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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 863

February 16, 2009

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 The bill was read for the first time and referred to the Committee on Finance

April 7, 2009

 Committee Recommendation and Adoption of Report:

 To Pass as Amended and re-referred to the Committee on Ways and Means

A bill for an act

1.1 relating to energy; modifying or adding provisions relating to renewable energy
1.2 production incentives and initiatives, C-BED contracts, renewable energy
1.3 purchases, certain appraisal fees, energy conservation, utility costs and refunds,
1.4 renewable and high-efficiency energy rate options, solar energy, utility energy
1.5 savings, renewable residential heating, biomethane purchases, Sustainable
1.6 Building 2030, power purchase agreements, power transmission, certificate
1.7 of need exemptions, energy facilities, renewable development account, the
1.8 reliability administrator, wind energy conversion systems, municipal power
1.9 agencies, and Mountain Iron Economic Development Authority; requiring
1.10 legislative reports and proposals; appropriating money; amending Minnesota
1.11 Statutes 2008, sections 116C.779, subdivision 2, by adding a subdivision;
1.12 117.189; 216B.16, subdivision 6c, by adding a subdivision; 216B.1645,
1.13 subdivision 2a; 216B.169, subdivision 2; 216B.1691, subdivision 2a; 216B.23,
1.14 by adding a subdivision; 216B.241, subdivisions 1c, 9, by adding subdivisions;
1.15 216B.2411, subdivisions 1, 2; 216B.2424, subdivision 5a; 216B.2425,
1.16 subdivision 3; 216B.243, subdivisions 8, 9; 216C.052, subdivision 2; 216C.41,
1.17 subdivision 5a; 216F.01, subdivisions 2, 3; 216F.012; 216F.02; 216F.08; 453.52,
1.18 subdivisions 2, 7, 8; 453.53, subdivisions 1, 2, 3, 4, 8, 9; 453.55, subdivision 13;
1.19 proposing coding for new law in Minnesota Statutes, chapters 216B; 216C;
1.20 repealing Laws 2007, chapter 3, section 3.
1.21

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

1.23 Section 1. Minnesota Statutes 2008, section 116C.779, subdivision 2, is amended to
1.24 read:

1.25 Subd. 2. **Renewable energy production incentive.** (a) Until January 1, ~~2018~~ 2021,
1.26 ~~up to~~ \$10,900,000 annually must be allocated from available funds in the account to
1.27 fund renewable energy production incentives. \$9,400,000 of this annual amount is for
1.28 incentives for ~~up to 200 megawatts of~~ electricity generated by wind energy conversion
1.29 systems that are eligible for the incentives under section 216C.41 or Laws 2005, chapter
1.30 40.

2.1 (b) The balance of this amount, up to \$1,500,000 annually, may be used for
 2.2 production incentives for on-farm biogas recovery facilities and hydroelectric facilities
 2.3 that are eligible for the incentive under section 216C.41 ~~or for production incentives for~~
 2.4 ~~other renewables, to be provided in the same manner as under section 216C.41.~~

2.5 (c) Any funds allocated to incentive payments for wind energy conversion systems
 2.6 under paragraph (a) that are not expended for that purpose must be allocated to incentive
 2.7 payments under paragraph (b) if necessary to fully pay eligible claims for incentive
 2.8 payments to qualified on-farm biogas recovery facilities and hydroelectric facilities.

2.9 (d) If funds allocated in calendar year 2010 under paragraphs (b) and (c) are
 2.10 insufficient to fully pay eligible claims for incentive payments to qualified on-farm biogas
 2.11 recovery facilities and hydroelectric facilities, up to \$500,000 of additional funds in the
 2.12 renewable development account must be allocated to make up the insufficiency.

2.13 (e) Any portion of the \$10,900,000 not expended in any calendar year for the
 2.14 incentive is available for other spending purposes under this section. This subdivision
 2.15 does not create an obligation to contribute funds to the account.

2.16 ~~(b)~~ (f) The Department of Commerce shall determine eligibility of projects under
 2.17 section 216C.41 for the purposes of this subdivision. At least quarterly, the Department of
 2.18 Commerce shall notify the public utility of the name and address of each eligible project
 2.19 owner and the amount due to each project under section 216C.41. The public utility shall
 2.20 make payments within 15 working days after receipt of notification of payments due.

2.21 Sec. 2. Minnesota Statutes 2008, section 116C.779, is amended by adding a subdivision
 2.22 to read:

2.23 Subd. 3. Initiative for Renewable Energy and the Environment (a) Beginning
 2.24 July 1, 2011, and each July 1 thereafter, \$5,000,000 must be allocated from the renewable
 2.25 development account to fund a grant to the Board of Regents of the University of
 2.26 Minnesota for the Initiative for Renewable Energy and the Environment for the purposes
 2.27 described in paragraph (b). The Initiative for Renewable Energy and the Environment
 2.28 must set aside at least 15 percent of the funds received annually under the grant for
 2.29 qualified projects conducted at a rural campus or experiment station. Any set-aside funds
 2.30 not awarded to a rural campus or experiment station at the end of the fiscal year revert
 2.31 back to the Initiative for Renewable Energy and the Environment for its exclusive use.
 2.32 This subdivision does not create an obligation to contribute funds to the account.

2.33 (b) Activities funded under this grant may include, but are not limited to:

2.34 (1) environmentally sound production of energy from a renewable energy source,
 2.35 including biomass;

- 3.1 (2) environmentally sound production of hydrogen from biomass and any other
- 3.2 renewable energy source for energy storage and energy utilization;
- 3.3 (3) development of energy conservation and efficient energy utilization technologies;
- 3.4 (4) energy storage technologies; and
- 3.5 (5) analysis of policy options to facilitate adoption of technologies that use or
- 3.6 produce low-carbon renewable energy.

3.7 (c) For the purposes of this subdivision:

3.8 (1) "biomass" means plant and animal material, agricultural and forest residues,
3.9 mixed municipal solid waste, and sludge from wastewater treatment; and

3.10 (2) "renewable energy source" means hydro, wind, solar, biomass, and geothermal
3.11 energy, and microorganisms used as an energy source.

3.12 Sec. 3. Minnesota Statutes 2008, section 117.189, is amended to read:

3.13 **117.189 PUBLIC SERVICE CORPORATION EXCEPTIONS.**

3.14 Sections 117.031; 117.036; 117.055, subdivision 2, paragraph (b); 117.186; 117.187;
3.15 117.188; and 117.52, subdivisions 1a and 4, do not apply to public service corporations.
3.16 For purposes of an award of appraisal fees under section 117.085, the fees awarded may
3.17 not exceed ~~\$500~~ \$1,500 for all types of property.

3.18 Sec. 4. Minnesota Statutes 2008, section 216B.16, subdivision 6c, is amended to read:

3.19 Subd. 6c. **Incentive plan for energy conservation improvement.** (a) The
3.20 commission may order public utilities to develop and submit for commission approval
3.21 incentive plans that describe the method of recovery and accounting for utility
3.22 conservation expenditures and savings. In developing the incentive plans the commission
3.23 shall ensure the effective involvement of interested parties.

3.24 (b) In approving incentive plans, the commission shall consider:

3.25 (1) whether the plan is likely to increase utility investment in cost-effective energy
3.26 conservation;

3.27 (2) whether the plan is compatible with the interest of utility ratepayers and other
3.28 interested parties;

3.29 (3) whether the plan links the incentive to the utility's performance in achieving
3.30 cost-effective conservation; and

3.31 (4) whether the plan is in conflict with other provisions of this chapter.

3.32 (c) The commission may set rates to encourage the vigorous and effective
3.33 implementation of utility conservation programs. The commission may:

4.1 (1) increase or decrease any otherwise allowed rate of return on net investment based
4.2 upon the utility's skill, efforts, and success in conserving energy;

4.3 (2) share between ratepayers and utilities the net savings resulting from energy
4.4 conservation programs to the extent justified by the utility's skill, efforts, and success in
4.5 conserving energy; and

4.6 (3) ~~compensate the utility for earnings lost as a result of its conservation programs~~
4.7 adopt any mechanism that satisfies the criteria of this subdivision.

4.8 (d) In its review under section 216B.241, subdivision 2c, the commission shall
4.9 provide an incentive that makes effective implementation of cost-effective conservation
4.10 the most profitable resource choice for public utilities.

4.11 Sec. 5. Minnesota Statutes 2008, section 216B.16, is amended by adding a subdivision
4.12 to read:

4.13 Subd. 7d. **University Avenue light rail transit utility zone cost adjustment.** (a)
4.14 "University Avenue light rail transit utility zone" or "utility zone" means an area extending
4.15 no more than one-half mile on either side of the route for the planned light rail transit
4.16 system connecting the cities of Minneapolis and St. Paul along University Avenue.

