

1.1 CONFERENCE COMMITTEE REPORT ON S.F. No. 145

1.2 A bill for an act

1.3 relating to energy; providing for community-based energy development;
1.4 requiring a plan to reduce greenhouse gas emissions; amending Minnesota
1.5 Statutes 2006, sections 216B.1612, subdivisions 1, 2, 3, 5, by adding a
1.6 subdivision; 216B.1691, by adding a subdivision; proposing coding for new law
1.7 in Minnesota Statutes, chapter 216F.

1.8 May 19, 2007

1.9 The Honorable James P. Metzen
1.10 President of the Senate

1.11 The Honorable Margaret Anderson Kelliher
1.12 Speaker of the House of Representatives

1.13 We, the undersigned conferees for S.F. No. 145 report that we have agreed upon the
1.14 items in dispute and recommend as follows:

1.15 That the House recede from its amendments and that S.F. No. 145 be further
1.16 amended as follows:

1.17 Delete everything after the enacting clause and insert:

1.18 "ARTICLE 1
1.19 GENERAL PROVISIONS

1.20 Section 1. **TITLE.**

1.21 This act may be cited as the Next Generation Energy Act of 2007.

1.22 Sec. 2. Minnesota Statutes 2006, section 216C.05, is amended to read:

1.23 **216C.05 FINDINGS AND PURPOSE.**

1.24 Subdivision 1. Energy planning. The legislature finds and declares that continued
1.25 growth in demand for energy will cause severe social and economic dislocations, and that
1.26 the state has a vital interest in providing for: increased efficiency in energy consumption,
1.27 the development and use of renewable energy resources wherever possible, and the
1.28 creation of an effective energy forecasting, planning, and education program.

2.1 The legislature further finds and declares that the protection of life, safety, and
2.2 financial security for citizens during an energy crisis is of paramount importance.

2.3 Therefore, the legislature finds that it is in the public interest to review, analyze, and
2.4 encourage those energy programs that will minimize the need for annual increases in
2.5 fossil fuel consumption by 1990 and the need for additional electrical generating plants,
2.6 and provide for an optimum combination of energy sources consistent with environmental
2.7 protection and the protection of citizens.

2.8 The legislature intends to monitor, through energy policy planning and
2.9 implementation, the transition from historic growth in energy demand to a period when
2.10 demand for traditional fuels becomes stable and the supply of renewable energy resources
2.11 is readily available and adequately utilized.

2.12 Subd. 2. Energy policy goals. It is the energy policy of the state of Minnesota that:

2.13 (1) the per capita use of fossil fuel as an energy input be reduced by 15 percent by
2.14 the year 2015, through increased reliance on energy efficiency and renewable energy
2.15 alternatives; and

2.16 (2) 25 percent of the total energy used in the state be derived from renewable energy
2.17 resources by the year 2025.

2.18 ARTICLE 2

2.19 ENERGY EFFICIENCY AND CONSERVATION

2.20 Section 1. Minnesota Statutes 2006, section 216B.16, subdivision 1, is amended to read:

2.21 Subdivision 1. **Notice.** Unless the commission otherwise orders, no public utility
2.22 shall change a rate which has been duly established under this chapter, except upon 60
2.23 days' notice to the commission. The notice shall include statements of facts, expert
2.24 opinions, substantiating documents, and exhibits, supporting the change requested, and
2.25 state the change proposed to be made in the rates then in force and the time when the
2.26 modified rates will go into effect. If the filing utility does not have an approved energy
2.27 conservation improvement plan on file with the department, it shall also include in its
2.28 notice an energy conservation plan pursuant to section 216B.241. A filing utility subject to
2.29 rate regulation under section 216B.026 shall reference in its notice the energy conservation
2.30 improvement plans of the generation and transmission cooperative providing energy
2.31 conservation improvement programs to members of the filing utility pursuant to section
2.32 216B.241. The filing utility shall give written notice, as approved by the commission, of
2.33 the proposed change to the governing body of each municipality and county in the area
2.34 affected. All proposed changes shall be shown by filing new schedules or shall be plainly
2.35 indicated upon schedules on file and in force at the time.

3.1 Sec. 2. Minnesota Statutes 2006, section 216B.16, subdivision 6b, is amended to read:

3.2 Subd. 6b. **Energy conservation improvement.** (a) Except as otherwise provided
3.3 in this subdivision, all investments and expenses of a public utility as defined in
3.4 section 216B.241, subdivision 1, paragraph ~~(e)~~ (i), incurred in connection with energy
3.5 conservation improvements shall be recognized and included by the commission in the
3.6 determination of just and reasonable rates as if the investments and expenses were directly
3.7 made or incurred by the utility in furnishing utility service.

3.8 (b) ~~After December 31, 1999,~~ Investments and expenses for energy conservation
3.9 improvements shall not be included by the commission in the determination of (i) just and
3.10 reasonable electric and gas rates for retail electric and gas service provided to large electric
3.11 customer facilities that have been exempted by the commissioner of the department
3.12 pursuant to section 216B.241, subdivision 1a, paragraph (b); or (ii) just and reasonable
3.13 gas rates for large energy facilities. ~~However, no public utility shall be prevented from~~
3.14 ~~recovering its investment in energy conservation improvements from all customers that~~
3.15 ~~were made on or before December 31, 1999, in compliance with the requirements of~~
3.16 ~~section 216B.241.~~

3.17 (c) The commission may permit a public utility to file rate schedules providing for
3.18 annual recovery of the costs of energy conservation improvements. These rate schedules
3.19 may be applicable to less than all the customers in a class of retail customers if necessary to
3.20 reflect the ~~differing minimum spending~~ requirements of section 216B.241, ~~subdivision 1a.~~
3.21 ~~After December 31, 1999,~~ The commission shall allow a public utility, without requiring
3.22 a general rate filing under this section, to reduce the electric and gas rates applicable to
3.23 large electric customer facilities that have been exempted by the commissioner of the
3.24 department pursuant to section 216B.241, subdivision 1a, paragraph (b), and to reduce the
3.25 gas rate applicable to a large energy facility by an amount that reflects the elimination
3.26 of energy conservation improvement investments or expenditures for those facilities
3.27 ~~required on or before December 31, 1999.~~ In the event that the commission has set
3.28 electric or gas rates based on the use of an accounting methodology that results in the cost
3.29 of conservation improvements being recovered from utility customers over a period of
3.30 years, the rate reduction may occur in a series of steps to coincide with the recovery of
3.31 balances due to the utility for conservation improvements made by the utility on or before
3.32 December 31, ~~1999~~ 2007.

3.33 (d) Investments and expenses of a public utility shall not include electric utility
3.34 infrastructure costs as defined in section 216B.1636, subdivision 1, paragraph (b).

4.1 Sec. 3. [216B.1636] RECOVERY OF ELECTRIC UTILITY INFRASTRUCTURE
4.2 COSTS.

4.3 Subdivision 1. Definitions. (a) "Electric utility" means a public utility as defined in
4.4 section 216B.02, subdivision 4, that furnishes electric service to retail customers.

4.5 (b) "Electric utility infrastructure costs" or "EUIC" means costs for electric utility
4.6 infrastructure projects that were not included in the electric utility's rate base in its most
4.7 recent general rate case.

4.8 (c) "Electric utility infrastructure projects" means projects owned by an electric
4.9 utility that:

4.10 (1) replace or modify existing electric utility infrastructure, including utility-owned
4.11 buildings, if the replacement or modification is shown to conserve energy or use energy
4.12 more efficiently, consistent with section 216B.241, subdivision 1c; or

4.13 (2) conserve energy or use energy more efficiently by using waste heat recovery
4.14 converted into electricity as defined in section 216B.241, subdivision 1, paragraph (n).

4.15 Subd. 2. Filing. (a) The commission may approve an electric utility's petition for
4.16 a rate schedule to recover EUIC under this section. An electric utility may petition the
4.17 commission to recover a rate of return, income taxes on the rate of return, incremental
4.18 property taxes, if any, plus incremental depreciation expense associated with EUIC.

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

4.20 (1) an electric utility may submit a filing under this section no more than once
4.21 per year; and

4.22 (2) an electric utility must file sufficient information to satisfy the commission
4.23 regarding the proposed EUIC or be subject to denial by the commission. The information
4.24 includes, but is not limited to:

4.25 (i) the location, description, and costs associated with the project;

4.26 (ii) evidence that the electric utility infrastructure project will conserve energy or use
4.27 energy more efficiently than similar utility facilities currently used by the electric utility;

4.28 (iii) the proposed schedule for implementation;

4.29 (iv) a description of the costs, and salvage value, if any, associated with the existing
4.30 infrastructure replaced or modified as a result of the project;

4.31 (v) the proposed rate design and an explanation of why the proposed rate design
4.32 is in the public interest;

4.33 (vi) the magnitude and timing of any known future electric utility projects that the
4.34 utility may seek to recover under this section;

5.1 (vii) the magnitude of EUIC in relation to the electric utility's base revenue as
5.2 approved by the commission in the electric utility's most recent general rate case,
5.3 exclusive of fuel cost adjustments;

5.4 (viii) the magnitude of EUIC in relation to the electric utility's capital expenditures
5.5 since its most recent general rate case;

5.6 (ix) the amount of time since the utility last filed a general rate case and the utility's
5.7 reasons for seeking recovery outside of a general rate case;

5.8 (x) documentation supporting the calculation of the EUIC; and

5.9 (xi) a cost and benefit analysis showing that the electric utility infrastructure project
5.10 is in the public interest.

5.11 (c) Upon approval of the proposed projects and associated EUIC rate schedule, the
5.12 utility may implement the electric utility infrastructure projects.

5.13 Subd. 3. **Commission authority; orders.** The commission may issue orders
5.14 necessary to implement and administer this section.

5.15 Sec. 4. **[216B.2401] ENERGY CONSERVATION POLICY GOAL.**

5.16 It is the energy policy of the state of Minnesota to achieve annual energy savings
5.17 equal to 1.5 percent of annual retail energy sales of electricity and natural gas directly
5.18 through energy conservation improvement programs and rate design, and indirectly
5.19 through energy codes and appliance standards, programs designed to transform the market
5.20 or change consumer behavior, energy savings resulting from efficiency improvements to
5.21 the utility infrastructure and system, and other efforts to promote energy efficiency and
5.22 energy conservation.

5.23 Sec. 5. Minnesota Statutes 2006, section 216B.241, is amended to read:

5.24 **216B.241 ENERGY CONSERVATION IMPROVEMENT.**

5.25 Subdivision 1. **Definitions.** For purposes of this section and section 216B.16,
5.26 subdivision 6b, the terms defined in this subdivision have the meanings given them.

5.27 (a) "Commission" means the Public Utilities Commission.

5.28 (b) "Commissioner" means the commissioner of commerce.

5.29 (c) "Customer facility" means all buildings, structures, equipment, and installations
5.30 at a single site.

5.31 (d) "Department" means the Department of Commerce.

5.32 (e) "Energy conservation" means demand-side management of energy supplies
5.33 resulting in a net reduction in energy use. Load management that reduces overall energy
5.34 use is energy conservation.

6.1 (f) "Energy conservation improvement" means a project that results in energy
6.2 efficiency or energy conservation. Energy conservation improvement may include waste
6.3 heat recovery converted into electricity but does not include electric utility infrastructure
6.4 projects approved by the commission under section 216B.1636.

6.5 (g) "Energy efficiency" means measures or programs, including energy conservation
6.6 measures or programs, that target consumer behavior, equipment, processes, or devices
6.7 designed to produce either an absolute decrease in consumption of electric energy or
6.8 natural gas or a decrease in consumption of electric energy or natural gas on a per unit
6.9 of production basis without a reduction in the quality or level of service provided to
6.10 the energy consumer.

6.11 ~~(g)~~ (h) "Gross annual retail energy sales" means annual electric sales to all retail
6.12 customers in a utility's or association's Minnesota service territory or natural gas
6.13 throughput to all retail customers, including natural gas transportation customers, on a
6.14 utility's distribution system in Minnesota. For purposes of this section, gross annual
6.15 retail energy sales exclude gas sales to a large energy facility and gas and electric sales
6.16 to a large electric customer facility exempted by the commissioner under subdivision
6.17 1a, paragraph (b).

6.18 (i) "Investments and expenses of a public utility" includes the investments and
6.19 expenses incurred by a public utility in connection with an energy conservation
6.20 improvement, including but not limited to:

6.21 (1) the differential in interest cost between the market rate and the rate charged on a
6.22 no-interest or below-market interest loan made by a public utility to a customer for the
6.23 purchase or installation of an energy conservation improvement;

6.24 (2) the difference between the utility's cost of purchase or installation of energy
6.25 conservation improvements and any price charged by a public utility to a customer for
6.26 such improvements.

6.27 ~~(h)~~ (j) "Large electric customer facility" means a customer facility that imposes a
6.28 peak electrical demand on an electric utility's system of not less than 20,000 kilowatts,
6.29 measured in the same way as the utility that serves the customer facility measures
6.30 electrical demand for billing purposes, and for which electric services are provided at
6.31 retail on a single bill by a utility operating in the state.

