: 20 PERCENT BY 2020;
15 CREDITS.] (a) Each electric utility shall make a good faith
16 effort to generate or procure sufficient electricity generated
17 by wind energy conversion system technology to provide
18 electricity to its retail consumers, or the retail customers of
19 a distribution utility to which the electric utility provides
20 wholesale electric service, so that by December 31, 2020, at
21 least 20 percent of the electric energy provided to retail
22 customers in Minnesota is generated through wind energy
23 conversion systems.

24 (b) By June 1, 2006, and as needed thereafter, the
25 commission shall issue an order detailing the criteria and
26 standards by which it will measure an electric utility's efforts
27 to meet the 20 percent by 2020 wind energy objective of this
28 subdivision to determine whether the utility is progressing and
29 making the required good faith effort. In this order, the
30 commission shall include criteria and standards that consider
31 technical and delivery feasibilities and that protect against
32 undesirable impacts on the reliability of the utility's system
33 and unreasonable economic impacts on the utility's ratepayers.

34 (c) To facilitate compliance with this subdivision, the
35 commission, by rule or order, shall establish a program for
36 tradable credits among Minnesota electric utilities for

1 electricity generated through wind energy conversion systems
2 located within Minnesota. In doing so, the commission shall
3 implement a system that constrains or limits the cost of
4 credits, taking care to ensure that such a system does not
5 undermine the market for those credits. In lieu of generating
6 or procuring energy directly to satisfy the 20 percent by 2020
7 objective of this subdivision, an electric utility may purchase
8 sufficient wind energy credits, issued pursuant to this
9 subdivision from another electric utility located in Minnesota,
10 to meet its objective. The commission may facilitate the
11 trading of wind energy credits only among electric utilities in
12 Minnesota.

13 Sec. 3. [216C.42] [WIND ENERGY LOAN GUARANTEE PROGRAM.]

14 Subdivision 1. [RULES.] The commissioner of commerce, in
15 consultation with the commissioner of finance and the Public
16 Utilities Commission and after any necessary coordination with
17 any related federal programs, shall adopt rules by June 1, 2006,
18 to implement and administer a wind energy loan guarantee program
19 to encourage the financing, construction, and operation in
20 Minnesota of wind energy conversion systems, as defined in
21 section 216B.1691, subdivision 1. At a minimum, the rules must:

22 (1) guarantee financial institutions that provide financing
23 for a wind energy conversion system that the state will
24 guarantee, in case of a borrower's default, up to 15 percent of
25 the value of the amount financed not to exceed \$300,000 for each
26 system;

27 (2) allow the interest rate to be negotiable between the
28 financial institution and borrower, except that one percent on
29 the outstanding balance must be charged annually as a loan
30 guarantee fee and paid to the state and deposited in the account
31 established in subdivision 2;

32 (3) require that the financial institution making a loan
33 guaranteed pursuant to this section must be located in
34 Minnesota; and

35 (4) require that the wind energy conversion system for
36 which financing is requested, be located in Minnesota.

1 The rules must further define and set forth reasonable and
2 usual terms, conditions, eligibility requirements,
3 responsibilities, and procedures, as desirable or necessary, for
4 administering and for participating in this program and for
5 allocating the property interests of the parties following
6 default.

7 Subd. 2. [WIND ENERGY LOAN GUARANTEE ACCOUNT.] The wind
8 energy loan guarantee account is established as a separate
9 account in the special revenue fund. The account consists of
10 the proceeds of the loan guarantee fees collected annually, any
11 federal money that may be made available for this program, money
12 appropriated or donated to the account, and any interest earned
13 on investments of money in the account. Money in the account
14 must be disbursed as the first source for payment on default of
15 a loan made pursuant to rules adopted under subdivision 1.

16 [EFFECTIVE DATE.] Subdivision 1 of this section is
17 effective the day following final enactment.

1.1 Senator moves to amend S.F. No. 1263 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. [216C.42] WIND ENERGY LOAN GUARANTEE PROGRAM.

