A bill for an act

relating to energy; creating program for government energy conservation investments; amending Minnesota Statutes 2006, section 216C.09; proposing coding for new law in Minnesota Statutes, chapter 216C; repealing Laws 2007, chapter 57, article 2, section 30.

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

Section 1. Minnesota Statutes 2006, section 216C.09, is amended to read:

216C.09 COMMISSIONER DUTIES.

(a) The commissioner shall:

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

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

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

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

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

(6) evaluate policies governing the establishment of rates and prices for energy as related to energy conservation, and other goals and policies of sections 216C.05 to

216C.30, and make recommendations for changes in energy pricing policies and rate schedules;

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

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

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

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

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

(12) design a comprehensive program for the development of indigenous energy resources. The program shall include, but not be limited to, providing technical, informational, educational, and financial services and materials to persons, businesses, municipalities, and organizations involved in the development of solar, wind, hydropower, peat, fiber fuels, biomass, and other alternative energy resources. The program shall be evaluated by the alternative energy technical activity; and

(13) dispense loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum-pricing regulations made available to the department for that purpose. ~~The commissioner shall adopt rules under chapter 14 for this purpose.~~

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

Sec. 2. **[216C.42] DEFINITIONS.**

Subdivision 1. **Scope.** For the purpose of this section and section 216C.43, the terms defined in this section have the meanings given them.

Subd. 2. **Energy improvement project.** "Energy improvement project" means a project to improve energy efficiency in a building or facility, including the design, acquisition, installation, and commissioning of equipment or improvements to a building or facility, and training of building or facility staff necessary to properly operate and maintain the equipment or improvements.

Subd. 3. **Energy project study.** "Energy project study" means a technical and financial study of one or more energy improvement projects, including:

(1) an analysis of historical energy consumption and cost data;

(2) a description of existing equipment, structural elements, operating characteristics, and other conditions affecting energy use;

(3) a description of the proposed energy improvement projects;

(4) a detailed budget for the proposed project; and

(5) calculations sufficient to demonstrate the expected energy savings.

Subd. 4. **Financing agreement.** "Financing agreement" means a tax-exempt lease-purchase agreement entered into by a public entity and a financial institution under a standard project financing agreement offered under section 216C.43, subdivision 6.

Subd. 5. **Guarantee.** "Guarantee" means a positive budget impact guarantee under section 216C.43, subdivision 7.

Subd. 6. **Program.** "Program" means the energy improvement financing program for state and local governments authorized by section 216C.43.

Subd. 7. **Public entity.** "Public entity" means a Minnesota state agency, county, statutory or home rule charter city, town, school district, or any combination of those units operating under an agreement to exercise powers jointly.

Sec. 3. **[216C.43] ENERGY IMPROVEMENT FINANCING PROGRAM FOR STATE AND LOCAL GOVERNMENT.**

Subdivision 1. **Commissioner's authority and duties; public entity authority.** The commissioner shall administer this section. A public entity may enter into contracts for the purposes of this section with the commissioner, the primary contractor, other contracted technical service providers, and participating financial institutions.

Subd. 2. **Program eligibility; voluntary program participation; targeted technical services.** A public entity may elect to participate in the program. The commissioner may prioritize and target technical services offered under subdivision

5 to public entities that the commissioner determines offer the greatest potential for cost-effective energy improvement projects.

Subd. 3. **Primary contractor for technical, financial, and program management services.** The commissioner shall enter into a contract with a Minnesota not-for-profit organization for the delivery of technical services, financial management, marketing, and administrative services necessary for implementation of the program.

Subd. 4. **Targeted technical services.** The commissioner shall offer technical services to targeted public entities to conduct energy project studies. The commissioner may contract with one or more qualified technical service providers to conduct energy project studies for targeted public entities. The commissioner may require full or partial reimbursement of costs for technical services provided to a public entity, subject to terms and conditions specified and agreed to by contract prior to the delivery of technical services. A public entity may independently procure technical services to conduct an energy project study, but the energy project study must be reviewed and approved by the commissioner to qualify an energy improvement project for a financing agreement under subdivision 6 or a guarantee under subdivision 7.