6.32 ~~(i)~~ (k) "Large energy facility" has the meaning given it in section 216B.2421,
6.33 subdivision 2, clause (1).

6.34 (l) "Load management" means an activity, service, or technology to change the
6.35 timing or the efficiency of a customer's use of energy that allows a utility or a customer

7.1 to respond to wholesale market fluctuations or to reduce ~~the overall~~ peak demand for
7.2 energy or capacity.

7.3 (m) "Low-income programs" means energy conservation improvement programs
7.4 that directly serve the needs of low-income persons, including low-income renters.

7.5 (n) "Waste heat recovery converted into electricity" means an energy recovery
7.6 process that converts otherwise lost energy from the heat of exhaust stacks or pipes used
7.7 for engines or manufacturing or industrial processes, or the reduction of high pressure
7.8 in water or gas pipelines.

7.9 Subd. 1a. **Investment, expenditure, and contribution; public utility.** (a) For
7.10 purposes of this subdivision and subdivision 2, "public utility" has the meaning given it
7.11 in section 216B.02, subdivision 4. Each public utility shall spend and invest for energy
7.12 conservation improvements under this subdivision and subdivision 2 the following
7.13 amounts:

7.14 (1) for a utility that furnishes gas service, 0.5 percent of its gross operating revenues
7.15 from service provided in the state;

7.16 (2) for a utility that furnishes electric service, 1.5 percent of its gross operating
7.17 revenues from service provided in the state; and

7.18 (3) for a utility that furnishes electric service and that operates a nuclear-powered
7.19 electric generating plant within the state, two percent of its gross operating revenues
7.20 from service provided in the state.

7.21 For purposes of this paragraph (a), "gross operating revenues" do not include
7.22 revenues from large electric customer facilities exempted by the commissioner under
7.23 paragraph (b).

7.24 (b) The owner of a large electric customer facility may petition the commissioner
7.25 to exempt both electric and gas utilities serving the large energy customer facility from
7.26 the investment and expenditure requirements of paragraph (a) with respect to retail
7.27 revenues attributable to the facility. At a minimum, the petition must be supported by
7.28 evidence relating to competitive or economic pressures on the customer and a showing
7.29 by the customer of reasonable efforts to identify, evaluate, and implement cost-effective
7.30 conservation improvements at the facility. If a petition is filed on or before October 1 of
7.31 any year, the order of the commissioner to exempt revenues attributable to the facility can
7.32 be effective no earlier than January 1 of the following year. The commissioner shall
7.33 not grant an exemption if the commissioner determines that granting the exemption is
7.34 contrary to the public interest. The commissioner may, after investigation, rescind any
7.35 exemption granted under this paragraph upon a determination that ~~cost-effective~~ the
7.36 customer is not continuing to make reasonable efforts to identify, evaluate, and implement

8.1 energy conservation improvements ~~are available~~ at the large electric customer facility.
8.2 ~~For the purposes of this paragraph, "cost-effective" means that the projected total cost of~~
8.3 ~~the energy conservation improvement at the large electric customer facility is less than~~
8.4 ~~the projected present value of the energy and demand savings resulting from the energy~~
8.5 ~~conservation improvement.~~ For the purposes of investigations by the commissioner under
8.6 this paragraph, the owner of any large electric customer facility shall, upon request,
8.7 provide the commissioner with updated information comparable to that originally supplied
8.8 in or with the owner's original petition under this paragraph.

8.9 (c) The commissioner may require investments or spending greater than the amounts
8.10 required under this subdivision for a public utility whose most recent advance forecast
8.11 required under section 216B.2422 or 216C.17 projects a peak demand deficit of 100
8.12 megawatts or greater within five years under midrange forecast assumptions.

8.13 (d) A public utility or owner of a large electric customer facility may appeal
8.14 a decision of the commissioner under paragraph (b) or (c) to the commission under
8.15 subdivision 2. In reviewing a decision of the commissioner under paragraph (b) or (c),
8.16 the commission shall rescind the decision if it finds that the required investments or
8.17 spending will:

- 8.18 (1) not result in cost-effective energy conservation improvements; or
8.19 (2) otherwise not be in the public interest.

8.20 ~~(e) Each utility shall determine what portion of the amount it sets aside for~~
8.21 ~~conservation improvement will be used for conservation improvements under subdivision~~
8.22 ~~2 and what portion it will contribute to the energy and conservation account established in~~
8.23 ~~subdivision 2a. A public utility may propose to the commissioner to designate that all~~
8.24 ~~or a portion of funds contributed to the account established in subdivision 2a be used~~
8.25 ~~for research and development projects that can best be implemented on a statewide~~
8.26 ~~basis. Contributions must be remitted to the commissioner by February 1 of each year.~~
8.27 ~~Nothing in this subdivision prohibits a public utility from spending or investing for energy~~
8.28 ~~conservation improvement more than required in this subdivision.~~

8.29 Subd. 1b. **Conservation improvement by cooperative association or**
8.30 **municipality.** (a) This subdivision applies to:

- 8.31 (1) a cooperative electric association that provides retail service to its members;
8.32 (2) a municipality that provides electric service to retail customers; and
8.33 (3) a municipality with ~~gross operating revenues in excess of \$5,000,000 from~~
8.34 ~~sales of~~ more than 1,000,000,000 cubic feet in annual throughput sales to natural gas
8.35 to retail customers.

9.1 (b) Each cooperative electric association and municipality subject to this subdivision
9.2 shall spend and invest for energy conservation improvements under this subdivision
9.3 the following amounts:

9.4 (1) for a municipality, 0.5 percent of its gross operating revenues from the sale of
9.5 gas and 1.5 percent of its gross operating revenues from the sale of electricity, excluding
9.6 gross operating revenues from electric and gas service provided in the state to large
9.7 electric customer facilities; and

9.8 (2) for a cooperative electric association, 1.5 percent of its gross operating revenues
9.9 from service provided in the state, excluding gross operating revenues from service
9.10 provided in the state to large electric customer facilities indirectly through a distribution
9.11 cooperative electric association.

9.12 (c) Each municipality and cooperative electric association subject to this subdivision
9.13 shall identify and implement energy conservation improvement spending and investments
9.14 that are appropriate for the municipality or association, except that a municipality
9.15 or association may not spend or invest for energy conservation improvements that
9.16 directly benefit a large energy facility or a large electric customer facility for which the
9.17 commissioner has issued an exemption under subdivision 1a, paragraph (b).

9.18 (d) Each municipality and cooperative electric association subject to this subdivision
9.19 may spend and invest annually up to ten percent of the total amount required to be spent
9.20 and invested on energy conservation improvements under this subdivision on research
9.21 and development projects that meet the definition of energy conservation improvement
9.22 in subdivision 1 and that are funded directly by the municipality or cooperative electric
9.23 association.

9.24 (e) Load-management activities ~~that do not reduce energy use but that increase the~~
9.25 ~~efficiency of the electric system~~ may be used to meet 50 percent of the conservation
9.26 investment and spending requirements of this subdivision.

9.27 (f) A generation and transmission cooperative electric association that provides
9.28 energy services to cooperative electric associations that provide electric service at retail to
9.29 consumers may invest in energy conservation improvements on behalf of the associations
9.30 it serves and may fulfill the conservation, spending, reporting, and energy savings goals on
9.31 an aggregate basis. A municipal power agency or other not-for-profit entity that provides
9.32 energy service to municipal utilities that provide electric service at retail may invest in
9.33 energy conservation improvements on behalf of the municipal utilities it serves and may
9.34 fulfill the conservation, spending, reporting, and energy savings goals on an aggregate
9.35 basis, under an agreement between the municipal power agency or not-for-profit entity
9.36 and each municipal utility for funding the investments.

10.1 (g) ~~At least every four years, on a schedule determined by the commissioner, each~~
10.2 ~~municipality or cooperative shall file an overview of its conservation improvement plan~~
10.3 ~~with the commissioner. With this overview, Each municipality or cooperative shall file~~
10.4 ~~energy conservation improvement plans by June 1 on a schedule determined by order~~
10.5 ~~of the commissioner, but at least every three years. Plans received by June 1 must be~~
10.6 ~~approved or approved as modified by the commissioner by December 1 of the same year.~~
10.7 The municipality or cooperative shall ~~also~~ provide an evaluation to the commissioner
10.8 detailing its energy conservation improvement spending and investments for the previous
10.9 period. The evaluation must briefly describe each conservation program and must specify
10.10 the energy savings or increased efficiency in the use of energy within the service territory
10.11 of the utility or association that is the result of the spending and investments. The
10.12 evaluation must analyze the cost-effectiveness of the utility's or association's conservation
10.13 programs, using a list of baseline energy and capacity savings assumptions developed
10.14 in consultation with the department. The commissioner shall review each evaluation
10.15 and make recommendations, where appropriate, to the municipality or association to
10.16 increase the effectiveness of conservation improvement activities. ~~Up to three percent of~~
10.17 ~~a utility's conservation spending obligation under this section may be used for program~~
10.18 ~~pre-evaluation, testing, and monitoring and program evaluation. The overview and~~
10.19 ~~evaluation filed by a municipality with less than 60,000,000 kilowatt-hours in annual~~
10.20 ~~retail sales of electric service may consist of a letter from the governing board of the~~
10.21 ~~municipal utility to the department providing the amount of annual conservation spending~~
10.22 ~~required of that municipality and certifying that the required amount has been spent on~~
10.23 ~~conservation programs pursuant to this subdivision.~~

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

10.30 (i) ~~As part of its spending for conservation improvement, a municipality or~~
10.31 ~~association may contribute to the energy and conservation account. A municipality or~~
10.32 ~~association may propose to the commissioner to designate that all or a portion of funds~~
10.33 ~~contributed to the account be used for research and development projects that can best~~
10.34 ~~be implemented on a statewide basis. Any amount contributed must be remitted to the~~
10.35 ~~commissioner by February 1 of each year.~~

11.1 ~~(h)~~ (h) A municipality may spend up to 50 percent of its required spending under
11.2 this section to refurbish an existing district heating or cooling system. ~~This paragraph~~
11.3 ~~expires until July 1, 2007. From July 1, 2007, through June 30, 2011, expenditures made~~
11.4 ~~to refurbish a district heating or cooling system are considered to be load-management~~
11.5 ~~activities under paragraph (e). This paragraph expires July 1, 2011.~~

11.6 (i) The commissioner shall consider and may require a utility, association, or
11.7 other entity providing energy efficiency and conservation services under this section to
11.8 undertake a program suggested by an outside source, including a political subdivision,
11.9 nonprofit corporation, or community organization.

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

11.13 (b) Each individual utility and association shall have an annual energy-savings
11.14 goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the
11.15 commissioner under paragraph (d). The savings goals must be calculated based on the
11.16 most recent three-year weather normalized average.

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

11.19 (d) In its energy conservation improvement plan filing, a utility or association may
11.20 request the commissioner to adjust its annual energy savings percentage goal based on
11.21 its historical conservation investment experience, customer class makeup, load growth,
11.22 a conservation potential study, or other factors the commissioner determines warrants
11.23 an adjustment. The commissioner may not approve a plan that provides for an annual
11.24 energy savings goal of less than one percent of gross annual retail energy sales from
11.25 energy conservation improvements. A utility or association may include in its energy
11.26 conservation plan energy savings from electric utility infrastructure projects approved
11.27 by the commission under section 216B.1636 or waste heat recovery converted into
11.28 electricity projects that may count as energy savings in addition to the minimum energy
11.29 savings goal of at least one percent for energy conservation improvements. Electric utility
11.30 infrastructure projects must result in increased energy efficiency greater than that which
11.31 would have occurred through normal maintenance activity.

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

11.35 (f) An association or utility is not required to make energy conservation investments
11.36 to attain the energy savings goals of this subdivision that are not cost-effective even

12.1 if the investment is necessary to attain the energy savings goals. For the purpose of
12.2 this paragraph, in determining cost-effectiveness, the commissioner shall consider the
12.3 costs and benefits to ratepayers, the utility, participants, and society. In addition, the
12.4 commissioner shall consider the rate at which an association or municipal utility is
12.5 increasing its energy savings and its expenditures on energy conservation.

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

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

12.15 Subd. 1d. ~~Cooperative conservation investment increase phase-in~~ Technical
12.16 assistance. ~~The increase in required conservation improvement expenditures by a~~
12.17 ~~cooperative electric association that results from the amendments in Laws 2001, chapter~~
12.18 ~~212, article 8, section 6, to subdivision 1b, paragraph (a), clause (1), must be phased~~
12.19 ~~in as follows:~~

- 12.20 ~~(1) at least 25 percent shall be effective in year 2002;~~
12.21 ~~(2) at least 50 percent shall be effective in year 2003;~~
12.22 ~~(3) at least 75 percent shall be effective in year 2004; and~~
12.23 ~~(4) all of the increase shall be effective in year 2005 and thereafter.~~

12.24 The commissioner shall evaluate energy conservation improvement programs
12.25 on the basis of cost-effectiveness and the reliability of the technologies employed.
12.26 The commissioner shall, by order, establish, maintain, and update energy savings
12.27 assumptions that must be used when filing energy conservation improvement programs.
12.28 The commissioner shall establish an inventory of the most effective energy conservation
12.29 programs, techniques, and technologies, and encourage all Minnesota utilities to
12.30 implement them, where appropriate, in their service territories. The commissioner shall
12.31 describe these programs in sufficient detail to provide a utility reasonable guidance
12.32 concerning implementation. The commissioner shall prioritize the opportunities in
12.33 order of potential energy savings and in order of cost-effectiveness. The commissioner
12.34 may contract with a third party to carry out any of the commissioner's duties under
12.35 this subdivision, and to obtain technical assistance to evaluate the effectiveness of any
12.36 conservation improvement program. The commissioner may assess up to \$800,000

13.1 annually until June 30, 2009, and \$450,000 annually thereafter for the purposes of this
13.2 subdivision. The assessments must be deposited in the state treasury and credited to the
13.3 energy and conservation account created under subdivision 2a. An assessment made under
13.4 this subdivision is not subject to the cap on assessments provided by section 216B.62, or
13.5 any other law.