4.17 (b) A public utility that provides retail electric service within the utility zone,
4.18 and which is required to replace, relocate, construct, or install facilities because of the
4.19 mass transit system, may apply to the commission for approval of new facilities in the
4.20 utility zone. Facilities proposed under this subdivision are not limited to those facilities
4.21 that actually replace dislocated facilities and may include any transmission facilities,
4.22 distribution facilities, generation facilities, advanced technology-assisted efficiency
4.23 devices, and energy storage facilities within the utility zone. Upon approval under
4.24 paragraph (c), the utility may construct and install the facilities.

4.25 (c) The commission may approve the construction and installation of facilities in a
4.26 mass transit utility zone proposed by a utility under paragraph (b) upon a finding:

4.27 (1) that the facilities:

4.28 (i) are necessary to provide electric service;

4.29 (ii) assist future development of renewable energy, conservation, electric vehicles, or
4.30 advanced technology-assisted efficiency programs and devices; or

4.31 (iii) are exploratory, experimental, or research facilities to advance the use of
4.32 renewable energy, conservation, electric vehicles, or advanced technology-assisted
4.33 efficiency programs and devices;

5.1 (2) that the utility has engaged in a cooperative process with affected local and state
5.2 government agencies in the design, planning, or construction of the utility zone project
5.3 and changes to utility facilities;

5.4 (3) that the utility and local units of government have made reasonable efforts to seek
5.5 federal, state, or private funds that may be available to mass transit and energy projects;

5.6 (4) that the utility has made reasonable efforts to minimize the costs and maximize
5.7 the value to customers of the facilities;

5.8 (5) that the utility has a plan to offer a comprehensive array of programs for
5.9 residential, commercial, and industrial customers located within the mass transit zone;

5.10 (6) that the utility direct existing and planned solar energy programs to develop solar
5.11 energy along the mass transit utility zone; and

5.12 (7) that the utility has made reasonable efforts to apply for federal funds to develop
5.13 technology-assisted efficiency programs and devices within the mass transit utility zone.

5.14 (d) Notwithstanding any other provision of this chapter, the commission may approve
5.15 a tariff mechanism for automatic adjustment of charges for new, replaced, or relocated
5.16 facilities installed under this subdivision in a manner consistent with this subdivision and
5.17 the standards and procedures contained in subdivision 7b, except that no approval under
5.18 section 216B.243 or certification under section 216B.2425 is required unless otherwise
5.19 required by law. This section does not authorize a city-requested facilities surcharge.

5.20 (e) For the purpose of this subdivision, "technology-assisted efficiency programs and
5.21 devices" includes, but is not limited to, infrastructure that integrates digital information and
5.22 controls technology to improve the reliability, security, and efficiency of the electric grid.

5.23 **Sec. 6. [216B.1613] STANDARDIZED C-BED CONTRACT.**

5.24 (a) Within 60 days of the effective date of this section, the commission shall initiate
5.25 a proceeding to standardize all contract provisions, except those establishing the power
5.26 purchase price, for two classes of C-BED projects:

5.27 (1) projects with a nameplate capacity of five megawatts or less; and

5.28 (2) projects with a nameplate capacity of greater than five megawatts.

5.29 (b) The proceeding shall provide for participation by the public and stakeholders.

5.30 The commission shall issue an order containing standardized contract language for each
5.31 class of C-BED project identified in this section no later than 90 days after the opening of
5.32 the proceeding. The standardized contract form must be similar in all material respects to
5.33 the standard contract form previously filed with the commission under section 216B.2423,
5.34 subdivision 3, including any revisions to that contract on file with the commission as of
5.35 the effective date of this section. Any applicable C-BED contract signed after the date of

6.1 the commission's order whose provisions are not identical to the standardized contract
6.2 contained in the commission's order is invalid.

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

6.4 **Sec. 7. [216B.1614] SMALL RENEWABLE PROJECTS PURCHASE.**

6.5 Between the effective date of this section and December 31, 2010, electric utilities,
6.6 as defined in section 216B.1691, subdivision 1, paragraph (b), must purchase or contract to
6.7 purchase energy from a sufficient number of renewable energy projects with a nameplate
6.8 capacity of five megawatts or less so as to total at least 200 megawatts in the aggregate.
6.9 Such projects must be constructed or under construction by December 31, 2010, and must
6.10 meet the eligibility requirements for a renewable energy incentive under the American
6.11 Recovery and Reinvestment Act of 2009, the federal Rural Energy for America Program,
6.12 or other renewable energy incentive program. Before December 31, 2010, an electric
6.13 utility must undertake such projects in approximate proportion to its share of the total
6.14 amount of electrical energy sold within this state. This requirement does not prevent an
6.15 electric utility from developing or acquiring electrical energy from other sources either
6.16 within or outside the state regardless of whether such sources use renewable energy.

6.17 **Sec. 8.** Minnesota Statutes 2008, section 216B.1645, subdivision 2a, is amended to
6.18 read:

6.19 **Subd. 2a. Cost recovery for utility's renewable facilities.** (a) A utility may petition
6.20 the commission to approve a rate schedule that provides for the automatic adjustment of
6.21 charges to recover prudently incurred investments, expenses, or costs associated with
6.22 facilities constructed, owned, or operated by a utility to satisfy the requirements of section
6.23 216B.1691, provided those facilities were previously approved by the commission under
6.24 section 216B.2422 or 216B.243, or were determined by the commission to be reasonable
6.25 and prudent under section 216B.243, subdivision 9. For a facility not subject to review
6.26 by the commission under section 216B.2422 or 216B.243, a utility shall first petition
6.27 the commission to determine the utility's eligibility to apply for cost recovery for the
6.28 facility under this section. The commission may approve, or approve as modified, a
6.29 rate schedule that:

6.30 (1) allows a utility to recover directly from customers on a timely basis the costs of
6.31 qualifying renewable energy projects, including:

6.32 (i) return on investment;

6.33 (ii) depreciation;

6.34 (iii) ongoing operation and maintenance costs;

- 7.1 (iv) taxes; and
- 7.2 (v) costs of transmission and other ancillary expenses directly allocable to
- 7.3 transmitting electricity generated from a project meeting the specifications of this
- 7.4 paragraph;
- 7.5 (2) provides a current return on construction work in progress, provided that recovery
- 7.6 of these costs from Minnesota ratepayers is not sought through any other mechanism;
- 7.7 (3) allows recovery of other expenses incurred that are directly related to a
- 7.8 renewable energy project, including expenses for energy storage, provided that the
- 7.9 utility demonstrates to the commission's satisfaction that the expenses improve project
- 7.10 economics, ensure project implementation, advance research and understanding of how
- 7.11 storage devices may improve renewable energy projects, or facilitate coordination with
- 7.12 the development of transmission necessary to transport energy produced by the project
- 7.13 to market;
- 7.14 (4) allocates recoverable costs appropriately between wholesale and retail customers;
- 7.15 (5) terminates recovery when costs have been fully recovered or have otherwise
- 7.16 been reflected in a utility's rates.
- 7.17 (b) A petition filed under this subdivision must include:
- 7.18 (1) a description of the facilities for which costs are to be recovered;
- 7.19 (2) an implementation schedule for the facilities;
- 7.20 (3) the utility's costs for the facilities;
- 7.21 (4) a description of the utility's efforts to ensure that costs of the facilities are
- 7.22 reasonable and were prudently incurred; and
- 7.23 (5) a description of the benefits of the project in promoting the development of
- 7.24 renewable energy in a manner consistent with this chapter.

7.25 Sec. 9. Minnesota Statutes 2008, section 216B.169, subdivision 2, is amended to read:

7.26 Subd. 2. **Renewable and high-efficiency energy rate options.** (a) ~~Each A~~
 7.27 utility ~~shall~~ may offer its customers, ~~and shall advertise the offer at least annually,~~
 7.28 one or more options that allow a customer to determine that a certain amount of the
 7.29 electricity generated or purchased on behalf of the customer is renewable energy or energy
 7.30 generated by high-efficiency, low-emissions, distributed generation such as fuel cells and
 7.31 microturbines fueled by a renewable fuel.