1.4 Subdivision 1. Created. The wind energy loan guarantee program is created to
1.5 be administered by the commissioner of commerce. The purpose of the program is
1.6 to encourage the financing, construction, and operation in Minnesota of wind energy
1.7 conversion systems. The program shall:

1.8 (1) guarantee financial institutions that provide financing for a wind energy
1.9 conversion system that the state will guarantee, in case of a borrower's default, up to 15
1.10 percent of the value of the amount financed, not to exceed \$300,000 for each system;

1.11 (2) allow the interest rate to be negotiable between the financial institution and
1.12 borrower, except that one percent on the outstanding balance must be charged annually
1.13 as a loan guarantee fee and paid to the state and deposited in the account established in
1.14 subdivision 2;

1.15 (3) require that the financial institution making a loan guaranteed pursuant to this
1.16 section must be located in Minnesota; and

1.17 (4) require that the wind energy conversion system for which financing is requested
1.18 be located in Minnesota.

1.19 Subd. 2. Wind energy loan guarantee account. The wind energy loan guarantee
1.20 account is established as a separate account in the special revenue fund in the state
1.21 treasury. The account consists of the proceeds of the loan guarantee fees collected
1.22 annually, any federal money that may be made available for this program, money
1.23 appropriated or donated to the account, and any interest earned on investments of money
1.24 in the account. Money in the account is appropriated to the commissioner for the purposes
1.25 of this section. State guarantee payments must be disbursed as the first source for payment
1.26 on default of a loan.

1.27 Subd. 3. Rules. The commissioner may adopt rules to operate the program.

1.28 Sec. 2. APPROPRIATION.

1.29 \$..... is appropriated from the general fund to the commissioner of commerce for
1.30 deposit in the wind energy loan guarantee account in the special revenue fund for the
1.31 purposes of that account. The appropriation does not lapse."

1.32 Amend the title accordingly

- 1.1 Senator moves to amend the delete-everything amendment
- 1.2 (SCS2913A-2) to S.F. No. 2913 as follows:
- 1.3 Page 1, line 9, delete everything after the period
- 1.4 Page 1, delete line 10
- 1.5 Page 1, line 11, delete everything before "The"

1.1 To: Senator Anderson, Chair
Committee on Jobs, Energy and Community Development

1.3 Senator Dibble,

1.4 Chair of the Subcommittee on Housing, to which was referred

1.5 S.F. No. 2887: A bill for an act relating to manufactured homes; regulating
1.6 manufactured home park conversions; amending Minnesota Statutes 2004, section
1.7 327C.095, subdivisions 1, 5.

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

1.9 Page 1, line 11, delete "commissioner of" and insert "commissioners of health and"

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

2
3


.....
(Subcommittee Chair)

1.14
1.15

March 17, 2006
(Date of Subcommittee action)

A bill for an act
relating to manufactured homes; regulating manufactured home park conversions;
amending Minnesota Statutes 2004, section 327C.095, subdivisions 1, 5.

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

Section 1. Minnesota Statutes 2004, section 327C.095, subdivision 1, is amended to read:

Subdivision 1. **Conversion of use; minimum notice.** At least nine months before the conversion of all or a portion of a manufactured home park to another use, or before closure of a manufactured home park or cessation of use of the land as a manufactured home park, the park owner must prepare a closure statement and provide a copy to the commissioners of health and the housing finance agency, the local planning agency, and ~~a copy to~~ a resident of each manufactured home where the residential use is being converted. A resident may not be required to vacate until 60 days after the conclusion of the public hearing required under subdivision 4. If a lot is available in another section of the park that will continue to be operated as a park, the park owner must allow the resident to relocate the home to that lot unless the home, because of its size or local ordinance, is not compatible with that lot.

Sec. 2. Minnesota Statutes 2004, section 327C.095, subdivision 5, is amended to read:

Subd. 5. **Park conversions.** If the planned cessation of operation is for the purpose of converting the part of the park occupied by the resident to a common interest community pursuant to chapter 515B, the provisions of section 515B.4-111, except subsection (a), shall apply. The nine-month notice required by this section shall state that the cessation is for the purpose of conversion and shall set forth the rights conferred by

2.1 this subdivision and section 515B.4-111, subsection (b). Not less than 120 days before the
2.2 end of the nine months, the park owner shall serve upon the resident a form of purchase
2.3 agreement setting forth the terms of sale contemplated by section 515B.4-111, subsection
2.4 (d). Service of that form shall operate as the notice described by section 515B.4-111,
2.5 subsection (a). This subdivision does not apply to a common interest community that is a
2.6 cooperative incorporated under chapter 308A or 308B and that does not require persons
2.7 who are residents at the time of conversion to become members of the cooperative.