13.6 Subd. 1e. **Applied research and development grants.** The commissioner may, by
13.7 order, approve and make grants for applied research and development projects of general
13.8 applicability that identify new technologies or strategies to maximize energy savings,
13.9 improve the effectiveness of energy conservation programs, or document the carbon
13.10 dioxide reductions from energy conservation programs. When approving projects, the
13.11 commissioner shall consider proposals and comments from utilities and other interested
13.12 parties. The commissioner may assess up to \$3,600,000 annually for the purposes of this
13.13 subdivision. The assessments must be deposited in the state treasury and credited to the
13.14 energy and conservation account created under subdivision 2a. An assessment made under
13.15 this subdivision is not subject to the cap on assessments provided by section 216B.62, or
13.16 any other law.

13.17 Subd. 1f. **Facilities energy efficiency.** (a) The commissioner of administration and
13.18 the commissioner of commerce shall maintain and, as needed, revise the sustainable
13.19 building design guidelines developed under section 16B.325.

13.20 (b) The commissioner of administration and the commissioner of commerce shall
13.21 maintain and update the benchmarking tool developed under Laws 2001, chapter 212,
13.22 article 1, section 3, so that all public buildings can use the benchmarking tool to maintain
13.23 energy use information for the purposes of establishing energy efficiency benchmarks,
13.24 tracking building performance, and measuring the results of energy efficiency and
13.25 conservation improvements.

13.26 (c) The commissioner shall require that utilities include in their conservation
13.27 improvement plans programs that facilitate professional engineering verification to qualify
13.28 a building as Energy Star-labeled, Leadership in Energy and Environmental Design
13.29 (LEED) certified, or Green Globes-certified. The state goal is to achieve certification of
13.30 1,000 commercial buildings as Energy Star-labeled, and 100 commercial buildings as
13.31 LEED-certified or Green Globes-certified by December 31, 2010.

13.32 (d) The commissioner may assess up to \$500,000 annually for the purposes of this
13.33 subdivision. The assessments must be deposited in the state treasury and credited to the
13.34 energy and conservation account created under subdivision 2a. An assessment made under

14.1 this subdivision is not subject to the cap on assessments provided by section 216B.62, or
14.2 any other law.

14.3 Subd. 2. **Programs.** (a) The commissioner may require public utilities to make
14.4 investments and expenditures in energy conservation improvements, explicitly setting
14.5 forth the interest rates, prices, and terms under which the improvements must be offered to
14.6 the customers. The required programs must cover no more than a ~~four-year~~ three-year
14.7 period. Public utilities shall file conservation improvement plans by June 1, on a schedule
14.8 determined by order of the commissioner, but at least every ~~four~~ three years. Plans
14.9 received by a public utility by June 1 must be approved or approved as modified by the
14.10 commissioner by December 1 of that same year. ~~The commissioner shall give special~~
14.11 ~~consideration and encouragement to programs that bring about significant net savings~~
14.12 ~~through the use of energy-efficient lighting.~~ The commissioner shall evaluate the program
14.13 on the basis of cost-effectiveness and the reliability of technologies employed. The
14.14 commissioner's order must provide to the extent practicable for a free choice, by consumers
14.15 participating in the program, of the device, method, material, or project constituting the
14.16 energy conservation improvement and for a free choice of the seller, installer, or contractor
14.17 of the energy conservation improvement, provided that the device, method, material, or
14.18 project seller, installer, or contractor is duly licensed, certified, approved, or qualified,
14.19 including under the residential conservation services program, where applicable.

14.20 (b) The commissioner may require a utility to make an energy conservation
14.21 improvement investment or expenditure whenever the commissioner finds that the
14.22 improvement will result in energy savings at a total cost to the utility less than the cost
14.23 to the utility to produce or purchase an equivalent amount of new supply of energy. The
14.24 commissioner shall nevertheless ensure that every public utility operate one or more
14.25 programs under periodic review by the department.

14.26 (c) Each public utility subject to subdivision 1a may spend and invest annually up to
14.27 ten percent of the total amount required to be spent and invested on energy conservation
14.28 improvements under this section by the utility on research and development projects
14.29 that meet the definition of energy conservation improvement in subdivision 1 and that
14.30 are funded directly by the public utility.

14.31 (d) A public utility may not spend for or invest in energy conservation improvements
14.32 that directly benefit a large energy facility or a large electric customer facility for which
14.33 the commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b). The
14.34 commissioner shall consider and may require a utility to undertake a program suggested
14.35 by an outside source, including a political subdivision ~~or~~, a nonprofit corporation, or
14.36 community organization.

15.1 ~~(e) The commissioner may, by order, establish a list of programs that may be~~
15.2 ~~offered as energy conservation improvements by a public utility, municipal utility,~~
15.3 ~~cooperative electric association, or other entity providing conservation services pursuant~~
15.4 ~~to this section. The list of programs may include rebates for high-efficiency appliances,~~
15.5 ~~rebates or subsidies for high-efficiency lamps, small business energy audits, and building~~
15.6 ~~recommissioning. The commissioner may, by order, change this list to add or subtract~~
15.7 ~~programs as the commissioner determines is necessary to promote efficient and effective~~
15.8 ~~conservation programs.~~

15.9 ~~(f) The commissioner shall ensure that a portion of the money spent on residential~~
15.10 ~~conservation improvement programs is devoted to programs that directly address the~~
15.11 ~~needs of renters and low-income persons, in proportion to the amount the utility has~~
15.12 ~~historically spent on such programs based on the most recent three-year average relative to~~
15.13 ~~the utility's total conservation spending under this section, unless an insufficient number of~~
15.14 ~~appropriate programs are available.~~

15.15 ~~(g)~~ (e) A utility, a political subdivision, or a nonprofit or community organization
15.16 that has suggested a program, the attorney general acting on behalf of consumers and
15.17 small business interests, or a utility customer that has suggested a program and is not
15.18 represented by the attorney general under section 8.33 may petition the commission to
15.19 modify or revoke a department decision under this section, and the commission may do
15.20 so if it determines that the program is not cost-effective, does not adequately address the
15.21 residential conservation improvement needs of low-income persons, has a long-range
15.22 negative effect on one or more classes of customers, or is otherwise not in the public
15.23 interest. The commission shall reject a petition that, on its face, fails to make a reasonable
15.24 argument that a program is not in the public interest.

15.25 ~~(h)~~ (f) The commissioner may order a public utility to include, with the filing of the
15.26 utility's proposed conservation improvement plan under paragraph (a), the results of an
15.27 independent audit of the utility's conservation improvement programs and expenditures
15.28 performed by the department or an auditor with experience in the provision of energy
15.29 conservation and energy efficiency services approved by the commissioner and chosen by
15.30 the utility. The audit must specify the energy savings or increased efficiency in the use
15.31 of energy within the service territory of the utility that is the result of the spending and
15.32 investments. The audit must evaluate the cost-effectiveness of the utility's conservation
15.33 programs.

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

16.1 Subd. 2a. **Energy and conservation account.** The energy and conservation
16.2 account is established in the special revenue fund in the state treasury. The commissioner
16.3 must deposit money contributed under subdivisions 1a and 1b assessed or contributed
16.4 under subdivisions 1d, 1e, 1f, and 7 in the state treasury and credit it to the energy and
16.5 conservation account in the general special revenue fund. Money in the account is
16.6 appropriated to the department commissioner for programs designed to meet the energy
16.7 conservation needs of low-income persons and to make energy conservation improvements
16.8 in areas not adequately served under subdivision 2, including research and development
16.9 projects included in the definition of energy conservation improvement in subdivision 1
16.10 the purposes of subdivisions 1d, 1e, 1f, and 7. Interest on money in the account accrues to
16.11 the account. Using information collected under section 216C.02, subdivision 1, paragraph
16.12 (b), the commissioner must, to the extent possible, allocate enough money to programs
16.13 for low-income persons to assure that their needs are being adequately addressed.
16.14 The commissioner must request the commissioner of finance to transfer money from
16.15 the account to the commissioner of education for an energy conservation program for
16.16 low-income persons. In establishing programs, the commissioner must consult political
16.17 subdivisions and nonprofit and community organizations, especially organizations
16.18 engaged in providing energy and weatherization assistance to low-income persons. At
16.19 least one program must address the need for energy conservation improvements in areas
16.20 in which a high percentage of residents use fuel oil or propane to fuel their source of
16.21 home heating. The commissioner may contract with a political subdivision, a nonprofit
16.22 or community organization, a public utility, a municipality, or a cooperative electric
16.23 association to implement its programs. The commissioner may provide grants to any
16.24 person to conduct research and development projects in accordance with this section.

16.25 Subd. 2b. **Recovery of expenses.** The commission shall allow a utility to recover
16.26 expenses resulting from a conservation improvement program required by the department
16.27 and contributions and assessments to the energy and conservation account, unless the
16.28 recovery would be inconsistent with a financial incentive proposal approved by the
16.29 commission. The commission shall allow a cooperative electric association subject
16.30 to rate regulation under section 216B.026, to recover expenses resulting from energy
16.31 conservation improvement programs, load management programs, and assessments
16.32 and contributions to the energy and conservation account unless the recovery would be
16.33 inconsistent with a financial incentive proposal approved by the commission. In addition,
16.34 a utility may file annually, or the Public Utilities Commission may require the utility
16.35 to file, and the commission may approve, rate schedules containing provisions for the
16.36 automatic adjustment of charges for utility service in direct relation to changes in the

17.1 expenses of the utility for real and personal property taxes, fees, and permits, the amounts
17.2 of which the utility cannot control. A public utility is eligible to file for adjustment for real
17.3 and personal property taxes, fees, and permits under this subdivision only if, in the year
17.4 previous to the year in which it files for adjustment, it has spent or invested at least 1.75
17.5 percent of its gross revenues from provision of electric service, excluding gross operating
17.6 revenues from electric service provided in the state to large electric customer facilities for
17.7 which the commissioner has issued an exemption under subdivision 1a, paragraph (b), and
17.8 0.6 percent of its gross revenues from provision of gas service, excluding gross operating
17.9 revenues from gas services provided in the state to large electric customer facilities for
17.10 which the commissioner has issued an exemption under subdivision 1a, paragraph (b), for
17.11 that year for energy conservation improvements under this section.

17.12 Subd. 2c. Performance incentives. By December 31, 2008, the commission
17.13 shall review any incentive plan for energy conservation improvement it has approved
17.14 under section 216B.16, subdivision 6c, and adjust the utility performance incentives to
17.15 recognize making progress toward and meeting the energy savings goals established
17.16 in subdivision 1c.

17.17 Subd. 3. **Ownership of energy conservation improvement.** An energy
17.18 conservation improvement made to or installed in a building in accordance with this
17.19 section, except systems owned by the utility and designed to turn off, limit, or vary the
17.20 delivery of energy, are the exclusive property of the owner of the building except to the
17.21 extent that the improvement is subjected to a security interest in favor of the utility in case
17.22 of a loan to the building owner. The utility has no liability for loss, damage or injury
17.23 caused directly or indirectly by an energy conservation improvement except for negligence
17.24 by the utility in purchase, installation, or modification of the product.

17.25 Subd. 4. **Federal law prohibitions.** If investments by public utilities in energy
17.26 conservation improvements are in any manner prohibited or restricted by federal law
17.27 and there is a provision under which the prohibition or restriction may be waived, then
17.28 the commission, the governor, or any other necessary state agency or officer shall take
17.29 all necessary and appropriate steps to secure a waiver with respect to those public utility
17.30 investments in energy conservation improvements included in this section.

17.31 Subd. 5. **Efficient lighting program.** (a) Each public utility, cooperative electric
17.32 association, and municipal utility that provides electric service to retail customers shall
17.33 include as part of its conservation improvement activities a program to strongly encourage
17.34 the use of fluorescent and high-intensity discharge lamps. The program must include at

18.1 least a public information campaign to encourage use of the lamps and proper management
18.2 of spent lamps by all customer classifications.

18.3 (b) A public utility that provides electric service at retail to 200,000 or more
18.4 customers shall establish, either directly or through contracts with other persons, including
18.5 lamp manufacturers, distributors, wholesalers, and retailers and local government units, a
18.6 system to collect for delivery to a reclamation or recycling facility spent fluorescent and
18.7 high-intensity discharge lamps from households and from small businesses as defined in
18.8 section 645.445 that generate an average of fewer than ten spent lamps per year.