7.32 ~~(b) Each public utility shall file an implementation plan within 90 days of July 1,~~
 7.33 ~~2001, to implement paragraph (a).~~

7.34 ~~(c)~~ (b) Rates charged to customers must be calculated using the utility's cost of
 7.35 acquiring the energy for the customer and must:

8.1 (1) reflect the difference between the cost of generating or purchasing the
 8.2 additional renewable energy and the cost of generating or purchasing the same amount
 8.3 of nonrenewable energy and the cost that would otherwise be attributed to the customer
 8.4 for the same amount of energy based on the utility's mix of renewable and nonrenewable
 8.5 energy sources; and

8.6 (2) be distributed on a per kilowatt-hour basis among all customers who choose to
 8.7 participate in the program.

8.8 ~~(d) Implementation of these rate options may reflect a reasonable amount of~~
 8.9 ~~lead time necessary to arrange acquisition of the energy.~~ The utility may acquire the
 8.10 energy demanded by customers, in whole or in part, through procuring or generating the
 8.11 renewable energy directly, or through the purchase of credits from a provider that has
 8.12 received certification of eligible power supply pursuant to subdivision 3. ~~If a utility is not~~
 8.13 ~~able to arrange an adequate supply of renewable or high-efficiency energy to meet its~~
 8.14 ~~customers' demand under this section, the utility must file a report with the commission~~
 8.15 ~~detailing its efforts and reasons for its failure.~~

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

8.17 Sec. 10. Minnesota Statutes 2008, section 216B.1691, subdivision 2a, is amended to
 8.18 read:

8.19 Subd. 2a. **Eligible energy technology standard.** (a) Except as provided in
 8.20 paragraph (b), each electric utility shall generate or procure sufficient electricity generated
 8.21 by an eligible energy technology to provide its retail customers in Minnesota, or the
 8.22 retail customers of a distribution utility to which the electric utility provides wholesale
 8.23 electric service, so that at least the following standard percentages of the electric utility's
 8.24 total retail electric sales to retail customers in Minnesota are generated by eligible energy
 8.25 technologies by the end of the year indicated:

- 8.26 (1) 2012 12 percent
- 8.27 (2) 2016 17 percent
- 8.28 (3) 2020 20 percent
- 8.29 (4) 2025 25 percent.

8.30 (b) An electric utility that owned a nuclear generating facility as of January 1, 2007,
 8.31 must meet the requirements of this paragraph rather than paragraph (a). An electric utility
 8.32 subject to this paragraph must generate or procure sufficient electricity generated by
 8.33 an eligible energy technology to provide its retail customers in Minnesota or the retail
 8.34 customer of a distribution utility to which the electric utility provides wholesale electric
 8.35 service so that at least the following percentages of the electric utility's total retail electric

9.1 sales to retail customers in Minnesota are generated by eligible energy technologies by the
9.2 end of the year indicated:

- | | | | |
|-----|-----|------|-------------|
| 9.3 | (1) | 2010 | 15 percent |
| 9.4 | (2) | 2012 | 18 percent |
| 9.5 | (3) | 2016 | 25 percent |
| 9.6 | (4) | 2020 | 30 percent. |

9.7 Of the 30 percent in 2020, at least 25 percent must be generated by wind or solar
9.8 energy conversion systems and the remaining five percent by other eligible energy
9.9 technology.

9.10 Sec. 11. Minnesota Statutes 2008, section 216B.23, is amended by adding a subdivision
9.11 to read:

9.12 Subd. 1a. **Authority to issue refund.** (a) On determining that a public utility has
9.13 charged a rate in violation of this chapter, a commission rule, or a commission order, the
9.14 commission, after conducting a proceeding, may require the public utility to refund to its
9.15 customers, in a manner approved by the commission, any revenues the commission finds
9.16 were collected as a result of the unlawful conduct. Any refund authorized by this section
9.17 is permitted in addition to any remedies authorized by section 216B.16 or any other law
9.18 governing rates. Exercising authority under this section does not preclude the commission
9.19 from pursuing penalties under sections 216B.57 to 216B.61 for the same conduct.

9.20 (b) This section must not be construed as allowing:

9.21 (1) retroactive ratemaking;

9.22 (2) refunds based on claims that prior or current approved rates have been unjust,
9.23 unreasonable, unreasonably preferential, discriminatory, insufficient, inequitable, or
9.24 inconsistent in application to a class of customers; or

9.25 (3) refunds based on claims that approved rates have not encouraged energy
9.26 conservation or renewable energy use, or have not furthered the goals of section 216B.164,
9.27 216B.241, or 216C.05.

9.28 (c) A refund under this subdivision does not apply to revenues collected more than
9.29 six years before the date of the notice of the commission proceeding required under this
9.30 subdivision.

9.31 Sec. 12. Minnesota Statutes 2008, section 216B.241, subdivision 1c, is amended to
9.32 read:

10.1 Subd. 1c. **Energy-saving goals.** (a) The commissioner shall establish energy-saving
10.2 goals for energy conservation improvement expenditures and shall evaluate an energy
10.3 conservation improvement program on how well it meets the goals set.

10.4 (b) Each individual utility and association shall have an annual energy-savings
10.5 goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the
10.6 commissioner under paragraph (d). The savings goals must be calculated based on the
10.7 most recent three-year weather normalized average. A utility or association may elect to
10.8 carry forward energy savings in excess of 1.5 percent for a year to the succeeding three
10.9 calendar years, provided that a particular energy savings can apply only to one year's goal.

10.10 (c) The commissioner must adopt a filing schedule that is designed to have all
10.11 utilities and associations operating under an energy-savings plan by calendar year 2010.

10.12 (d) In its energy conservation improvement plan filing, a utility or association may
10.13 request the commissioner to adjust its annual energy-savings percentage goal based on
10.14 its historical conservation investment experience, customer class makeup, load growth,
10.15 a conservation potential study, or other factors the commissioner determines warrants
10.16 an adjustment. The commissioner may not approve a plan that provides for an annual
10.17 energy-savings goal of less than one percent of gross annual retail energy sales from
10.18 energy conservation improvements.

10.19 A utility or association may include in its energy conservation plan energy savings
10.20 from electric utility infrastructure projects approved by the commission under section
10.21 216B.1636 or waste heat recovery converted into electricity projects that may count as
10.22 energy savings in addition to the minimum energy-savings goal of at least one percent for
10.23 energy conservation improvements. Electric utility infrastructure projects must result in
10.24 increased energy efficiency greater than that which would have occurred through normal
10.25 maintenance activity.

10.26 (e) An energy-savings goal is not satisfied by attaining the revenue expenditure
10.27 requirements of subdivisions 1a and 1b, but can only be satisfied by meeting the
10.28 energy-savings goal established in this subdivision.

10.29 (f) An association or utility is not required to make energy conservation investments
10.30 to attain the energy-savings goals of this subdivision that are not cost-effective even
10.31 if the investment is necessary to attain the energy-savings goals. For the purpose of
10.32 this paragraph, in determining cost-effectiveness, the commissioner shall consider the
10.33 costs and benefits to ratepayers, the utility, participants, and society. In addition, the
10.34 commissioner shall consider the rate at which an association or municipal utility is
10.35 increasing its energy savings and its expenditures on energy conservation.

11.1 (g) On an annual basis, the commissioner shall produce and make publicly available
11.2 a report on the annual energy savings and estimated carbon dioxide reductions achieved
11.3 by the energy conservation improvement programs for the two most recent years for
11.4 which data is available. The commissioner shall report on program performance both in
11.5 the aggregate and for each entity filing an energy conservation improvement plan for
11.6 approval or review by the commissioner.

11.7 (h) By January 15, 2010, the commissioner shall report to the legislature whether
11.8 the spending requirements under subdivisions 1a and 1b are necessary to achieve the
11.9 energy-savings goals established in this subdivision.

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

11.11 Sec. 13. Minnesota Statutes 2008, section 216B.241, is amended by adding a
11.12 subdivision to read:

11.13 **Subd. 2d. Renewable residential heating.** (a) Up to five percent of a utility's
11.14 conservation spending obligation under subdivision 1a or any amount expended in order
11.15 to satisfy a utility's energy-savings goal under subdivision 1c may be used for a project
11.16 located in this state that provides rebates to homeowners who install the following types of
11.17 projects to heat the homeowner's primary residence:

11.18 (1) a solar thermal project, as defined in section 216B.2411, subdivision 2, paragraph
11.19 (e);

11.20 (2) a geothermal project;

11.21 (3) a heating unit that burns exclusively either biodiesel, shelled corn, or wood chips
11.22 or wood pellets, provided that the heating unit is listed by Underwriters Laboratories.

11.23 (b) A rebate awarded under this subdivision must not exceed the lesser of 25 percent
11.24 of the purchase and installation costs of the project or \$500.