Senators Dibble and LeClair introduced-

S.F. No. 2887: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act
1.2 relating to manufactured homes; regulating manufactured home park conversions;
1.3 amending Minnesota Statutes 2004, section 327C.095, subdivisions 1, 5.

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

1.5 Section 1. Minnesota Statutes 2004, section 327C.095, subdivision 1, is amended to
1.6 read:

1.7 Subdivision 1. **Conversion of use; minimum notice.** At least nine months before
1.8 the conversion of all or a portion of a manufactured home park to another use, or before
1.9 closure of a manufactured home park or cessation of use of the land as a manufactured
1.10 home park, the park owner must prepare a closure statement and provide a copy to the
1.11 commissioner of the housing finance agency, the local planning agency, and a copy to
1.12 a resident of each manufactured home where the residential use is being converted. A
1.13 resident may not be required to vacate until 60 days after the conclusion of the public
1.14 hearing required under subdivision 4. If a lot is available in another section of the park
1.15 that will continue to be operated as a park, the park owner must allow the resident to
1.16 relocate the home to that lot unless the home, because of its size or local ordinance, is not
1.17 compatible with that lot.

1.18 Sec. 2. Minnesota Statutes 2004, section 327C.095, subdivision 5, is amended to read:

1.19 Subd. 5. **Park conversions.** If the planned cessation of operation is for the
1.20 purpose of converting the part of the park occupied by the resident to a common interest
1.21 community pursuant to chapter 515B, the provisions of section 515B.4-111, except
1.22 subsection (a), shall apply. The nine-month notice required by this section shall state that
1.23 the cessation is for the purpose of conversion and shall set forth the rights conferred by

2.1 this subdivision and section 515B.4-111, subsection (b). Not less than 120 days before the
2.2 end of the nine months, the park owner shall serve upon the resident a form of purchase
2.3 agreement setting forth the terms of sale contemplated by section 515B.4-111, subsection
2.4 (d). Service of that form shall operate as the notice described by section 515B.4-111,
2.5 subsection (a). This subdivision does not apply to a common interest community that is a
2.6 cooperative incorporated under chapter 308A or 308B and that does not require persons
2.7 who are residents at the time of conversion to become members of the cooperative.

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

1.3 S.F. No. 2887: A bill for an act relating to manufactured homes; regulating
1.4 manufactured home park conversions; amending Minnesota Statutes 2004, section
1.5 327C.095, subdivisions 1, 5.

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

1.7 Page 1, line 11, delete "commissioner of" and insert "commissioners of health and"

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

1.9 
1.10 (Committee Chair)

1.11 March 22, 2006
1.12 (Date of Committee recommendation)

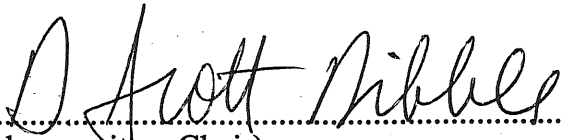
1.1 To: Senator Anderson, Chair
Committee on Jobs, Energy and Community Development

1.3 Senator Dibble,

1.4 Chair of the Subcommittee on Housing, to which was referred

1.5 S.F. No. 3216: A bill for an act relating to housing; regulating condominium
1.6 conversions; amending Minnesota Statutes 2005 Supplement, section 515B.1-106.

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

1.9 
1.10 (Subcommittee Chair)

1 1 March 17, 2006
2 (Date of Subcommittee recommendation)

Senator Dibble introduced-

S.F. No. 3216: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

1.2 relating to housing; regulating condominium conversions; amending Minnesota
1.3 Statutes 2005 Supplement, section 515B.1-106.

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

1.5 Section 1. Minnesota Statutes 2005 Supplement, section 515B.1-106, is amended to
1.6 read:

1.7 **515B.1-106 APPLICABILITY OF LOCAL REQUIREMENTS.**

1.8 (a) Except as provided in subsections (b) and (c), a zoning, subdivision, building
1.9 code, or other real estate use law, ordinance, charter provision, or regulation may not
1.10 directly or indirectly prohibit the common interest community form of ownership or
1.11 impose any requirement upon a common interest community, upon the creation or
1.12 disposition of a common interest community or upon any part of the common interest
1.13 community conversion process which it would not impose upon a physically similar
1.14 development under a different form of ownership. Otherwise, no provision of this chapter
1.15 invalidates or modifies any provision of any zoning, subdivision, building code, or other
1.16 real estate use law, ordinance, charter provision, or regulation.