18.9 (c) A collection system must include establishing reasonably convenient locations
18.10 for collecting spent lamps from households and financial incentives sufficient to encourage
18.11 spent lamp generators to take the lamps to the collection locations. Financial incentives
18.12 may include coupons for purchase of new fluorescent or high-intensity discharge lamps,
18.13 a cash back system, or any other financial incentive or group of incentives designed to
18.14 collect the maximum number of spent lamps from households and small businesses that is
18.15 reasonably feasible.

18.16 (d) A public utility that provides electric service at retail to fewer than 200,000
18.17 customers, a cooperative electric association, or a municipal utility that provides electric
18.18 service at retail to customers may establish a collection system under paragraphs (b) and
18.19 (c) as part of conservation improvement activities required under this section.

18.20 (e) The commissioner of the Pollution Control Agency may not, unless clearly
18.21 required by federal law, require a public utility, cooperative electric association, or
18.22 municipality that establishes a household fluorescent and high-intensity discharge lamp
18.23 collection system under this section to manage the lamps as hazardous waste as long as
18.24 the lamps are managed to avoid breakage and are delivered to a recycling or reclamation
18.25 facility that removes mercury and other toxic materials contained in the lamps prior to
18.26 placement of the lamps in solid waste.

18.27 (f) If a public utility, cooperative electric association, or municipal utility contracts
18.28 with a local government unit to provide a collection system under this subdivision,
18.29 the contract must provide for payment to the local government unit of all the unit's
18.30 incremental costs of collecting and managing spent lamps.

18.31 (g) All the costs incurred by a public utility, cooperative electric association, or
18.32 municipal utility for promotion and collection of fluorescent and high-intensity discharge
18.33 lamps under this subdivision are conservation improvement spending under this section.

18.34 Subd. 6. **Renewable energy research.** (a) A public utility that owns a nuclear
18.35 generation facility in the state shall spend five percent of the total amount that utility
18.36 is required to spend under this section to support basic and applied research and

19.1 demonstration activities at the University of Minnesota Initiative for Renewable Energy
19.2 and the Environment for the development of renewable energy sources and technologies.
19.3 The utility shall transfer the required amount to the University of Minnesota on or before
19.4 July 1 of each year and that annual amount shall be deducted from the amount of money the
19.5 utility is required to spend under this section. The University of Minnesota shall transfer
19.6 at least ten percent of these funds to at least one rural campus or experiment station.

19.7 (b) Research funded under this subdivision shall include:

19.8 (1) development of environmentally sound production, distribution, and use of
19.9 energy, chemicals, and materials from renewable sources;

19.10 (2) processing and utilization of agricultural and forestry plant products and other
19.11 bio-based, renewable sources as a substitute for fossil-fuel-based energy, chemicals, and
19.12 materials using a variety of means including biocatalysis, biorefining, and fermentation;

19.13 (3) conversion of state wind resources to hydrogen for energy storage and
19.14 transportation to areas of energy demand;

19.15 (4) improvements in scalable hydrogen fuel cell technologies; and

19.16 (5) production of hydrogen from bio-based, renewable sources; and sequestration
19.17 of carbon.

19.18 (c) Notwithstanding other law to the contrary, the utility may, but is not required to,
19.19 spend more than two percent of its gross operating revenues from service provided in this
19.20 state under this section or section 216B.2411.

19.21 (d) This subdivision expires June 30, 2008.

19.22 Subd. 7. **Low-income programs.** (a) The commissioner shall ensure that each
19.23 utility and association provides low-income programs. When approving spending and
19.24 energy savings goals for low-income programs, the commissioner shall consider historic
19.25 spending and participation levels, energy savings for low-income programs, and the
19.26 number of low-income persons residing in the utility's service territory. A utility that
19.27 furnishes gas service must spend at least 0.2 percent of its gross operating revenue from
19.28 residential customers in the state on low-income programs. A utility or association that
19.29 furnishes electric service must spend at least 0.1 percent of its gross operating revenue
19.30 from residential customers in the state on low-income programs. For a generation and
19.31 transmission cooperative association, this requirement shall apply to each association's
19.32 members' aggregate gross operating revenue from sale of electricity to residential
19.33 customers in the state. Beginning in 2010, a utility or association that furnishes electric
19.34 service must spend 0.2 percent of its gross operating revenue from residential customers
19.35 in the state on low-income programs.

20.1 (b) To meet the requirements of paragraph (a), a utility or association may contribute
20.2 money to the energy and conservation account. An energy conservation improvement plan
20.3 must state the amount, if any, of low-income energy conservation improvement funds the
20.4 utility or association will contribute to the energy and conservation account. Contributions
20.5 must be remitted to the commissioner by February 1 of each year.

20.6 (c) The commissioner shall establish low-income programs to utilize money
20.7 contributed to the energy and conservation account under paragraph (b). In establishing
20.8 low-income programs, the commissioner shall consult political subdivisions, utilities, and
20.9 nonprofit and community organizations, especially organizations engaged in providing
20.10 energy and weatherization assistance to low-income persons. Money contributed to
20.11 the energy and conservation account under paragraph (b) must provide programs for
20.12 low-income persons, including low-income renters, in the service territory of the utility or
20.13 association providing the money. The commissioner shall record and report expenditures
20.14 and energy savings achieved as a result of low-income programs funded through the
20.15 energy and conservation account in the report required under subdivision 1c, paragraph
20.16 (g). The commissioner may contract with a political subdivision, nonprofit or community
20.17 organization, public utility, municipality, or cooperative electric association to implement
20.18 low-income programs funded through the energy and conservation account.

20.19 (d) A utility or association may petition the commissioner to modify its required
20.20 spending under paragraph (a) if the utility or association and the commissioner have been
20.21 unable to expend the amount required under paragraph (a) for three consecutive years.

20.22 Subd. 8. **Assessment.** The commission or department may assess utilities subject to
20.23 this section in proportion to their respective gross operating revenue from sales of gas or
20.24 electric service within the state during the last calendar year to carry out the purposes of
20.25 subdivisions 1d, 1e, and 1f. Those assessments are not subject to the cap on assessments
20.26 provided by section 216B.62, or any other law.

20.27 Sec. 6. **[216B.2412] DECOUPLING OF ENERGY SALES FROM REVENUES.**

20.28 Subdivision 1. **Definition and purpose.** For the purpose of this section,
20.29 "decoupling" means a regulatory tool designed to separate a utility's revenue from changes
20.30 in energy sales. The purpose of decoupling is to reduce a utility's disincentive to promote
20.31 energy efficiency.

20.32 Subd. 2. **Decoupling criteria.** The commission shall, by order, establish criteria
20.33 and standards for decoupling. The commission shall design the criteria and standards to
20.34 mitigate the impact on public utilities of the energy savings goals under section 216B.241

21.1 without adversely affecting utility ratepayers. In designing the criteria, the commission
21.2 shall consider energy efficiency, weather, and cost of capital, among other factors.

21.3 Subd. 3. **Pilot programs.** The commission shall allow one or more rate-regulated
21.4 utilities to participate in a pilot program to assess the merits of a rate-decoupling strategy
21.5 to promote energy efficiency and conservation. Each pilot program must utilize the
21.6 criteria and standards established in subdivision 2 and be designed to determine whether
21.7 a rate-decoupling strategy achieves energy savings. On or before a date established by
21.8 the commission, the commission shall require electric and gas utilities that intend to
21.9 implement a decoupling program to file a decoupling pilot plan, which shall be approved
21.10 or approved as modified by the commission. A pilot program may not exceed three years
21.11 in length. Any extension beyond three years can only be approved in a general rate case,
21.12 unless that decoupling program was previously approved as part of a general rate case.
21.13 The commission shall report on the programs annually to the chairs of the house of
21.14 representatives and senate committees with primary jurisdiction over energy policy.

21.15 Sec. 7. **[216C.03] STATE GOVERNMENT ENERGY SAVINGS PLAN.**

21.16 The commissioner of commerce, in coordination with the commissioners of the
21.17 agencies listed in section 15.01, the chancellor of the Minnesota State Colleges and
21.18 Universities, and the president of the University of Minnesota, shall identify policy
21.19 options, barriers, and economic benefits and costs for state government operations to
21.20 achieve the energy savings goals in section 216B.2401 and the resulting carbon emission
21.21 reductions. The commissioner of commerce must issue a report to the legislature by
21.22 February 1, 2008.

21.23 Sec. 8. **REVISOR'S INSTRUCTION.**

21.24 The revisor of statutes shall change the reference to "section 216B.241, subdivision
21.25 1, paragraph (i)" found in section 216B.2411, subdivision 1, to read "section 216B.241,
21.26 subdivision 1."

21.27 Sec. 9. **EFFECTIVE DATE.**

21.28 This article is effective July 1, 2007.

21.29 **ARTICLE 3**
21.30 **MISCELLANEOUS**

21.31 Section 1. Minnesota Statutes 2006, section 123B.65, subdivision 2, is amended to read:

22.1 Subd. 2. **Energy efficiency contract.** (a) Notwithstanding any law to the contrary,
22.2 a school district may enter into a guaranteed energy savings contract with a qualified
22.3 provider to significantly reduce energy or operating costs.

22.4 (b) Before entering into a contract under this subdivision, the board shall comply
22.5 with clauses (1) to (5).

22.6 (1) The board must seek proposals from multiple qualified providers by publishing
22.7 notice of the proposed guaranteed energy savings contract in the board's official newspaper
22.8 and in other publications if the board determines that additional publication is necessary to
22.9 notify multiple qualified providers.

22.10 (2) The school board must select the qualified provider that best meets the needs of
22.11 the board. The board must provide public notice of the meeting at which it will select the
22.12 qualified provider.

22.13 (3) The contract between the board and the qualified provider must describe the
22.14 methods that will be used to calculate the costs of the contract and the operational and
22.15 energy savings attributable to the contract.

22.16 (4) The qualified provider shall issue a report to the board giving a description of all
22.17 costs of installations, modifications, or remodeling, including costs of design, engineering,
22.18 installation, maintenance, repairs, or debt service, and giving detailed calculations of the
22.19 amounts by which energy or operating costs will be reduced and the projected payback
22.20 schedule in years.

22.21 (5) The board must provide published notice of the meeting in which it proposes to
22.22 award the contract, the names of the parties to the proposed contract, and the contract's
22.23 purpose.

22.24 (c) The board must provide a copy of any contract entered into under paragraph (a)
22.25 and the report provided under paragraph (b), clause (4), to the commissioner of commerce
22.26 within 30 days of the effective date of the contract.

22.27 Sec. 2. Minnesota Statutes 2006, section 216C.052, subdivision 8a, as added by Laws
22.28 2007, chapter 57, article 2, section 26, is amended to read:

22.29 Subd. 8a. **Manitoba Hydro information.** By January 1, 2008, and each year
22.30 thereafter, the task force shall request the Manitoba Hydro-Electric Board to provide
22.31 the following information for each community that is a signatory to the Northern Flood
22.32 Agreement, including South Indian Lake:

22.33 (1) median household income and number of residents employed full time and
22.34 part time;

23.1 (2) the number of outstanding claims filed against Manitoba Hydro by individuals
23.2 and communities and the number of claims settled by Manitoba Hydro; and

23.3 (3) the amount of shoreline damaged by flooding and erosion and the amount of
23.4 shoreline restored and cleaned.

23.5 Nothing in this section shall be construed as a directive to the government of Canada
23.6 or the province of Manitoba.

23.7 For the purposes of this subdivision, "Northern Flood Agreement" means the
23.8 agreement entered into by the Northern Flood Committee, Incorporated, the Manitoba
23.9 Hydro-Electric Board, the province of Manitoba, and the government of Canada on
23.10 December 16, 1977.

23.11 Sec. 3. Minnesota Statutes 2006, section 216C.31, is amended to read:

23.12 **216C.31 ENERGY AUDIT PROGRAMS.**

23.13 The commissioner shall develop ~~and administer~~ state programs of energy audits of
23.14 residential and commercial buildings including ~~those required by United States Code, title~~
23.15 ~~42, sections 8211 to 8222 and sections 8281 to 8284. The commissioner shall continue~~
23.16 ~~to administer the residential energy audit program as originally established under the~~
23.17 ~~provisions of United States Code, title 42, sections 8211 to 8222, through July 1, 1986~~
23.18 ~~irrespective of any prior expiration date provided in United States Code, title 42, section~~
23.19 ~~8216. The commissioner may approve temporary programs if they are likely to result~~
23.20 ~~in the installation of as many conservation measures as would have been installed had~~
23.21 ~~the utility met the requirements of United States Code, title 42, sections 8211 to 8222.~~
23.22 ~~The Consumer Services Division and the attorney general may release information on~~
23.23 ~~consumer comments about the operation of the program to the commissioner~~ the training
23.24 and qualifications necessary for the auditing of residential and commercial buildings under
23.25 the auspices of a program created under section 216B.241.