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

11.26 Sec. 14. Minnesota Statutes 2008, section 216B.241, is amended by adding a
11.27 subdivision to read:

11.28 **Subd. 5b. Biomethane purchases.** (a) A natural gas utility may include in its
11.29 conservation plan purchases of biomethane, and may use up to five percent of the total
11.30 amount to be spent on energy conservation improvements under this section for that
11.31 purpose. The cost-effectiveness of biomethane purchases may be determined by a
11.32 different standard than for other energy conservation improvements under this section if
11.33 the commissioner determines that doing so is in the public interest in order to encourage

12.1 biomethane purchases. Energy savings from purchasing biomethane may not be counted
12.2 toward the minimum energy-savings goal of at least one percent for energy conservation
12.3 improvements required under subdivision 1c, but may, if the conservation plan is approved:
12.4 (1) be counted toward energy savings above that minimum percentage; and
12.5 (2) be considered when establishing performance incentives under subdivision 2c.
12.6 (b) For the purposes of this subdivision, "biomethane" means biogas produced
12.7 through anaerobic digestion of biomass, gasification of biomass, or other effective
12.8 conversion processes, that is cleaned and purified into biomethane that meets natural gas
12.9 utility quality specifications for use in a natural gas utility distribution system.

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

12.11 Sec. 15. Minnesota Statutes 2008, section 216B.241, subdivision 9, is amended to read:

12.12 Subd. 9. **Building performance standards; Sustainable Building 2030.** (a) The
12.13 purpose of this subdivision is to establish cost-effective energy-efficiency performance
12.14 standards for new and substantially reconstructed commercial, industrial, and institutional
12.15 buildings that can significantly reduce carbon dioxide emissions by lowering energy use in
12.16 new and substantially reconstructed buildings. For the purposes of this subdivision, the
12.17 establishment of these standards may be referred to as Sustainable Building 2030.

12.18 (b) The commissioner shall contract with the Center for Sustainable Building
12.19 Research at the University of Minnesota to coordinate development and implementation
12.20 of energy-efficiency performance standards, strategic planning, research, data analysis,
12.21 technology transfer, training, and other activities related to the purpose of Sustainable
12.22 Building 2030. The commissioner and the Center for Sustainable Building Research
12.23 shall, in consultation with utilities, builders, developers, building operators, and experts
12.24 in building design and technology, develop a Sustainable Building 2030 implementation
12.25 plan that must address, at a minimum, the following issues:

12.26 (1) training architects to incorporate the performance standards in building design;

12.27 (2) incorporating the performance standards in utility conservation improvement
12.28 programs; and

12.29 (3) developing procedures for ongoing monitoring of energy use in buildings that
12.30 have adopted the performance standards.

12.31 The plan must be submitted to the chairs and ranking minority members of the senate and
12.32 house of representatives committees with primary jurisdiction over energy policy by
12.33 July 1, 2009.

13.1 (c) Sustainable Building 2030 energy-efficiency performance standards must be firm,
13.2 quantitative measures of total building energy use and associated carbon dioxide emissions
13.3 per square foot for different building types and uses, that allow for accurate determinations
13.4 of a building's conformance with a performance standard. The energy-efficiency
13.5 performance standards must be updated every three or five years to incorporate all
13.6 cost-effective measures. The performance standards must reflect the reductions in carbon
13.7 dioxide emissions per square foot resulting from actions taken by utilities to comply
13.8 with the renewable energy standards in section 216B.1691. The performance standards
13.9 should be designed to achieve reductions equivalent to the following reduction schedule,
13.10 measured against energy consumption by an average building in each applicable building
13.11 sector in 2003: (1) 60 percent in 2010; (2) 70 percent in 2015; (3) 80 percent in 2020;
13.12 and (4) 90 percent in 2025. A performance standard must not be established or increased
13.13 absent a conclusive engineering analysis that it is cost-effective based upon established
13.14 practices used in evaluating utility conservation improvement programs.

13.15 (d) The annual amount of the contract with the Center for Sustainable Building
13.16 Research is up to \$500,000. The Center for Sustainable Building Research shall expend
13.17 no more than \$150,000 of this amount each year on administration, coordination, and
13.18 oversight activities related to Sustainable Building 2030. The balance of contract funds
13.19 must be spent on substantive programmatic activities allowed under this subdivision
13.20 that may be conducted by the Center for Sustainable Building Research and for
13.21 subcontracts with not-for-profit energy organizations, architecture and engineering firms,
13.22 and other qualified entities to undertake technical projects and activities in support of
13.23 Sustainable Building 2030. The primary work to be accomplished each year by qualified
13.24 technical experts under subcontracts is the development and thorough justification of
13.25 recommendations for specific energy-efficiency performance standards. Additional work
13.26 may include:

13.27 (1) research, development, and demonstration of new energy-efficiency technologies
13.28 and techniques suitable for commercial, industrial, and institutional buildings;

13.29 (2) analysis and evaluation of practices in building design, construction,
13.30 commissioning and operations, and analysis and evaluation of energy use in the
13.31 commercial, industrial, and institutional sectors;

13.32 (3) analysis and evaluation of the effectiveness and cost-effectiveness of Sustainable
13.33 Building 2030 performance standards, conservation improvement programs, and building
13.34 energy codes;

14.1 (4) development and delivery of training programs for architects, engineers,
14.2 commissioning agents, technicians, contractors, equipment suppliers, developers, and
14.3 others in the building industries; and

14.4 (5) analyze and evaluate the effect of building operations on energy use.

14.5 (e) The commissioner shall require utilities to develop and implement conservation
14.6 improvement programs that are expressly designed to achieve energy efficiency goals
14.7 consistent with the Sustainable Building 2030 performance standards. These programs
14.8 must include offerings of design assistance and modeling, financial incentives, and the
14.9 verification of the proper installation of energy-efficient design components in new and
14.10 substantially reconstructed buildings. A utility's design assistance program must consider
14.11 the strategic planting of trees and shrubs around buildings as an energy conservation
14.12 strategy for the designed project. A utility making an expenditure under its conservation
14.13 improvement program that results in a building meeting the Sustainable Building 2030
14.14 performance standards may claim the energy savings toward its energy-savings goal
14.15 established in subdivision 1c.

14.16 (f) The commissioner shall report to the legislature every three years, beginning
14.17 January 15, 2010, on the cost-effectiveness and progress of implementing the Sustainable
14.18 Building 2030 performance standards and shall make recommendations on the need to
14.19 continue the program as described in this section.

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

14.21 Sec. 16. Minnesota Statutes 2008, section 216B.2411, subdivision 1, is amended to
14.22 read:

14.23 Subdivision 1. **Generation projects.** (a) Any municipality or rural electric
14.24 association providing electric service and subject to section 216B.241 may, and each
14.25 public utility may, use five percent of the total amount to be spent on energy conservation
14.26 improvements under section 216B.241, on:

14.27 (1) projects in Minnesota to construct an electric generating facility that utilizes
14.28 eligible renewable energy sources as defined in subdivision 2, such as methane or other
14.29 combustible gases derived from the processing of plant or animal wastes, biomass fuels
14.30 such as short-rotation woody or fibrous agricultural crops, or other renewable fuel, as
14.31 its primary fuel source;

14.32 (2) projects in Minnesota to install a distributed generation facility of ten megawatts
14.33 or less of interconnected capacity that is fueled by natural gas, renewable fuels, or another
14.34 similarly clean fuel; or

15.1 (3) projects in Minnesota to install a qualifying solar energy project as defined in
15.2 subdivision 2.

15.3 (b) A utility that offers a program to customers to promote installing qualifying solar
15.4 energy projects may request authority from the commissioner to exceed the five percent
15.5 limit in paragraph (a) to meet customer demand for installation of qualifying solar energy
15.6 projects. In considering this request, the commissioner shall consider customer interest in
15.7 qualifying solar energy and the impact on other customers.

15.8 ~~For public utilities, as defined under section 216B.02, subdivision 4, (c) For a utility~~
15.9 ~~subject to this section, projects under this section must be considered energy conservation~~
15.10 ~~improvements as defined in section 216B.241. For cooperative electric associations and~~
15.11 ~~municipal utilities, projects under this section must be considered load-management~~
15.12 ~~activities described in section 216B.241, subdivision 1.~~

15.13 Sec. 17. Minnesota Statutes 2008, section 216B.2411, subdivision 2, is amended to
15.14 read:

15.15 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this
15.16 subdivision and section 216B.241, subdivision 1, have the meanings given them.

15.17 (b) "Eligible renewable energy sources" means fuels and technologies to generate
15.18 electricity through the use of any of the resources listed in section 216B.1691, subdivision
15.19 1, paragraph (a), except that the incineration of wastewater sludge is not an eligible
15.20 renewable energy source, "biomass" has the meaning provided under paragraph (c), and
15.21 "solar" must be from a qualified solar energy project as defined in paragraph (d).