Subd. 5. **Participation of technical service providers statewide.** Program activities must be implemented to encourage statewide participation of engineers, architects, energy auditors, contractors, and other technical service providers. The commissioner may provide training on energy project study requirements and procedures to technical service providers.

Subd. 6. **Standard project financing agreement.** The commissioner shall solicit proposals from private financial institutions and may enter into a standard project financing agreement with one or more financial institutions. A standard project financing agreement must specify terms and conditions uniformly available to all participating public entities for financing to implement energy improvement projects under this section. A public entity may choose to finance an energy improvement project by means other than a standard project financing agreement, but a guarantee under subdivision 7 must not be offered unless the commissioner determines that the other financing means creates no greater potential obligation under a guarantee than would be created through a standard project financing agreement.

Subd. 7. **Positive budget impact guarantee.** (a) The commissioner shall offer a guarantee of positive budget impact for the term of the financing agreement to a participating public entity for qualifying energy improvement projects. A positive budget impact guarantee is an agreement by the commissioner to lend funds to a public entity in an amount necessary so that the cumulative payments made by the public entity under a financing agreement minus the amount loaned by the commissioner do not exceed the actual energy and operating cost savings attributable to the energy improvement project for the term of the guarantee.

Funds loaned to a public entity by the commissioner in fulfillment of a guarantee are repayable only to the extent that a positive budget impact is maintained during the term of the guarantee. Terms and conditions of a guarantee must be agreed to by contract prior to a public entity entering into a financing agreement.

(b) A guarantee contract must include, but is not limited to:

(1) specification of methods and procedures to measure and verify energy cost savings;

(2) obligations of the public entity to operate and maintain the energy improvements;

(3) procedures to modify the guarantee if the public entity modifies operating characteristics of its building or facility in a manner that adversely affects energy cost savings;

(4) interest charged on the loan, which may not exceed the interest on the related financial agreement; and

(5) procedures for resolution of disputes.

Subd. 8. **Qualifying energy improvement projects.** A public entity may submit to the commissioner, on a form prescribed by the commissioner, an application for a financing agreement authorization and guarantee for energy improvement projects. The commissioner shall approve an energy improvement project for a guarantee and authorize eligibility for a financing agreement if the commissioner determines that:

(1) the application has been approved by the governing body or agency head of the public entity;

(2) the project is technically and economically feasible;

(3) the public entity has made adequate provision for the operation and maintenance of the project;

(4) the project has a substantial likelihood to result in a positive cash flow in each year the financing agreement is in effect; and

(5) adequate funds will be available to the commissioner to fulfill the guarantee.

Subd. 9. **Program costs.** Program costs incurred by the commissioner or a public entity that are not direct costs to implement energy improvement projects may be paid with program funds appropriated under subdivision 10.

Subd. 10. **Funding; appropriation; receipts.** Petroleum violation escrow funds appropriated to the commissioner by Laws 1988, chapter 686, article 1, section 38, for state energy loan programs for schools, hospitals, and public buildings, and reappropriated by Laws 2007, chapter 57, article 2, section 30, are appropriated to the commissioner for the purposes of this section and are available until spent.

Sec. 4. **REPEALER.**

Laws 2007, chapter 57, article 2, section 30, is repealed.

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

Laws 2007, chapter 57, article 2, section 30

Sec. 30. **PETROLEUM VIOLATION ESCROW FUNDS.**

(a) Petroleum violation escrow funds appropriated to the commissioner of commerce by Laws 1988, chapter 686, article 1, section 38, for state energy loan programs for schools, hospitals, and public buildings must be used for grants to kindergarten through grade 12 schools to develop energy conservation or renewable energy projects. A grant may not exceed $500,000. The commissioner must endeavor to award grants throughout the regions of the state. No more than one grant may be awarded in a county, unless an insufficient number of applications is received from schools located in other counties to exhaust available funds.

(b) The commissioner of commerce must petition the federal Department of Energy for a waiver from any federal regulation that limits the proportion of federal funds expended on state energy programs that may be spent on energy efficiency.

(c) For purposes of this subdivision, "renewable energy" means wind, solar, hydroelectric with a capacity of less than 60 megawatts, geothermal, hydrogen, fuel cells made from renewable resources, herbaceous crops, agricultural crops, agricultural waste, and aquatic plant matter.