23.26 Sec. 4. Minnesota Statutes 2006, section 471.345, subdivision 13, is amended to read:

23.27 Subd. 13. **Energy efficiency projects.** The following definitions apply to this
23.28 subdivision.

23.29 (a) "Energy conservation measure" means a training program or facility alteration
23.30 designed to reduce energy consumption or operating costs and includes:

23.31 (1) insulation of the building structure and systems within the building;

23.32 (2) storm windows and doors, caulking or weatherstripping, multiglazed windows
23.33 and doors, heat absorbing or heat reflective glazed and coated window and door

24.1 systems, additional glazing, reductions in glass area, and other window and door system
24.2 modifications that reduce energy consumption;

24.3 (3) automatic energy control systems;

24.4 (4) heating, ventilating, or air conditioning system modifications or replacements;

24.5 (5) replacement or modifications of lighting fixtures to increase the energy efficiency
24.6 of the lighting system without increasing the overall illumination of a facility, unless an
24.7 increase in illumination is necessary to conform to the applicable state or local building
24.8 code for the lighting system after the proposed modifications are made;

24.9 (6) energy recovery systems;

24.10 (7) cogeneration systems that produce steam or forms of energy such as heat, as well
24.11 as electricity, for use primarily within a building or complex of buildings;

24.12 (8) energy conservation measures that provide long-term operating cost reductions.

24.13 (b) "Guaranteed energy savings contract" means a contract for the evaluation
24.14 and recommendations of energy conservation measures, and for one or more energy
24.15 conservation measures. The contract must provide that all payments, except obligations
24.16 on termination of the contract before its expiration, are to be made over time, but not to
24.17 exceed 15 years from the date of final installation, and the savings are guaranteed to the
24.18 extent necessary to make payments for the systems.

24.19 (c) "Qualified provider" means a person or business experienced in the design,
24.20 implementation, and installation of energy conservation measures. A qualified provider
24.21 to whom the contract is awarded shall give a sufficient bond to the municipality for its
24.22 faithful performance.

24.23 Notwithstanding any law to the contrary, a municipality may enter into a guaranteed
24.24 energy savings contract with a qualified provider to significantly reduce energy or
24.25 operating costs.

24.26 Before entering into a contract under this subdivision, the municipality shall provide
24.27 published notice of the meeting in which it proposes to award the contract, the names of
24.28 the parties to the proposed contract, and the contract's purpose.

24.29 Before installation of equipment, modification, or remodeling, the qualified provider
24.30 shall first issue a report, summarizing estimates of all costs of installations, modifications,
24.31 or remodeling, including costs of design, engineering, installation, maintenance, repairs,
24.32 or debt service, and estimates of the amounts by which energy or operating costs will be
24.33 reduced.

24.34 A guaranteed energy savings contract that includes a written guarantee that savings
24.35 will meet or exceed the cost of energy conservation measures is not subject to competitive

25.1 bidding requirements of section 471.345 or other law or city charter. The contract is
25.2 not subject to section 123B.52.

25.3 A municipality may enter into a guaranteed energy savings contract with a qualified
25.4 provider if, after review of the report, it finds that the amount it would spend on the energy
25.5 conservation measures recommended in the report is not likely to exceed the amount
25.6 to be saved in energy and operation costs over 15 years from the date of installation if
25.7 the recommendations in the report were followed, and the qualified provider provides a
25.8 written guarantee that the energy or operating cost savings will meet or exceed the costs
25.9 of the system. The guaranteed energy savings contract may provide for payments over
25.10 a period of time, not to exceed 15 years.

25.11 A municipality may enter into an installment payment contract for the purchase and
25.12 installation of energy conservation measures. The contract must provide for payments
25.13 of not less than 1/15 of the price to be paid within two years from the date of the first
25.14 operation, and the remaining costs to be paid monthly, not to exceed a 15-year term from
25.15 the date of the first operation.

25.16 A municipality entering into a guaranteed energy savings contract shall provide a
25.17 copy of the contract and the report from the qualified provider to the commissioner of
25.18 commerce within 30 days of the effective date of the contract.

25.19 Guaranteed energy savings contracts may extend beyond the fiscal year in which
25.20 they become effective. The municipality shall include in its annual appropriations measure
25.21 for each later fiscal year any amounts payable under guaranteed energy savings contracts
25.22 during the year. Failure of a municipality to make such an appropriation does not affect
25.23 the validity of the guaranteed energy savings contract or the municipality's obligations
25.24 under the contracts.

25.25 Sec. 5. Minnesota Statutes 2006, section 504B.161, subdivision 1, is amended to read:

25.26 Subdivision 1. **Requirements.** (a) In every lease or license of residential premises,
25.27 the landlord or licensor covenants:

25.28 (1) that the premises and all common areas are fit for the use intended by the parties;

25.29 (2) to keep the premises in reasonable repair during the term of the lease or license,
25.30 except when the disrepair has been caused by the willful, malicious, or irresponsible
25.31 conduct of the tenant or licensee or a person under the direction or control of the tenant or
25.32 licensee; ~~and~~

25.33 (3) to make the premises reasonably energy efficient by installing weatherstripping,
25.34 caulking, storm windows, and storm doors when any such measure will result in energy
25.35 procurement cost savings, based on current and projected average residential energy costs

26.1 in Minnesota, that will exceed the cost of implementing that measure, including interest,
26.2 amortized over the ten-year period following the incurring of the cost; and

26.3 (4) to maintain the premises in compliance with the applicable health and safety
26.4 laws of the state, including the weatherstripping, caulking, storm window, and storm door
26.5 energy efficiency standards for renter-occupied residences prescribed by section 216C.27,
26.6 subdivisions 1 and 3; and of the local units of government where the premises are located
26.7 during the term of the lease or license, except when violation of the health and safety
26.8 laws has been caused by the willful, malicious, or irresponsible conduct of the tenant or
26.9 licensee or a person under the direction or control of the tenant or licensee.

26.10 (b) The parties to a lease or license of residential premises may not waive or modify
26.11 the covenants imposed by this section.

26.12 **Sec. 6. NUCLEAR ENERGY STUDY.**

26.13 The legislative electric energy task force shall conduct an analysis of the economic
26.14 and environmental costs of constructing a 600-megawatt nuclear-powered electric
26.15 generating plant in Minnesota. The analysis must include predesign, design and
26.16 construction costs, and waste storage costs. The study must compare these costs with
26.17 the costs of constructing a pulverized coal plant with carbon capture and sequestration
26.18 technology and a coal-gasification plant with carbon capture and sequestration technology.
26.19 The study's findings must be submitted in a report to the chairs and ranking minority
26.20 members of the committees of the house of representatives and senate with primary
26.21 jurisdiction over energy policy by March 1, 2008.

26.22 **Sec. 7. REPEALER.**

26.23 Minnesota Statutes 2006, sections 216B.165; 216C.27; and 216C.30, subdivision 5,
26.24 and Minnesota Rules, parts 7635.0100; 7635.0110; 7635.0120; 7635.0130; 7635.0140;
26.25 7635.0150; 7635.0160; 7635.0170; 7635.0180; 7635.0200; 7635.0210; 7635.0220;
26.26 7635.0230; 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310; 7635.0320;
26.27 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420; 7635.0500; 7635.0510;
26.28 7635.0520; 7635.0530; 7635.0600; 7635.0610; 7635.0620; 7635.0630; 7635.0640;
26.29 7635.1000; 7635.1010; 7635.1020; 7635.1030; 7655.0100; 7655.0120; 7655.0200;
26.30 7655.0210; 7655.0220; 7655.0230; 7655.0240; 7655.0250; 7655.0260; 7655.0270;
26.31 7655.0280; 7655.0290; 7655.0300; 7655.0310; 7655.0320; 7655.0330; 7655.0400;
26.32 7655.0410; and 7655.0420, are repealed, effective July 1, 2007.

26.33 **Sec. 8. EFFECTIVE DATE.**

26.34 This article is effective July 1, 2007.

ARTICLE 4

C-BED AND RELATED ISSUES

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Section 1. Minnesota Statutes 2006, section 216B.1612, subdivision 1, is amended to read:

Subdivision 1. **Tariff establishment.** A tariff shall be established to optimize local, regional, and state benefits from ~~wind~~ renewable energy development and to facilitate widespread development of community-based ~~wind~~ renewable energy projects throughout Minnesota.

Sec. 2. Minnesota Statutes 2006, section 216B.1612, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given them in this subdivision.

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

(c) "Qualifying owner" means:

(1) a Minnesota resident;

(2) a limited liability company that is organized under ~~the laws of this state~~ chapter 322B and that is made up of members who are Minnesota residents;

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

(4) a Minnesota cooperative association organized under chapter 308A or 308B, ~~other than~~ including a rural electric cooperative association or a generation and transmission cooperative on behalf of and at the request of a member distribution utility;

(5) a Minnesota political subdivision or local government ~~other than~~ including, but not limited to, a municipal electric utility, or a municipal power agency on behalf of and at the request of a member distribution utility, ~~including, but not limited to,~~ a county, statutory or home rule charter city, town, school district, or public or private higher education institution or any other local or regional governmental organization such as a board, commission, or association; or

(6) a tribal council.

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

(e) "Standard reliability criteria" means:

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

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

S.F. No. 145, Conference Committee Report - 85th Legislative Session (2007-2008)

28.1 (f) "Renewable" refers to a technology listed in section 216B.1691, subdivision 1,
28.2 paragraph (a).

28.3 (g) "Community-based energy development project" or "C-BED project" means
28.4 a new ~~wind~~ renewable energy project that either as a stand-alone project or part of a
28.5 partnership under subdivision 8:

28.6 (1) has no single qualifying owner owning more than 15 percent of a C-BED ~~wind~~
28.7 energy project ~~that consists of more than two turbines; or unless: (i) the C-BED wind~~
28.8 energy project consists of only one or two turbines; or (ii) the qualifying owner is a public
28.9 entity listed under paragraph (b), clause (5), that is not a municipal utility;

28.10 (2) for C-BED projects of one or two turbines, is owned entirely by one or more
28.11 qualifying owners, with ~~with~~ demonstrates that at least 51 percent of the total financial benefits
28.12 gross revenues from a power purchase agreement over the life of the project ~~flowing~~
28.13 will flow to qualifying owners and other local entities; and

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

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

28.18 Sec. 3. Minnesota Statutes 2006, section 216B.1612, subdivision 3, is amended to read:

28.19 Subd. 3. **Tariff rate.** (a) The tariff described in subdivision 4 must have a rate
28.20 schedule that allows for a ~~rate up to a 2.7 cents per kilowatt-hour~~ net present value rate
28.21 over the 20-year life of the power purchase agreement. The tariff must provide for a rate
28.22 that is higher in the first ten years of the power purchase agreement than in the last ten
28.23 years. The discount rate required to calculate the net present value must be the utility's
28.24 normal discount rate used for its other business purposes.

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

28.27 (c) The commission shall require that qualifying and nonqualifying owners provide
28.28 sufficient security to secure performance under the power purchase agreement, and shall
28.29 prohibit the transfer of the C-BED project to a nonqualifying owner during the initial
28.30 20 years of the contract.

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

28.32 Sec. 4. Minnesota Statutes 2006, section 216B.1612, subdivision 4, is amended to read:

28.33 Subd. 4. **Utilities to offer tariff.** By December 1, ~~2005~~ 2007, each public utility
28.34 providing electric service at retail shall file for commission approval a community-based

29.1 energy development tariff consistent with subdivision 3. Within 90 days of the
29.2 first commission approval order under this subdivision, each municipal power
29.3 agency and generation and transmission cooperative electric association shall adopt a
29.4 community-based energy development tariff as consistent as possible with subdivision 3.

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

29.6 Sec. 5. Minnesota Statutes 2006, section 216B.1612, subdivision 5, is amended to read:

29.7 Subd. 5. **Priority for C-BED projects.** (a) A utility subject to section 216B.1691
29.8 that needs to construct new generation, or purchase the output from new generation, as
29.9 part of its plan to satisfy its good faith objective and standard under that section ~~should~~
29.10 must take reasonable steps to determine if one or more C-BED projects are available that
29.11 meet the utility's cost and reliability requirements, applying standard reliability criteria, to
29.12 fulfill some or all of the identified need at minimal impact to customer rates.

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

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

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

29.21 (d) A municipal power agency or generation and transmission cooperative shall,
29.22 when issuing a request for proposals for C-BED projects to satisfy its standard obligation
29.23 under section 216B.1691, provide notice to its member distribution utilities that they
29.24 may propose, in partnership with other qualifying owners, a C-BED project for the
29.25 consideration of the municipal power agency or generation and transmission cooperative.

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

29.27 Sec. 6. Minnesota Statutes 2006, section 216B.1612, subdivision 7, is amended to read:

29.28 Subd. 7. **Other C-BED tariff issues.** (a) A community-based project developer
29.29 and a utility shall negotiate the rate and power purchase agreement terms consistent with
29.30 the tariff established under subdivision 4.

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

30.1 (c) A qualifying owner, or any combination of qualifying owners, may develop a
30.2 joint venture project with a nonqualifying ~~wind~~ renewable energy project developer.
30.3 However, the terms of the C-BED tariff may only apply to the portion of the energy
30.4 production of the total project that is directly proportional to the equity share of the project
30.5 owned by the qualifying owners.