15.22 (c) "Biomass" includes:

15.23 (1) methane or other combustible gases derived from the processing of plant or
15.24 animal material;

15.25 (2) alternative fuels derived from soybean and other agricultural plant oils or animal
15.26 fats;

15.27 (3) combustion of barley hulls, corn, soy-based products, or other agricultural
15.28 products;

15.29 (4) wood residue from the wood products industry in Minnesota or other wood
15.30 products such as short-rotation woody or fibrous agricultural crops;

15.31 (5) landfill gas;

15.32 (6) the predominantly organic components of wastewater effluent, sludge, or related
15.33 byproducts from publicly owned treatment works; and

15.34 (7) mixed municipal solid waste, and refuse-derived fuel from mixed municipal
15.35 solid waste.

16.1 (d) "Qualifying solar energy project" means a qualifying solar thermal project or
 16.2 qualifying solar electric project.

16.3 (e) "Qualifying solar thermal project" means a flat plate or evacuated tube that meets
 16.4 the requirements of section 216C.25 with a fixed orientation that collects the sun's radiant
 16.5 energy and transfers it to a storage medium for distribution as energy to heat or cool air or
 16.6 water, but does not include equipment used to heat water at a residential property (1) for
 16.7 domestic use if less than one-half of the energy used for that purpose is derived from the
 16.8 sun or (2) for use in a hot tub or swimming pool.

16.9 (f) "Qualifying solar electric project" means:

16.10 (1) solar electric equipment that: (i) meets the requirements of section 216C.25
 16.11 ~~with a total;~~ (ii) has a peak generating capacity of 100 kilowatts or less; and (iii) is
 16.12 ~~used for generating to generate electricity primarily for use in a residential property or~~
 16.13 ~~small business to reduce the effective electric load for that residence or small business,~~
 16.14 commercial, or publicly owned building or facility; and

16.15 (2) if applicable, equipment that is used to store the electricity generated by a
 16.16 qualified solar electric project under clause (1) and that is located proximate to the
 16.17 building or facility using the electricity.

16.18 (g) "Residential property building" means the principal residence of a homeowner at
 16.19 the time the solar equipment is placed in service.

16.20 ~~(h) "Small business" has the meaning given to it in section 645.445.~~

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

16.22 Sec. 18. Minnesota Statutes 2008, section 216B.2424, subdivision 5a, is amended to
 16.23 read:

16.24 Subd. 5a. **Reduction of biomass mandate.** (a) Notwithstanding subdivision 5, the
 16.25 biomass electric energy mandate must be reduced from 125 megawatts to 110 megawatts.

16.26 (b) The Public Utilities Commission shall approve a request pending before the
 16.27 commission as of May 15, 2003, for amendments to and assignment of a power purchase
 16.28 agreement with the owner of a facility that uses short-rotation, woody crops as its primary
 16.29 fuel previously approved to satisfy a portion of the biomass mandate if the owner of
 16.30 the project agrees to reduce the size of its project from 50 megawatts to 35 megawatts,
 16.31 while maintaining an average price for energy in nominal dollars measured over the term
 16.32 of the power purchase agreement at or below \$104 per megawatt-hour, exclusive of any
 16.33 price adjustments that may take effect subsequent to commission approval of the power
 16.34 purchase agreement, as amended. The commission shall also approve, as necessary, any
 16.35 subsequent assignment or sale of the power purchase agreement or ownership of the

17.1 project to an entity owned or controlled, directly or indirectly, by two municipal utilities
17.2 located north of Constitutional Route No. 8, as described in section 161.114, which
17.3 currently own electric and steam generation facilities using coal as a fuel and which
17.4 propose to retrofit their existing municipal electrical generating facilities to utilize biomass
17.5 fuels in order to perform the power purchase agreement.

17.6 (c) If the power purchase agreement described in paragraph (b) is assigned to an
17.7 entity that is, or becomes, owned or controlled, directly or indirectly, by two municipal
17.8 entities as described in paragraph (b), and the power purchase agreement meets the
17.9 price requirements of paragraph (b), the commission shall approve any amendments to
17.10 the power purchase agreement necessary to reflect the changes in project location and
17.11 ownership and any other amendments made necessary by those changes. The commission
17.12 shall also specifically find that:

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

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

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

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

17.24 (d) The commission shall specifically approve recovery by the public utility of
17.25 any and all Minnesota jurisdictional costs incurred by the public utility to improve,
17.26 construct, install, or upgrade transmission, distribution, or other electrical facilities owned
17.27 by the public utility or other persons in order to permit interconnection of the retrofitted
17.28 biomass-fueled generating facilities or to obtain transmission service for the energy
17.29 provided by the facilities to the public utility pursuant to section 216B.1645, and shall
17.30 disapprove any provision in the power purchase agreement that requires the developer
17.31 or owner of the project to pay the jurisdictional costs or that permit the public utility to
17.32 terminate the power purchase agreement as a result of the existence of those costs or the
17.33 public utility's obligation to pay any or all of those costs.

17.34 (e) Upon request by the project owner, the public utility shall agree to amend the
17.35 power purchase agreement described in paragraph (b) and approved by the commission
17.36 as required by paragraph (c). The amendment must be negotiated and executed within

18.1 45 days of the effective date of this section and must apply to prices paid after January
18.2 1, 2009. The average price for energy in nominal dollars measured over the term of the
18.3 power purchase agreement must not exceed \$104 per megawatt hour by more than five
18.4 percent. The public utility shall request approval of the amendment by the commission
18.5 within 30 days of execution of the amended power purchase agreement. The amendment
18.6 is not effective until approval by the commission. The commission shall act on the
18.7 amendment within 90 days of submission of the request by the public utility. Upon
18.8 approval of the amended power purchase agreement, the commission shall allow the
18.9 public utility to recover the costs of the amended power purchase agreement, as provided
18.10 in section 216B.1645.

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

18.12 Sec. 19. Minnesota Statutes 2008, section 216B.2425, subdivision 3, is amended to
18.13 read:

18.14 Subd. 3. **Commission approval; order.** (a) By June 1 of each even-numbered
18.15 year, the commission shall adopt a state transmission project list and shall certify, certify
18.16 as modified, or deny certification of the projects proposed under subdivision 2. The
18.17 commission may only certify a project that is a high-voltage transmission line as defined
18.18 in section 216B.2421, subdivision 2, that the commission finds is:

18.19 (1) necessary to maintain or enhance the reliability of electric service to Minnesota
18.20 consumers;

18.21 (2) needed, applying the criteria in section 216B.243, subdivision 3; and

18.22 (3) in the public interest, taking into account electric energy system needs and
18.23 economic, environmental, and social interests affected by the project.

18.24 (b) In its order adopting a statewide transmission project list, the commission shall
18.25 summarize the present and future inadequacies of the transmission system identified in
18.26 the utilities' transmission project reports, plans to address those inadequacies, and any
18.27 barriers that may prevent those inadequacies from being addressed. Within ten days of
18.28 issuing the order, the commission shall send a copy of the order to the chairs and ranking
18.29 minority members of the senate and house of representatives committees with primary
18.30 jurisdiction over energy policy.

18.31 Sec. 20. Minnesota Statutes 2008, section 216B.243, subdivision 8, is amended to read:

18.32 Subd. 8. **Exemptions.** This section does not apply to:

18.33 (1) cogeneration or small power production facilities as defined in the Federal Power
18.34 Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and

19.1 paragraph (18), subparagraph (A), and having a combined capacity at a single site of less
 19.2 than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or
 19.3 any case where the commission has determined after being advised by the attorney general
 19.4 that its application has been preempted by federal law;

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

19.8 (3) the upgrade to a higher voltage of an existing transmission line that serves
 19.9 the demand of a single customer that primarily uses existing rights-of-way, unless the
 19.10 applicant opts to request that the commission determine need under this section or section
 19.11 216B.2425;

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

19.14 (5) conversion of the fuel source of an existing electric generating plant to using
 19.15 natural gas;

19.16 (6) the modification of an existing electric generating plant to increase efficiency,
 19.17 as long as the capacity of the plant is not increased more than ten percent or more than
 19.18 100 megawatts, whichever is greater; or

19.19 (7) a large energy facility that:

19.20 (i) generates electricity from wind energy conversion systems;

19.21 (ii) will serve retail customers in Minnesota; and

19.22 (iii) meets any of the following conditions:

19.23 (A) is specifically intended to be used to meet the renewable energy objective under
 19.24 section 216B.1691 ~~or~~;

19.25 (B) addresses a resource need identified in a current commission-approved or
 19.26 commission-reviewed resource plan under section 216B.2422, ~~and (iv);~~ or

19.27 (C) derives at least ten percent of the total nameplate capacity of the proposed project
 19.28 from one or more C-BED projects, as defined under section 216B.1612, subdivision 2,
 19.29 paragraph (f).