1.17 (b) Subsection (a) shall not apply to any ordinance, rule, regulation, charter provision
1.18 or contract provision relating to the financing of housing construction, rehabilitation, or
1.19 purchases provided by or through a housing finance program established and operated
1.20 pursuant to state or federal law by a state or local agency or local unit of government.

21 (c) A statutory or home rule charter city, pursuant to an ordinance or charter
1.22 provision establishing standards to be applied uniformly within its jurisdiction, may
1.23 prohibit or impose reasonable conditions upon the conversion of buildings occupied
1.24 wholly or partially for residential use to the common interest community form of

2.1 ownership only if there exists within the city a significant shortage of suitable rental
2.2 dwellings available to low and moderate income individuals or families or to establish or
2.3 maintain the city's eligibility for any federal or state program providing direct or indirect
2.4 financial assistance for housing to the city. Prior to the adoption of an ordinance pursuant
2.5 to the authority granted in this subsection, the city shall conduct a public hearing. Any
2.6 ordinance or charter provision adopted pursuant to this subsection shall not apply to
2.7 any existing or proposed conversion common interest community (i) for which a bona
2.8 fide loan commitment for a consideration has been issued by a lender and is in effect on
2.9 the date of adoption of the ordinance or charter provision, or (ii) for which a notice of
2.10 conversion or intent to convert required by section 515B.4-111, containing a termination
2.11 of tenancy, has been given to at least 75 percent of the tenants and subtenants in possession
2.12 prior to the date of adoption of the ordinance or charter provision.

2.13 (d) For purposes of providing marketable title, a statement in the declaration that
2.14 the common interest community is not subject to an ordinance or that any conditions
2.15 required under an ordinance have been complied with shall be prima facie evidence that
2.16 the common interest community was not created in violation of the ordinance.

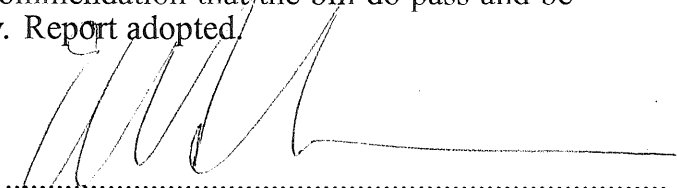
2.17 (e) A violation of an ordinance or charter provision adopted pursuant to the
2.18 provisions of subsection (b) or (c) shall not affect the validity of a common interest
2.19 community. This subsection shall not be construed to in any way limit the power of
2.20 a city to enforce the provisions of an ordinance or charter provision adopted pursuant
2.21 to subsection (b) or (c).

2.22 ~~(f) Any ordinance or charter provision enacted hereunder shall not be effective for~~
2.23 ~~a period exceeding 18 months.~~

1.1 **Senator Anderson from the Committee on Jobs, Energy and Community**
1.2 **Development, to which was referred**

1.3 **S.F. No. 3216:** A bill for an act relating to housing; regulating condominium
1.4 conversions; amending Minnesota Statutes 2005 Supplement, section 515B.1-106.

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


.....
(Committee Chair)

1.9 March 22, 2006
1.10 (Date of Committee recommendation)

- 1.1 Senator moves to amend the delete-everything amendment
- 1.2 (SCS2956A-1) to S.F. No. 2956 as follows:
- 1.3 Page 5, lines 11 and 22, after the first comma, insert "consistent with other law,"
- 1.4 Page 5, line 14, delete "goals" and insert "objectives"
- 1.5 Page 5, line 16, after "shall" insert ", consistent with other law,"
- 1.6 Page 5, after line 33, insert:
- 1.7 "(e) An objective allocated by the commissioner under this subdivision does not
- 1.8 create an additional conservation investment spending obligation."
- 1.9 Page 8, delete sections 6 and 7
- 1.10 Page 9, line 8, before the period, insert ", including the separation of utility revenues
- 1.11 from sales"
- 1.12 Renumber the sections in sequence and correct the internal references
- 1.13 Amend the title accordingly