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

30.9 (e) A public utility must receive commission approval of a power purchase
30.10 agreement for a C-BED tariffed project. The commission shall provide the utility's
30.11 ratepayers an opportunity to address the reasonableness of the proposed power purchase
30.12 agreement. Unless a party objects to a contract within 30 days of submission of the
30.13 contract to the commission the contract is deemed approved.

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

30.15 Sec. 7. Minnesota Statutes 2006, section 216B.1612, is amended by adding a
30.16 subdivision to read:

30.17 **Subd. 8. Community energy partnerships.** A utility providing electric service
30.18 to retail or wholesale customers in Minnesota and an independent power producer may,
30.19 subject to the limits specified in this section, participate in a community-based energy
30.20 project, including as an owner, equity partner, or provider of technical or financial
30.21 assistance.

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

30.23 Sec. 8. Minnesota Statutes 2006, section 216B.1645, is amended by adding a
30.24 subdivision to read:

30.25 **Subd. 2b. Cost recovery for owned renewable facilities.** (a) A utility may petition
30.26 the commission to approve a rate schedule that provides for the automatic adjustment of
30.27 charges to recover prudently incurred investments, expenses, or costs associated with
30.28 facilities constructed, owned, or operated by a utility to satisfy the requirements of section
30.29 216B.1691, provided those facilities were previously approved by the commission under
30.30 section 216B.2422 or 216B.243. The commission may approve, or approve as modified, a
30.31 rate schedule that:

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

30.34 (i) return on investment;

31.1 (ii) depreciation;
31.2 (iii) ongoing operation and maintenance costs;
31.3 (iv) taxes; and
31.4 (v) costs of transmission and other ancillary expenses directly allocable to
31.5 transmitting electricity generated from a project meeting the specifications of this
31.6 paragraph;

31.7 (2) provides a current return on construction work in progress, provided that recovery
31.8 of these costs from Minnesota ratepayers is not sought through any other mechanism;

31.9 (3) allows recovery of other expenses incurred that are directly related to a renewable
31.10 energy project, provided that the utility demonstrates to the commission's satisfaction that
31.11 the expenses improve project economics, ensure project implementation, or facilitate
31.12 coordination with the development of transmission necessary to transport energy produced
31.13 by the project to market;

31.14 (4) allocates recoverable costs appropriately between wholesale and retail customers;

31.15 (5) terminates recovery when costs have been fully recovered or have otherwise
31.16 been reflected in a utility's rates.

31.17 (b) A petition filed under this subdivision must include:

31.18 (1) a description of the facilities for which costs are to be recovered;

31.19 (2) an implementation schedule for the facilities;

31.20 (3) the utility's costs for the facilities;

31.21 (4) a description of the utility's efforts to ensure that costs of the facilities are
31.22 reasonable and were prudently incurred; and

31.23 (5) a description of the benefits of the project in promoting the development of
31.24 renewable energy in a manner consistent with this chapter.

31.25 **Sec. 9. [216B.1681] CURTAILMENT PAYMENTS.**

31.26 The commission shall conduct a study of curtailment payments for wind energy
31.27 projects to assess whether utilities are unduly discriminating among project ownership
31.28 structures in regard to the contractual availability of curtailment payments. The
31.29 commission shall submit the study to the chairs and ranking minority members of the
31.30 senate and house of representatives committees with primary jurisdiction over energy
31.31 policy by January 15, 2008.

31.32 Sec. 10. Minnesota Statutes 2006, section 216B.1691, is amended by adding a
31.33 subdivision to read:

31.34 **Subd. 7. Utility acquisition of resources.** A competitive resource acquisition
31.35 process established by the commission prior to June 1, 2007, shall not apply to a utility

32.1 for the construction, ownership, and operation of generation facilities used to satisfy the
32.2 requirements of this section unless, upon a finding that it is in the public interest, the
32.3 commission issues an order on or after June 1, 2007, that requires compliance by a utility
32.4 with a competitive resource acquisition process. A utility that owns a nuclear generation
32.5 facility and intends to construct, own, or operate facilities under this section shall file with
32.6 the commission on or before March 1, 2008, a renewable energy plan setting forth the
32.7 manner in which the utility proposes to meet the requirements of this section, including
32.8 a proposed schedule for purchasing renewable energy from C-BED and non-C-BED
32.9 projects. The utility shall update the plan as necessary in its filing under section
32.10 216B.2422. The commission shall approve the plan unless it determines, after public
32.11 hearing and comment, that the plan is not in the public interest. As part of its determination
32.12 of public interest, the commission shall consider the plan's allocation of projects among
32.13 C-BED, non-C-BED, and utility-owned projects, balancing the state's interest in:

- 32.14 (1) promoting the policy of economic development in rural areas through the
32.15 development of renewable energy projects, as expressed in subdivision 9;
32.16 (2) maintaining the reliability of the state's electric power grid; and
32.17 (3) minimizing cost impacts on ratepayers.

32.18 Sec. 11. Minnesota Statutes 2006, section 216C.052, is amended to read:

32.19 **216C.052 RELIABILITY ADMINISTRATOR.**

32.20 Subdivision 1. **Responsibilities.** (a) There is established the position of reliability
32.21 administrator in the ~~Public Utilities Commission~~ Department of Commerce. The
32.22 administrator shall act as a source of independent expertise and a technical advisor to
32.23 the commissioner, the commission and the public on issues related to the reliability of
32.24 the electric system. In conducting its work, the administrator shall provide assistance
32.25 to the ~~commission~~ commissioner in administering and implementing the ~~commission's~~
32.26 department's duties under sections 216B.1612, 216B.1691, 216B.2422, 216B.2425, and
32.27 216B.243; chapters 216E, 216F, and 216G; and rules associated with those provisions:
32.28 ~~Subject to resource constraints, the reliability administrator may also~~ and shall also:

32.29 (1) model and monitor the use and operation of the energy infrastructure in the
32.30 state, including generation facilities, transmission lines, natural gas pipelines, and other
32.31 energy infrastructure;

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

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

33.4 (b) Upon request and subject to resource constraints, the administrator shall
33.5 provide technical assistance regarding matters unrelated to applications for infrastructure
33.6 improvements to the task force, the department, or the commission.

33.7 (c) The administrator may not advocate for any particular outcome in a commission
33.8 proceeding, but may give technical advice to the commission as to the impact on the
33.9 reliability of the energy system of a particular project or projects.

33.10 Subd. 2. **Administrative issues.** (a) The ~~commission~~ commissioner may select the
33.11 administrator ~~who shall serve for a four-year term~~. The administrator must have at least
33.12 five years of experience working as a power systems engineer or transmission planner, or
33.13 in a position dealing with power system reliability issues, and may not have been a party
33.14 or a participant in a commission energy proceeding for at least one year prior to selection
33.15 by the ~~commission~~ commissioner. The ~~commission~~ commissioner shall oversee and
33.16 direct the work of the administrator, annually review the expenses of the administrator,
33.17 and annually approve the budget of the administrator. ~~Pursuant to commission approval,~~
33.18 The administrator may hire staff and may contract for technical expertise in performing
33.19 duties when existing state resources are required for other state responsibilities or when
33.20 special expertise is required. The salary of the administrator is governed by section
33.21 15A.0815, subdivision 2.

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

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

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

33.34 (2) costs relating to a specific proceeding analysis or project and shall render a bill to
33.35 the specific energy utility or utilities participating in the proceeding, analysis, or project

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

34.3 (d) For purposes of administrative efficiency, the ~~commission~~ department shall
34.4 assess energy utilities and issue bills in accordance with the billing and assessment
34.5 procedures provided in section 216B.62, to the extent that these procedures do not
34.6 conflict with this subdivision. The amount of the bills rendered by the ~~commission~~
34.7 department under paragraph (c) must be paid by the energy utility into an account in the
34.8 special revenue fund in the state treasury within 30 days from the date of billing and is
34.9 appropriated to the ~~commission~~ department for the purposes provided in this section.
34.10 The commission shall approve or approve as modified a rate schedule providing for the
34.11 automatic adjustment of charges to recover amounts paid by utilities under this section.
34.12 All amounts assessed under this section are in addition to amounts appropriated to the
34.13 commission and the department by other law.

34.14 Subd. 3. **Assessment and appropriation.** In addition to the amount noted in
34.15 subdivision 2, the ~~commission~~ commissioner may assess utilities, using the mechanism
34.16 specified in that subdivision, up to an additional \$500,000 annually through June 30,
34.17 2008. The amounts assessed under this subdivision are appropriated to the ~~commission~~
34.18 commissioner, and some or all of the amounts assessed may be transferred to the
34.19 commissioner of administration, for the purposes specified in section 16B.325 and Laws
34.20 2001, chapter 212, article 1, section 3, as needed to implement those sections.

34.21 Subd. 4. **Expiration.** Subdivisions 1 and 2 expire June 30, ~~2007~~ 2012. Subdivision
34.22 3 expires June 30, 2008.

34.23 Sec. 12. **[216F.011] SIZE DETERMINATION.**

34.24 (a) The total size of a combination of wind energy conversion systems for the
34.25 purpose of determining what jurisdiction has siting authority under this chapter must
34.26 be determined according to this section. The nameplate capacity of one wind energy
34.27 conversion system must be combined with the nameplate capacity of any other wind
34.28 energy conversion system that:

34.29 (1) is located within five miles of the wind energy conversion system;

34.30 (2) is constructed within the same 12-month period as the wind energy conversion
34.31 system; and

34.32 (3) exhibits characteristics of being a single development, including, but not limited
34.33 to, ownership structure, an umbrella sales arrangement, shared interconnection, revenue
34.34 sharing arrangements, and common debt or equity financing.

35.1 (b) The commissioner shall provide forms and assistance for project developers to
35.2 make a request for a size determination. Upon written request of a project developer, the
35.3 commissioner of commerce shall provide a written size determination within 30 days
35.4 of receipt of the request and of any information requested by the commissioner. In the
35.5 case of a dispute, the chair of the Public Utilities Commission shall make the final size
35.6 determination.

35.7 (c) An application to a county for a permit under this chapter for a wind energy
35.8 conversion system is not complete without a size determination made under this section.

35.9 **EFFECTIVE DATE.** This section is effective January 15, 2008.

35.10 Sec. 13. **[216F.08] PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.**

35.11 (a) A county board may, by resolution and upon written notice to the Public Utilities
35.12 Commission, assume responsibility for processing applications for permits required
35.13 under this chapter for LWECS with a combined nameplate capacity of less than 25,000
35.14 kilowatts. The responsibility for permit application processing, if assumed by a county,
35.15 may be delegated by the county board to an appropriate county officer or employee.
35.16 Processing by a county shall be done in accordance with procedures and processes
35.17 established under chapter 394.

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

35.22 (c) The commission shall, by order, establish general permit standards, including
35.23 appropriate property line set-backs, governing site permits for LWECS under this section.
35.24 The order must consider existing and historic commission standards for wind permits
35.25 issued by the commission. The general permit standards shall apply to permits issued by
35.26 counties and to permits issued by the commission for LWECS with a combined nameplate
35.27 capacity of less than 25,000 kilowatts. The commission or a county may grant a variance
35.28 from a general permit standard if the variance is found to be in the public interest.

35.29 (d) The commission and the commissioner of commerce shall provide technical
35.30 assistance to a county with respect to the processing of LWECS site permit applications.

35.31 **EFFECTIVE DATE.** This section is effective January 15, 2008.

35.32 Sec. 14. **[216F.081] APPLICATION OF COUNTY STANDARDS.**

35.33 A county may adopt by ordinance standards for LWECS that are more stringent than
35.34 standards in commission rules or in the commission's permit standards. The commission,

36.1 in considering a permit application for LWECs in a county that has adopted more stringent
36.2 standards, shall consider and apply those more stringent standards, unless the commission
36.3 finds good cause not to apply the standards.

36.4 Sec. 15. Minnesota Statutes 2006, section 500.30, subdivision 2, is amended to read:

36.5 Subd. 2. **Like any conveyance.** Any property owner may grant a solar or wind
36.6 easement in the same manner and with the same effect as a conveyance of an interest in
36.7 real property. The easements shall be created in writing and shall be filed, duly recorded,
36.8 and indexed in the office of the recorder of the county in which the easement is granted.
36.9 No duly recorded easement shall be unenforceable on account of lack of privity of estate
36.10 or privity of contract; such easements shall run with the land or lands benefited and
36.11 burdened and shall constitute a perpetual easement, except that an easement may terminate
36.12 upon the conditions stated therein or pursuant to the provisions of section 500.20. A wind
36.13 easement, easement to install wind turbines on real property, option, or lease of wind
36.14 rights shall also terminate after seven years from the date the easement is created or lease
36.15 is entered into, if a wind energy project on the property to which the easement or lease
36.16 applies does not begin commercial operation within the seven-year period.

36.17 **EFFECTIVE DATE.** This section is effective the day following final enactment,
36.18 and applies to wind easements created and wind rights leases entered into on and after
36.19 the effective date of this section.