19.30 Sec. 21. Minnesota Statutes 2008, section 216B.243, subdivision 9, is amended to read:

19.31 Subd. 9. **Renewable energy standard facilities.** The requirements of this section
 19.32 do not apply to a wind energy conversion system or a solar electric generation facility that
 19.33 is intended to be used to meet or exceed the obligations of section 216B.1691; provided
 19.34 that, after notice and comment, the commission determines that the facility is a reasonable

20.1 and prudent approach to meeting a utility's obligations under that section. When making
20.2 this determination, the commission may consider:

20.3 (1) the size of the facility relative to a utility's total need for renewable resources ~~and;~~

20.4 (2) alternative approaches for supplying the renewable energy to be supplied by
20.5 the proposed facility, ~~and must consider;~~

20.6 (3) the facility's ability to promote economic development, as required under section
20.7 216B.1691, subdivision 9, ~~maintain;~~

20.8 (4) maintenance of electric system reliability ~~and consider;~~

20.9 (5) impacts on ratepayers, ~~;~~ and

20.10 (6) other criteria ~~as that the commission may determine~~ determines are relevant.

20.11 Sec. 22. Minnesota Statutes 2008, section 216C.052, subdivision 2, is amended to read:

20.12 Subd. 2. **Administrative issues.** (a) The commissioner may select the administrator.

20.13 The administrator must have ~~at least five years of~~ experience working as a power systems
20.14 ~~engineer~~ planner or transmission planner, or in a position dealing with power system

20.15 reliability issues, and may not have been a party or a participant in a commission energy

20.16 proceeding for at least one year prior to selection by the commissioner. The commissioner

20.17 shall oversee and direct the work of the administrator, annually review the expenses of the

20.18 administrator, and annually approve the budget of the administrator. The administrator

20.19 may hire staff and may contract for technical expertise in performing duties when existing

20.20 state resources are required for other state responsibilities or when special expertise is

20.21 required. The salary of the administrator is governed by section 15A.0815, subdivision 2.

20.22 (b) Costs relating to a specific proceeding, analysis, or project are not general

20.23 administrative costs. For purposes of this section, "energy utility" means public utilities,

20.24 generation and transmission cooperative electric associations, and municipal power

20.25 agencies providing natural gas or electric service in the state.

20.26 (c) The Department of Commerce shall pay:

20.27 (1) the general administrative costs of the administrator, not to exceed \$1,000,000

20.28 in a fiscal year, and shall assess energy utilities for those administrative costs. These

20.29 costs must be consistent with the budget approved by the commissioner under paragraph

20.30 (a). The department shall apportion the costs among all energy utilities in proportion to

20.31 their respective gross operating revenues from sales of gas or electric service within

20.32 the state during the last calendar year, and shall then render a bill to each utility on a

20.33 regular basis; and

20.34 (2) costs relating to a specific proceeding analysis or project and shall render a bill to

20.35 the specific energy utility or utilities participating in the proceeding, analysis, or project

21.1 directly, either at the conclusion of a particular proceeding, analysis, or project, or from
 21.2 time to time during the course of the proceeding, analysis, or project.

21.3 (d) For purposes of administrative efficiency, the department shall assess energy
 21.4 utilities and issue bills in accordance with the billing and assessment procedures provided
 21.5 in section 216B.62, to the extent that these procedures do not conflict with this subdivision.
 21.6 The amount of the bills rendered by the department under paragraph (c) must be paid by
 21.7 the energy utility into an account in the special revenue fund in the state treasury within
 21.8 30 days from the date of billing and is appropriated to the department for the purposes
 21.9 provided in this section. The commission shall approve or approve as modified a rate
 21.10 schedule providing for the automatic adjustment of charges to recover amounts paid by
 21.11 utilities under this section. All amounts assessed under this section are in addition to
 21.12 amounts appropriated to the commission and the department by other law.

21.13 **Sec. 23. [216C.055] KEY ROLE OF SOLAR AND BIOMASS RESOURCES IN**
 21.14 **PRODUCING THERMAL ENERGY.**

21.15 The legislature recognizes that the use of solar energy and the combustion of grasses,
 21.16 agricultural wastes, trees, and other vegetation to produce thermal energy for heating
 21.17 commercial, industrial, and residential buildings and for industrial process can play a
 21.18 significant role in helping Minnesota meet its future energy needs and its greenhouse gas
 21.19 emissions reduction goals. The annual legislative proposals required to be submitted by
 21.20 the commissioners of commerce and the Pollution Control Agency under section 216H.07,
 21.21 subdivision 4, must include proposals regarding the use of the renewable energy sources
 21.22 described in this section if the commissioners determine that such policies are appropriate
 21.23 to achieve the state's greenhouse gas emissions reduction goals. No legal claim against
 21.24 any person is allowed under this section. The combustion of municipal solid waste or
 21.25 refuse-derived fuel to produce thermal energy is not addressed under this section. For
 21.26 purposes of this section, removal of woody biomass from publicly owned forests shall be
 21.27 consistent with the principles of sustainable forest management.

21.28 Sec. 24. Minnesota Statutes 2008, section 216C.41, subdivision 5a, is amended to read:

21.29 Subd. 5a. **Renewable development account.** The Department of Commerce
 21.30 shall authorize payment of the renewable energy production incentive to wind energy
 21.31 conversion systems ~~for 200 megawatts of nameplate capacity and~~ that are eligible under
 21.32 this section or Laws 2005, chapter 40, to on-farm biogas recovery facilities, and to
 21.33 hydroelectric facilities. Payment of the incentive shall be made from the renewable energy
 21.34 development account as provided under section 116C.779, subdivision 2.

22.1 Sec. 25. Minnesota Statutes 2008, section 216F.01, subdivision 2, is amended to read:

22.2 Subd. 2. **Large wind energy conversion system or LWECS.** "Large wind energy
22.3 conversion system" or "LWECS" means any combination of WECS with a combined
22.4 nameplate capacity ~~of 5,000~~ greater than 25,000 kilowatts ~~or more~~.

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

22.6 Sec. 26. Minnesota Statutes 2008, section 216F.01, subdivision 3, is amended to read:

22.7 Subd. 3. **Small wind energy conversion system or SWECS.** "Small wind energy
22.8 conversion system" or "SWECS" means any combination of WECS with a combined
22.9 nameplate capacity ~~of less than 5,000~~ or equal to 25,000 kilowatts.

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

22.11 Sec. 27. Minnesota Statutes 2008, section 216F.012, is amended to read:

22.12 **216F.012 SIZE ELECTION.**

22.13 (a) ~~A wind energy conversion system of less than 25 megawatts of nameplate
22.14 capacity as determined under section 216F.011 is a small wind energy conversion system
22.15 if, by July 1, 2009, the owner so elects in writing and submits a completed application for
22.16 zoning approval and the written election to the county or counties in which the project is
22.17 proposed to be located. The owner must notify the Public Utilities Commission of the
22.18 election at the time the owner submits the election to the county.~~

22.19 ~~(b) Notwithstanding paragraph (a),~~ A wind energy conversion system with a
22.20 nameplate capacity exceeding five megawatts that is proposed to be located wholly or
22.21 partially within a wind access buffer adjacent to state lands that are part of the outdoor
22.22 recreation system, as enumerated in section 86A.05, is a large wind energy conversion
22.23 system. The Department of Natural Resources shall negotiate in good faith with a system
22.24 owner regarding siting and may support the system owner in seeking a variance from the
22.25 system setback requirements if it determines that a variance is in the public interest.

22.26 ~~(c)~~ (b) The Public Utilities Commission shall issue an annual report to the chairs
22.27 and ranking minority members of the house of representatives and senate committees
22.28 with primary jurisdiction over energy policy and natural resource policy regarding any
22.29 variances applied for and not granted for systems subject to paragraph (b).

22.30 **EFFECTIVE DATE.** This section is effective July 1, 2009.

23.1 Sec. 28. Minnesota Statutes 2008, section 216F.02, is amended to read:

23.2 **216F.02 EXEMPTIONS.**

23.3 (a) The requirements of chapter 216E do not apply to the siting of ~~LWECS~~ a WECS
23.4 with a combined nameplate greater than 5,000 kilowatts that applies to the commission for
23.5 a site permit, except for sections 216E.01; 216E.03, subdivision 7; 216E.08; 216E.11;
23.6 216E.12; 216E.14; 216E.15; 216E.17; and 216E.18, subdivision 3, which do apply.

23.7 (b) Any person may construct an SWECS with a combined nameplate capacity less
23.8 than or equal to 5,000 kilowatts without complying with chapter 216E or this chapter.

23.9 (c) Nothing in this chapter ~~shall preclude~~ precludes a local governmental unit from
23.10 establishing requirements for the siting and construction of SWECS.

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

23.12 Sec. 29. Minnesota Statutes 2008, section 216F.08, is amended to read:

23.13 **216F.08 PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.**

23.14 (a) A county board may, by resolution and upon written notice to the Public Utilities
23.15 Commission, assume responsibility for processing applications for permits required under
23.16 this chapter for ~~LWECS with a combined nameplate capacity of less than 25,000 kilowatts~~
23.17 SWECS. The responsibility for permit application processing, if assumed by a county,
23.18 may be delegated by the county board to an appropriate county officer or employee.
23.19 ~~Processing by~~ A county shall ~~be done~~ process applications in accordance with procedures
23.20 and processes established under chapter 394.

23.21 (b) A county board that exercises its option under paragraph (a) may issue, deny,
23.22 modify, impose conditions upon, or revoke permits pursuant to this section. The action of
23.23 ~~the~~ a county board ~~about~~ with respect to a permit application is final, subject to appeal as
23.24 provided in section 394.27.

23.25 (c) The commission shall, by order, establish general permit standards, ~~including~~
23.26 ~~appropriate property line set-backs~~, governing site permits for LWECS ~~under this section~~
23.27 and SWECS. ~~The order must consider existing and historic commission standards for~~
23.28 ~~wind permits issued by the commission~~. The general permit standards ~~shall~~ may apply
23.29 to permits issued by counties and must apply to permits issued by the commission for
23.30 ~~LWECS with a combined nameplate capacity of less than 25,000 kilowatts~~ and SWECS.
23.31 The general permit standards must establish a setback for a SWECS from a road or
23.32 property line equal to 1.1 times the maximum tip height of a rotor blade measured from
23.33 ground level when the blade is in a vertical position. Counties are encouraged to consider
23.34 an identical setback standard in permits they issue. The commission or a county may grant

24.1 a variance from a general permit standard if the variance is found to be in the public
24.2 interest. Permit standards established by a county under this section supersede general
24.3 permit standards established by the commission.

24.4 (d) Upon request by a county, the commission and the commissioner of commerce
24.5 shall provide technical assistance to a county with respect to ~~the processing of LWECs~~
24.6 SWECS site permit applications.

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

24.8 Sec. 30. Minnesota Statutes 2008, section 453.52, subdivision 2, is amended to read:

24.9 Subd. 2. **Agency agreement.** "Agency agreement" means the written agreement
24.10 between or among two or more cities or existing municipal power agencies establishing a
24.11 municipal power agency.

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

24.13 Sec. 31. Minnesota Statutes 2008, section 453.52, subdivision 7, is amended to read:

24.14 Subd. 7. **Governing body.** (a) "Governing body," with respect to a city, means the
24.15 city council or, if another board, commission, or body is empowered by law or its charter
24.16 or by resolution of the city council to establish and regulate rates and charges for the
24.17 distribution of electric energy within the city, such board, commission, or body shall
24.18 be deemed to be the "governing body"; provided, however, that when the levy of a tax
24.19 or the incurring of an obligation payable from taxes or any other action of such board,
24.20 commission, or body requires the concurrence, approval, or independent action of the
24.21 city council or another body under the city's charter or any other law, such action shall
24.22 not be exercised under sections 453.51 to 453.62 until such concurrence or approval is
24.23 received or such independent action is taken; and provided further, that the concurrence
24.24 of the city council or other elected body charged with the general management of a city
24.25 shall be required, prior to the adoption by the city of any resolution approving an agency
24.26 agreement or any amendment thereto.

24.27 (b) With respect to an existing municipal power agency, "governing body" means
24.28 the agency's board of directors.

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

24.30 Sec. 32. Minnesota Statutes 2008, section 453.52, subdivision 8, is amended to read:

24.31 Subd. 8. **Municipal power agency.** "Municipal power agency" means a separate
24.32 political subdivision and municipal corporation created by agreement between or among

25.1 two or more cities or existing municipal power agencies pursuant to section 453.53
 25.2 to exercise any of the powers of acquisition, construction, reconstruction, operation,
 25.3 repair, extension, or improvement of electric generation or transmission facilities or the
 25.4 acquisition of any interest therein or any right to part or all of the capacity thereof.

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

25.6 Sec. 33. Minnesota Statutes 2008, section 453.53, subdivision 1, is amended to read:

25.7 Subdivision 1. **Two or more cities; or existing municipal power agencies;**
 25.8 **resolution.** (a) Any two or more cities or existing municipal power agencies may form
 25.9 a municipal power agency by the execution of an agency agreement authorized by a
 25.10 resolution of the governing body of each city or municipal power agency.

25.11 (b) The agency agreement shall state:

25.12 (1) that the municipal power agency is created and incorporated under the provisions
 25.13 of sections 453.51 to 453.62 as a municipal corporation and a political subdivision of the
 25.14 state, to exercise thereunder a part of the sovereign powers of the state;

25.15 (2) the name of the agency, which shall include the words "municipal power agency";

25.16 (3) the names of the cities or municipal power agencies which have approved the
 25.17 agency agreement and are the initial members of the municipal power agency;

25.18 (4) the names and addresses of the persons initially appointed by the resolutions
 25.19 approving the agreement to act as the representatives of the ~~cities~~ members, respectively,
 25.20 in the exercise of their powers as members;

25.21 (5) limitations, if any, upon the terms of representatives of the respective ~~member~~
 25.22 ~~cities~~ members, provided that such representatives shall always be selected and vacancies
 25.23 in their offices declared and filled by resolutions of the governing bodies of the respective
 25.24 ~~cities~~ members;

25.25 (6) the names of the initial board of directors of the municipal power agency, who
 25.26 shall be not less than five persons who are representatives of the respective ~~member cities~~
 25.27 members, selected by the vote of a majority of such representatives; or the agreement may
 25.28 provide that the representatives of the ~~member cities~~ members from time to time shall
 25.29 be and constitute the board of directors;

25.30 (7) the location by city, town, or other community in the state, of the registered office
 25.31 of the municipal power agency;

25.32 (8) that the cities or municipal power agencies which are members of the municipal
 25.33 power agency are not liable for its obligations; and

26.1 (9) any other provision for regulating the business of the municipal power agency or
26.2 the conduct of its affairs which may be agreed by the ~~member cities~~ members, consistent
26.3 with sections 453.51 to 453.62.

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

26.5 Sec. 34. Minnesota Statutes 2008, section 453.53, subdivision 2, is amended to read:

26.6 Subd. 2. **Filing agreement, resolution; incorporation certificate.** The agency
26.7 agreement and a certified copy of the resolution of the governing body of each ~~city~~
26.8 member shall be filed for record with the secretary of state. If the agency agreement
26.9 conforms to the requirements of this section, the secretary of state shall record it and
26.10 issue and record a certificate of incorporation. The certificate shall state the name of
26.11 the municipal power agency and the fact and date of incorporation. Upon the issuance
26.12 of the certificate of incorporation, the existence of the municipal power agency as a
26.13 political subdivision of the state and a municipal corporation shall begin. The certificate of
26.14 incorporation shall be conclusive evidence of the fact of incorporation.

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

26.16 Sec. 35. Minnesota Statutes 2008, section 453.53, subdivision 3, is amended to read:

26.17 Subd. 3. **First board.** The initial board of directors of the municipal power agency,
26.18 unless otherwise provided by the agency agreement, shall be elected prior to the filing of
26.19 the agreement by a majority vote of the persons acting as representatives of the ~~member~~
26.20 ~~cities~~ members, from among their members. After commencement of existence, the first
26.21 meeting of the board of directors shall be held at the call of the directors, after notice, for
26.22 the purpose of adopting the initial bylaws, electing officers, and for any other business
26.23 that comes before the meeting.

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

26.25 Sec. 36. Minnesota Statutes 2008, section 453.53, subdivision 4, is amended to read:

26.26 Subd. 4. **Bylaws.** (a) The bylaws of the municipal power agency, and any
26.27 amendments thereto, shall be proposed by the board of directors and shall be adopted by
26.28 a majority vote of the representatives of the ~~member cities~~ members, unless the agency
26.29 agreement requires a greater vote, at a meeting held after notice.