36.20 Sec. 16. **RESOURCE ASSESSMENT.**

36.21 The reliability administrator shall conduct an engineering assessment of Minnesota's
36.22 electricity resource needs through 2025, with a focus on baseload resources. The
36.23 reliability administrator may contract with an independent entity to conduct all or part of
36.24 the study. The assessment must consider additional generation and transmission resources
36.25 necessary to meet the state's renewable energy standard under Laws 2007, chapter 3,
36.26 section 1, subdivision 2a, and projected energy savings resulting from the implementation
36.27 of article 2. The assessment, among other activities, must review and evaluate the most
36.28 recent Minnesota utility demand forecasts, integrated resource plans filed under section
36.29 216B.2422, and transmission projects reports filed under section 216B.2425, including
36.30 the assumptions underlying them, and provide independent projections of demand and
36.31 baseload and nonbaseload generation and transmission resources available to meet
36.32 projected demand in 2010, 2015, 2020, and 2025. The reliability administrator shall
36.33 manage the assessment process and shall appoint a technical review committee to review
36.34 the assessment's proposed methods, assumptions, and preliminary data and results. The

37.1 reliability administrator must submit a report on the assessment to the chairs and ranking
37.2 minority members of the senate and house of representatives committees with primary
37.3 jurisdiction over energy policy. The cost of the assessment is recoverable under section
37.4 216C.052, subdivision 2.

37.5 Sec. 17. **STATEWIDE STUDY OF DISPERSED GENERATION POTENTIAL.**

37.6 Subdivision 1. **Definition.** "Dispersed generation" means an electric generation
37.7 project with a generating capacity between ten and 40 megawatts that utilizes an "eligible
37.8 energy technology," as defined in Minnesota Statutes, section 216B.1691, subdivision 1,
37.9 paragraph (a).

37.10 Subd. 2. **Study participants.** Each electric utility subject to Minnesota Statutes,
37.11 section 216B.1691, must participate collaboratively in conducting a two-phase study of
37.12 the potential for dispersed generation projects that can be developed in Minnesota.

37.13 Subd. 3. **First phase study content; report.** In the first phase of the study,
37.14 participants must analyze the impacts of the addition of a total of 600 megawatts of
37.15 new dispersed generation projects distributed among the following Minnesota electric
37.16 transmission planning zones: the Northeast zone, the Northwest zone, the Southeast
37.17 zone, the Southwest zone, and the West-Central zone. Study participants must use a
37.18 generally accepted 2010 year transmission system model including all transmission
37.19 facilities expected to be operating in 2010. The study must take into consideration
37.20 regional projected load growth, planned changes in the bulk transmission network, and the
37.21 long-range transmission conceptual plan being developed under Laws 2007, chapter 3,
37.22 section 2. In determining locations for the installation of dispersed generation projects
37.23 that consist of wind energy conversion systems, the study should consider, at a minimum,
37.24 wind resource availability, existing and contracted wind projects, and current dispersed
37.25 generation projects in the Midwest Independent System Operator interconnection queue.
37.26 The study must analyze the impacts of individual projects and all projects in aggregate on
37.27 the transmission system, and identify specific modifications to the transmission system
37.28 necessary to remedy any problems caused by the installation of dispersed generation
37.29 projects, including cost estimates for the modifications. The study must analyze the
37.30 additional dispersed generation projects connected at the lowest voltage level transmission
37.31 that exists in the vicinity of the projected generation sites. A preliminary analysis to
37.32 identify transmission system problems must be conducted with the projects installed at
37.33 initially selected locations. The technical review committee may, after reviewing the
37.34 locations selected for installation, recommend moving the installation sites once to new

38.1 locations to reduce undesirable transmission system impacts. The commissioner of
38.2 commerce must submit a report containing the findings and recommendations of the first
38.3 phase of the study to the commission no later than June 15, 2008.

38.4 Subd. 4. **Second phase study content; report.** In the second phase of the study,
38.5 participants must analyze the impacts of an additional total of 600 megawatts of dispersed
38.6 generation projects installed among the five transmission planning zones, or a higher total
38.7 capacity amount if agreed to by both the utilities and the technical review committee. The
38.8 utilities must employ an analysis method similar to that used in the first phase of the study,
38.9 and must use the most recent information available, including information developed in
38.10 the first phase. The second phase of the study must use a generally accepted 2013 year
38.11 transmission system model including all transmission facilities that are expected to be
38.12 in service at that time. The commissioner of commerce must submit a report containing
38.13 the findings and recommendations of the second phase of the study to the commission no
38.14 later than September 15, 2009.

38.15 Subd. 5. **Technical review committee.** Prior to the start of the first phase of
38.16 the study, the commissioner of commerce must appoint a technical review committee
38.17 consisting of between ten and 15 individuals with experience and expertise in electric
38.18 transmission system engineering, renewable energy generation technology, and dispersed
38.19 generation project development, including representatives from the federal Department
38.20 of Energy, the Midwest Independent System Operator, and stakeholder interests. The
38.21 technical review committee must oversee both phases of the study, and must:

38.22 (1) make recommendations to the utilities regarding the proposed methods and
38.23 assumptions to be used in the technical study;

38.24 (2) in conjunction with the appropriate utilities, hold public meetings on each
38.25 phase of the study in each electricity transmission planning zone prior to the beginning
38.26 of each phase of study, after the impact analysis is completed, and when a draft final
38.27 report is available;

38.28 (3) establish procedures for handling commercially sensitive information; and

38.29 (4) review the initial and final drafts of the study and make recommendations for
38.30 improvement, including problems associated with the interconnections among utility
38.31 systems that may be amenable to solution through cooperation between the utilities in each
38.32 zone. During each phase of the study, the technical review committee may recommend
38.33 that the installation of dispersed generation projects be moved to new locations that cause
38.34 fewer undesirable transmission system impacts.

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

39.1 Sec. 18. **WIND DEVELOPMENT PROPERTY AGREEMENTS; STUDY.**

39.2 The Legislative Electric Energy Task Force shall study whether the state should
39.3 regulate easements, leases, and other agreements to acquire an interest in real property
39.4 for the purpose of wind energy development. The purpose of the study is to determine
39.5 whether the duration and other terms of those interests should be limited to promote
39.6 wind energy development. The task force must report the results of its study and any
39.7 recommendations to the chairs of the energy finance and policy committees of the
39.8 legislature by February 1, 2008.

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

39.10 Sec. 19. **C-BED ADVISORY TASK FORCE.**

39.11 Subdivision 1. **Members.** The Legislative Electric Energy Task Force shall oversee
39.12 and appoint an advisory task force on community-based energy development (C-BED)
39.13 under Minnesota Statutes, section 15.059, subdivision 6, consisting of representatives
39.14 of the Department of Commerce, the Public Utilities Commission, public utilities,
39.15 independent power producers, municipal utilities, rural cooperatives, landowners currently
39.16 engaged in C-BED and non-C-BED wind development projects, advocacy organizations
39.17 for wind developers, and environmental organizations, as well as wind energy experts,
39.18 tribal representatives, and clean energy advocates.

39.19 Subd. 2. **Issues.** The task force shall study and make recommendations to the chairs
39.20 and ranking minority members of the senate and house of representatives committees
39.21 with primary jurisdiction over energy policy in a report submitted by January 15, 2008,
39.22 on the following issues:

39.23 (1) the definition of a C-BED qualifying owner;

39.24 (2) the definition of gross revenues with respect to community benefits;

39.25 (3) the ability of Minnesota and non-Minnesota financial institutions to provide
39.26 capital;

39.27 (4) compliance and enforcement;

39.28 (5) wind easements;

39.29 (6) feed-in tariffs for community energy;

39.30 (7) community energy models/project structure;

39.31 (8) credits toward utility renewable energy standard requirements for utility
39.32 participation;

39.33 (9) utility compensation for additional work for community ownership projects;

40.1 (10) types of incentives, compensation, and encouragement for utility participation;
40.2 and
40.3 (11) other topics related to and impacting the C-BED program, as determined by
40.4 the task force.

40.5 Subd. 3. **Expiration.** This section, and the advisory task force on community-based
40.6 energy development, expires January 16, 2008.

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

40.8 Sec. 20. **TRANSFERRING RELIABILITY ADMINISTRATOR**
40.9 **RESPONSIBILITIES.**

40.10 All responsibilities, as defined in Minnesota Statutes, section 15.039, subdivision
40.11 1, held by the Public Utilities Commission relating to the reliability administrator under
40.12 Minnesota Statutes, section 216C.052, are transferred to the Minnesota Department of
40.13 Commerce under Minnesota Statutes, section 15.039.

40.14 Sec. 21. **TRANSMISSION AUTHORITY AND INTERCONNECTION**
40.15 **EVALUATIONS.**

40.16 The reliability administrator shall, in consultation with interested stakeholders:

40.17 (1) review the structures, powers, and duties for constructing, owning, maintaining,
40.18 and operating transmission facilities of state transmission authorities established in
40.19 Kansas, North Dakota, South Dakota, and Wyoming, and evaluate whether the existence
40.20 of a similar organization in Minnesota would have the potential to increase the reliability
40.21 and efficiency of the electrical grid in the state; hasten the development of needed
40.22 transmission lines; accelerate the development of renewable energy projects, especially in
40.23 rural areas of the state; and reduce delivered energy costs to Minnesota ratepayers; and

40.24 (2) assess the potential for and barriers to interconnecting dispersed generation
40.25 projects to locations on the electric grid where a generator interconnection would not be
40.26 subject to the interconnection rules of the Federal Energy Regulatory Commission or the
40.27 Midwest Independent System Operator.

40.28 No technical or engineering analyses are necessary in order to complete these duties. The
40.29 reliability administrator must report its findings and any recommendations to the chairs of
40.30 the senate and house of representatives committees with jurisdiction over energy policy by
40.31 February 15, 2008.

ARTICLE 5

GLOBAL CLIMATE CHANGE; GREENHOUSE GAS EMISSIONS

Section 1. **[216H.01] DEFINITIONS.**

Subdivision 1. **Scope.** For the purpose of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Statewide greenhouse gas emissions.** "Statewide greenhouse gas emissions" include emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride emitted by anthropogenic sources within the state and from the generation of electricity imported from outside the state and consumed in Minnesota. Carbon dioxide that is injected into geological formations to prevent its release to the atmosphere in compliance with applicable laws, and carbon dioxide associated with the combustion of fuels other than coal, petroleum, and natural gas are not counted as contributing to statewide greenhouse gas emissions.

Sec. 2. **[216H.02] GREENHOUSE GAS EMISSIONS CONTROL.**

Subdivision 1. **Greenhouse gas emissions reduction goal.** It is the goal of the state to reduce statewide greenhouse gas emissions across all sectors producing those emissions to a level at least 15 percent below 2005 levels by 2015, to a level at least 30 percent below 2005 levels by 2025, and to a level at least 80 percent below 2005 levels by 2050. The levels shall be reviewed based on the climate change action plan study.

Subd. 2. **Climate change action plan.** By February 1, 2008, the commissioner of commerce, in consultation with the commissioners of the Pollution Control Agency, the Housing Finance Agency, and the Departments of Natural Resources, Agriculture, Employment and Economic Development, and Transportation, and the chair of the Metropolitan Council, shall submit to the legislature a climate change action plan that meets the requirements of this section.

Subd. 3. **Stakeholder process.** The plan required by subdivision 2 must be developed through a structured, broadly inclusive stakeholder-based review of potential policies and initiatives that will reduce statewide greenhouse gas emissions from a broad range of sources and activities. The commissioner shall engage a nationally recognized independent expert entity to conduct the stakeholder process. The report of the stakeholder process must form the basis for the plan submitted by the commissioner under subdivision 2.

Subd. 4. **General elements of the plan.** The plan must:

42.1 (1) estimate 1990 and 2005 greenhouse gas emissions in the state and make
42.2 projections of emissions in 2015, 2025, and 2050;

42.3 (2) identify, evaluate, and integrate a broad range of statewide greenhouse gas
42.4 reduction options for all emission sectors in the state;

42.5 (3) assess the costs, benefits, and feasibility of implementing the options;

42.6 (4) recommend an integrated set of reduction options and strategies for implementing
42.7 the options that will achieve the goals in subdivision 1, including analysis of the associated
42.8 costs and benefits to Minnesotans;

42.9 (5) estimate the statewide greenhouse gas emissions reductions anticipated from
42.10 implementation of existing state policies;

42.11 (6) recommend a system to require the reporting of statewide greenhouse gas
42.12 emissions, identifying which facilities must report, and how emission estimates should
42.13 be made; and

42.14 (7) evaluate the option of exempting a project from the prohibitions contained in
42.15 section 216H.03, subdivision 3, if the project contributes a specified fee per ton of carbon
42.16 dioxide emissions emitted annually by the project, the proceeds of which would be used to
42.17 fund permanent, quantifiable, verifiable, and enforceable reductions in greenhouse gas
42.18 emissions that would not otherwise have occurred.

42.19 Subd. 5. **Specific plan requirements.** (a) The plan must evaluate and recommend
42.20 interim goals as steps to achieve the goals in subdivision 1.