26.30 (b) Subject to the provisions of the agency agreement, the bylaws shall state:

26.31 (1) the qualifications of ~~member cities~~ members, and limitations, if any, upon their
26.32 number;

- 27.1 (2) conditions of membership, if any;
- 27.2 (3) manner and time of calling regular meetings of representatives of ~~member cities~~
- 27.3 members;
- 27.4 (4) manner and conditions of termination of membership; and
- 27.5 (5) such other provisions for regulating the affairs of the municipal power agency as
- 27.6 the representatives of the ~~member cities~~ members shall determine to be necessary.

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

27.8 Sec. 37. Minnesota Statutes 2008, section 453.53, subdivision 8, is amended to read:

27.9 Subd. 8. **City Member representatives.** Except as otherwise provided in the

27.10 agency agreement or the bylaws, the duly authorized representatives of each member ~~city~~

27.11 shall act as, and vote on behalf of, such ~~city member~~. Except where the agency agreement

27.12 or bylaws provide otherwise, representatives of the ~~member cities~~ members shall hold

27.13 at least one meeting each year for the election of directors and for the transaction of any

27.14 other business. Except where the agency agreement or bylaws prescribe otherwise, special

27.15 meetings of the representatives may be called for any purpose upon written request to the

27.16 president or secretary to call the meeting. Such officer shall give notice of the meeting to

27.17 be held between 10 and 60 days after receipt of such request. Unless the agency agreement

27.18 or bylaws provide for a different percentage, a quorum for a meeting of the representatives

27.19 of the ~~member cities~~ members is a majority of the total members and a quorum for

27.20 meetings of the board of directors is a majority of the membership of such board.

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

27.22 Sec. 38. Minnesota Statutes 2008, section 453.53, subdivision 9, is amended to read:

27.23 Subd. 9. **Amendments to agency agreement.** The agency agreement may be

27.24 amended as proposed at any meeting of the representatives of the members for which

27.25 notice, stating the purpose, shall be given to each representative and, unless the agency

27.26 agreement or bylaws require otherwise, shall become effective when ratified by resolutions

27.27 of a majority of the governing bodies of the ~~member cities~~ members. Each amendment

27.28 and the resolutions approving it shall be filed for record with the secretary of state.

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

27.30 Sec. 39. Minnesota Statutes 2008, section 453.55, subdivision 13, is amended to read:

27.31 Subd. 13. **Payable solely from pledged or available revenue.** The principal of and

27.32 interest upon any bonds or notes issued by a municipal power agency shall be payable

28.1 solely from the revenues or funds pledged or available for their payment as authorized in
28.2 sections 453.51 to 453.62. Each bond and note shall contain a statement that the principal
28.3 thereof or interest thereon is payable solely from revenues or funds of the municipal
28.4 power agency and that neither the state nor any political subdivision thereof, other than
28.5 the municipal power agency, nor any ~~city which is a~~ member of the municipal power
28.6 agency is obligated to pay the principal or interest and that neither the faith and credit nor
28.7 the taxing power of the state or any political subdivision thereof or of any ~~such member~~
28.8 city is pledged to the payment of the principal of or the interest on the bonds or notes.
28.9 Nothing herein, however, precludes the use of tax or other revenue by a city for payment
28.10 of amounts due and performance of covenants under any contract of the city as provided
28.11 in section 453.58, subdivision 3.

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

28.13 Sec. 40. **MOUNTAIN IRON ECONOMIC DEVELOPMENT AUTHORITY;**
28.14 **WIND ENERGY PROJECT.**

28.15 (a) The Mountain Iron Economic Development Authority may form or become a
28.16 member of a limited liability company organized under Minnesota Statutes, chapter 322B,
28.17 for the purpose of developing a community-based energy development project pursuant
28.18 to Minnesota Statutes, section 216B.1612. A limited liability company formed or joined
28.19 under this section is subject to the open meeting requirements established in Minnesota
28.20 Statutes, chapter 13D. A project authorized by this section may not sell, transmit, or
28.21 distribute the electrical energy at retail or provide for end use of the electricity to an
28.22 off-site facility of the economic development corporation or the limited liability company.
28.23 Nothing in this section modifies the exclusive service territories or exclusive right to serve
28.24 as provided in Minnesota Statutes, sections 216B.37 to 216B.43.

28.25 (b) The authority may acquire a leasehold interest in property outside its corporate
28.26 boundaries for the purpose of developing a community-based energy development project
28.27 as provided in Minnesota Statutes, section 216B.1612.

28.28 **EFFECTIVE DATE.** This section is effective the day after the city of Mountain
28.29 Iron and its chief clerical officer comply with Minnesota Statutes, section 645.021,
28.30 subdivisions 2 and 3.

28.31 Sec. 41. **SOLAR CITIES REPORT.**

28.32 The cities of Minneapolis and St. Paul, designated as solar cities under the federal
28.33 Department of Energy's Solar America Initiative, shall, by October 1, 2009, and October

29.1 1, 2010, submit a report to the cochairs of the Legislative Energy Committee containing
29.2 strategies to accelerate the rate of solar thermal and solar electric energy installations
29.3 in all building types throughout the state. The report must, at a minimum, address the
29.4 following issues:

29.5 (1) identify legal, administrative, financial, and operational barriers to increasing the
29.6 installation of solar energy, and measures to overcome them;

29.7 (2) identify financial and regulatory mechanisms that stimulate the development of
29.8 solar energy;

29.9 (3) identify ways to link solar energy development with energy conservation and
29.10 energy efficiency strategies and programs;

29.11 (4) how efforts and initiatives undertaken by St. Paul and Minneapolis can be
29.12 integrated with activities undertaken in other parts of the state; and

29.13 (5) how projected trends in solar technologies and the costs of solar generation can
29.14 be integrated into the state's strategy to advance adoption of solar energy.

29.15 In preparing these reports, the cities may confer with any person whose experience
29.16 and expertise will assist in preparing the reports, including utilities, businesses providing
29.17 solar energy installation services, nonprofit organizations promoting solar energy, and
29.18 others.

29.19 **Sec. 42. NATURAL GAS UTILITIES; INTERIM ENERGY SAVINGS PLAN.**

29.20 (a) The commissioner of commerce may approve an energy conservation
29.21 improvement plan under Minnesota Statutes, section 216B.241, subdivision 1c, paragraph
29.22 (d), that:

29.23 (1) is submitted to the commissioner in calendar year 2009 by a utility that provides
29.24 natural gas service at retail;

29.25 (2) governs the conservation improvements to be undertaken by the utility over the
29.26 next three-year time period; and

29.27 (3) is accompanied by a study that specifies how the utility may:

29.28 (i) average savings of at least 0.75 percent over the three years following submission
29.29 of the plan;

29.30 (ii) meet and exceed the minimum energy savings goal of one percent of gross
29.31 annual retail sales within five years of submission of the plan; and

29.32 (iii) achieve average annual savings of at least one percent over the nine years
29.33 following submission of the plan.

29.34 (b) The plan must include projections of the total amount spent by the utility to
29.35 achieve energy savings each year and the cost per unit of energy saved.

30.1 (c) Nothing in this section precludes the commissioner from requiring additional
30.2 energy conservation improvement activities and programs beyond those proposed by a
30.3 utility in its proposed plan so long as those additional activities and programs meet the
30.4 requirements of Minnesota Statutes, section 216B.241. The commissioner shall require
30.5 all reasonable actions by a utility that will increase the likelihood of the utility's meeting
30.6 and exceeding the minimum one percent energy savings goal and the 1.5 percent goal
30.7 as soon as reasonably feasible.

30.8 **Sec. 43. CLEAN ENERGY RESOURCE TEAMS; APPROPRIATION.**

30.9 The utility subject to Minnesota Statutes, section 116C.779, shall transfer \$563,000
30.10 in fiscal year 2010 and \$563,000 in fiscal year 2011 from the renewable development
30.11 account established in Minnesota Statutes, section 116C.779, to the Department of
30.12 Commerce on a schedule to be determined by the commissioner of commerce. The funds
30.13 must be deposited in the special revenue fund and are appropriated to the commissioner
30.14 for the purposes of this section.

30.15 \$563,000 in fiscal year 2010 and \$563,000 in fiscal year 2011 are for continued
30.16 funding of community energy technical assistance and outreach on renewable energy and
30.17 energy efficiency, as described in Minnesota Statutes, section 216C.385. Of this amount,
30.18 \$113,000 each year is for technical assistance in the metropolitan area.

30.19 **Sec. 44. REPEALER.**

30.20 Laws 2007, chapter 3, section 3, is repealed.