42.21 (b) The plan must determine the feasibility, assess the costs and benefits, and
42.22 recommend how the state could adopt a regulatory system that imposes a cap on the
42.23 aggregate air pollutant emissions of a group of sources, requires those subject to the
42.24 cap to own an allowance for each ton of the air pollutant emitted, and allows for
42.25 market-based trading of those allowances. The evaluation must contain an analysis of the
42.26 state implementing a cap and trade system alone, in coordination with other states, and
42.27 as a requirement of federal law applying to all states. The plan must recommend the
42.28 parameters of a cap and trade system that includes a cap that would prevent significant
42.29 increases in greenhouse gas emissions above current levels with a schedule for lowering
42.30 the cap periodically to achieve the goals in subdivision 1 and interim goals recommended
42.31 under paragraph (a). The plan must consider cost savings and cost increases on energy
42.32 consumers in the state.

42.33 (c) The plan must include recommendations for improvements in the emissions
42.34 inventory and recommend whether the state should require greenhouse gas emissions
42.35 reporting from specific sources and, if so, which sources should be required to report. The
42.36 plan must also evaluate options for an emissions registry after reviewing registries in other

43.1 states and recommend a registry that will insure the greatest opportunity for Minnesota
43.2 entities to obtain marketable credits.

43.3 Subd. 6. **Regional activities.** The state must, to the extent possible, with other states
43.4 in the Midwest region, develop and implement a regional approach to reducing greenhouse
43.5 gas emissions from activities in the region, including consulting on a regional cap and
43.6 trade system. The commissioner of commerce shall coordinate Minnesota's regional
43.7 activities under this subdivision and report to the legislative committees in the senate
43.8 and house of representatives with jurisdiction over energy and environmental policy by
43.9 February 1, 2008, and February 1, 2009, on the progress made and recommendations for
43.10 further action. The commissioner of commerce, as part of the activities required under this
43.11 subdivision, must meet with responsible officials from bordering states, other states in the
43.12 Midwest region, and states in other regions of the country to: (1) determine whether other
43.13 states are interested in establishing and cooperating in a multistate or regional greenhouse
43.14 gas cap and trade allowance program; (2) identify and prepare an inventory of greenhouse
43.15 gas reduction resources available to support a multistate or regional greenhouse gas cap
43.16 and trade allowance program; (3) seek cooperation on a regional inventory of greenhouse
43.17 gas emission sources; and (4) prepare an inventory of available renewable energy
43.18 resources within a state or region. The commissioner of commerce must develop a
43.19 definition of scope of this regional activity that is in addition to the components described
43.20 in clauses (1) to (4). The commissioner must report on the additional scoping definitions
43.21 to the chairs and ranking minority members of the legislative committees with jurisdiction
43.22 over energy and environmental finance and policy on or before the commencement of the
43.23 2008 regular legislative session.

43.24 Sec. 3. **[216H.03] FAILURE TO ADOPT GREENHOUSE GAS CONTROL**
43.25 **PLAN.**

43.26 Subdivision 1. **Definition; new large energy facility.** For the purpose of this
43.27 section, "new large energy facility" means a large energy facility, as defined in section
43.28 216B.2421, subdivision 2, clause (1), that is not in operation as of January 1, 2007, but
43.29 does not include a facility that (1) uses natural gas as a primary fuel, (2) is designed to
43.30 provide peaking, intermediate, emergency backup, or contingency services, (3) uses a
43.31 simple cycle or combined cycle turbine technology, and (4) is capable of achieving full
43.32 load operations within 45 minutes of startup for a simple cycle facility, or is capable
43.33 of achieving minimum load operations within 185 minutes of startup for a combined
43.34 cycle facility.

44.1 Subd. 2. **Definition; statewide power sector carbon dioxide emissions.** For the
44.2 purpose of this section, "statewide power sector carbon dioxide emissions" means the total
44.3 annual emissions of carbon dioxide from the generation of electricity within the state
44.4 and all emissions of carbon dioxide from the generation of electricity imported from
44.5 outside the state and consumed in Minnesota. Emissions of carbon dioxide associated
44.6 with transmission and distribution line losses are included in this definition. Carbon
44.7 dioxide that is injected into geological formations to prevent its release to the atmosphere
44.8 in compliance with applicable laws, and emissions of carbon dioxide associated with
44.9 the combustion of biomass, as defined in section 216B.2411, subdivision 2, paragraph
44.10 (c), clauses (1) to (4), are not counted as contributing to statewide power sector carbon
44.11 dioxide emissions.

44.12 Subd. 3. **Long-term increased emissions from power plants prohibited.** Unless
44.13 preempted by federal law, until a comprehensive and enforceable state law or rule
44.14 pertaining to greenhouse gases that directly limits and substantially reduces, over time,
44.15 statewide power sector carbon dioxide emissions is enacted and in effect, and except as
44.16 allowed in subdivisions 4 to 7, on and after August 1, 2009, no person shall:

44.17 (1) construct within the state a new large energy facility that would contribute to
44.18 statewide power sector carbon dioxide emissions;

44.19 (2) import or commit to import from outside the state power from a new large energy
44.20 facility that would contribute to statewide power sector carbon dioxide emissions; or

44.21 (3) enter into a new long-term power purchase agreement that would increase
44.22 statewide power sector carbon dioxide emissions. For purposes of this section, a long-term
44.23 power purchase agreement means an agreement to purchase 50 megawatts of capacity
44.24 or more for a term exceeding five years.

44.25 Subd. 4. **Exception for facilities that offset emissions.** (a) The prohibitions in
44.26 subdivision 3 do not apply if the project proponent demonstrates to the Public Utilities
44.27 Commission's satisfaction that it will offset the new contribution to statewide power sector
44.28 carbon dioxide emissions with a carbon dioxide reduction project identified in paragraph
44.29 (b) and in compliance with paragraph (c).

44.30 (b) A project proponent may offset in an amount equal to or greater than the
44.31 proposed new contribution to statewide power sector carbon dioxide emissions in either,
44.32 or a combination of both, of the following ways:

44.33 (1) by reducing an existing facility's contribution to statewide power sector carbon
44.34 dioxide emissions; or

45.1 (2) by purchasing carbon dioxide allowances from a state or group of states that has a
45.2 carbon dioxide cap and trade system in place that produces verifiable emissions reductions.

45.3 (c) The Public Utilities Commission shall not find that a proposed carbon dioxide
45.4 reduction project identified in paragraph (b) acceptably offsets a new contribution
45.5 to statewide power sector carbon dioxide emissions unless the proposed offsets are
45.6 permanent, quantifiable, verifiable, enforceable, and would not have otherwise occurred.
45.7 This section does not exempt emissions that have been offset under this subdivision and
45.8 emissions exempted under subdivisions 5 to 7 from a cap and trade system if adopted by
45.9 the state.

45.10 Subd. 5. **Exception for new steel production facility.** The prohibitions in
45.11 subdivision 3 do not apply to increases in statewide power sector carbon dioxide
45.12 emissions from a new steel production project located in a taconite relief area that has
45.13 filed an application for an air quality permit from the Pollution Control Agency prior
45.14 to January 1, 2007.

45.15 Subd. 6. **Exception for iron nugget production facility.** The prohibitions in
45.16 subdivision 3 do not apply to an iron nugget production facility that began construction
45.17 prior to January 31, 2007, nor to associated mining activities and beneficiation facilities
45.18 with a concentrate capacity of up to three million tons annually. For the purposes of this
45.19 subdivision, "iron nugget" means a product with at least 90 percent iron content.

45.20 Subd. 7. **Other exemptions.** The prohibitions in subdivision 3 do not apply to:

45.21 (1) a new large energy facility under consideration by the Public Utilities
45.22 Commission pursuant to proposals or applications filed with the Public Utilities
45.23 Commission before April 1, 2007, or to any power purchase agreement related to a facility
45.24 described in this clause. The exclusion of pending proposals and applications from the
45.25 prohibitions in subdivision 3 does not limit the applicability of any other law and is not an
45.26 expression of legislative intent regarding whether any pending proposal or application
45.27 should be approved or denied;

45.28 (2) a contract not subject to commission approval that was entered into prior to
45.29 April 1, 2007, to purchase power from a new large energy facility that was approved by
45.30 a comparable authority in another state prior to that date, for which municipal or public
45.31 power district bonds have been issued, and on which construction has begun; or

45.32 (3) a new large energy facility or a power purchase agreement between a Minnesota
45.33 utility and a new large energy facility located outside Minnesota that the Public
45.34 Utilities Commission has determined is essential to ensure the long-term reliability of
45.35 Minnesota's electric system, to allow electric service for increased industrial demand,

46.1 or to avoid placing a substantial financial burden on Minnesota ratepayers. An order
46.2 of the commission granting an exemption under this clause is stayed until the June 1
46.3 following the next regular or annual session of the legislature that begins after the date
46.4 of the commission's final order.

46.5 Subd. 8. **Enforcement.** Whenever the commission or the Department of Commerce
46.6 determines that any person is violating or about to violate this section, it may refer the
46.7 matter to the attorney general who shall take appropriate legal action. This section may
46.8 be enforced by the attorney general on the same basis as a law listed in section 8.31,
46.9 subdivision 1, except that the remedies provided by section 8.31, subdivision 3a, do not
46.10 apply to a violation of this section.

46.11 Sec. 4. [216H.06] GREENHOUSE GAS EMISSIONS CONSIDERATION IN
46.12 RESOURCE PLANNING.

46.13 By January 1, 2008, the Public Utilities Commission shall establish an estimate of
46.14 the likely range of costs of future carbon dioxide regulation on electricity generation.
46.15 The estimate, which may be made in a commission order, must be used in all electricity
46.16 generation resource acquisition proceedings. The estimates, and annual updates, must be
46.17 made following informal proceedings conducted by the commissioners of commerce and
46.18 pollution control that allow interested parties to submit comments.

46.19 ARTICLE 6

46.20 RENEWABLE ENERGY STANDARDS

46.21 Section 1. Minnesota Statutes 2006, section 216B.1691, subdivision 5, as amended by
46.22 Laws 2007, chapter 3, section 1, subdivision 5, is amended to read:

46.23 Subd. 5. **Technology based on fuel combustion.** (a) Electricity produced by fuel
46.24 combustion through fuel blending or co-firing under paragraph (b) may only count toward
46.25 a utility's objectives or standards if the generation facility:

46.26 (1) was constructed in compliance with new source performance standards
46.27 promulgated under the federal Clean Air Act for a generation facility of that type; or

46.28 (2) employs the maximum achievable or best available control technology available
46.29 for a generation facility of that type.

46.30 (b) An eligible energy technology may blend or co-fire a fuel listed in subdivision
46.31 1, paragraph (a), clause ~~(4)~~ (5), with other fuels in the generation facility, but only the
46.32 percentage of electricity that is attributable to a fuel listed in that clause can be counted
46.33 toward an electric utility's renewable energy objectives.

47.1 Sec. 2. Minnesota Statutes 2006, section 216B.1691, subdivision 7, as added by Laws
47.2 2007, chapter 3, section 1, subdivision 7, is amended to read:

47.3 Subd. 7. **Compliance.** The commission must regularly investigate whether an
47.4 electric utility is in compliance with its good-faith objective under subdivision 2 and
47.5 standard obligation under subdivision 2a. If the commission finds noncompliance, it may
47.6 order the electric utility to construct facilities, purchase energy generated by eligible
47.7 energy technology, purchase renewable energy credits, or engage in other activities
47.8 to achieve compliance. If an electric utility fails to comply with an order under this
47.9 subdivision, the commission may impose a financial penalty on the electric utility in an
47.10 amount not to exceed the estimated cost of the electric utility to achieve compliance. The
47.11 penalty may not exceed the lesser of the cost of constructing facilities or purchasing
47.12 credits. The commission must deposit financial penalties imposed under this subdivision
47.13 in the energy and conservation account established in the special revenue fund under
47.14 section 216B.241, subdivision 2a. This subdivision is in addition to and does not limit any
47.15 other authority of the commission to enforce this section."

47.16 Delete the title and insert:

47.17 "A bill for an act

47.18 relating to energy; modifying and adding provisions relating to energy efficiency
47.19 and conservation, energy savings and audits, energy projects and information,
47.20 residential energy requirements, a nuclear energy study, community-based
47.21 energy development and related issues, the reliability administrator, an electricity
47.22 resource assessment, wind energy conversion systems and authority of counties,
47.23 greenhouse gas emissions and renewable energy standards; requiring studies;
47.24 making technical and clarifying changes; amending Minnesota Statutes 2006,
47.25 sections 123B.65, subdivision 2; 216B.16, subdivisions 1, 6b; 216B.1612,
47.26 subdivisions 1, 2, 3, 4, 5, 7, by adding a subdivision; 216B.1645, by adding a
47.27 subdivision; 216B.1691, subdivisions 5, as amended, 7, as added, by adding a
47.28 subdivision; 216B.241; 216C.05; 216C.052; 216C.31; 471.345, subdivision
47.29 13; 500.30, subdivision 2; 504B.161, subdivision 1; proposing coding for new
47.30 law in Minnesota Statutes, chapters 216B; 216C; 216F; proposing coding for
47.31 new law as Minnesota Statutes, chapter 216H; repealing Minnesota Statutes
47.32 2006, sections 216B.165; 216C.27; 216C.30, subdivision 5; Minnesota Rules,
47.33 parts 7635.0100; 7635.0110; 7635.0120; 7635.0130; 7635.0140; 7635.0150;
47.34 7635.0160; 7635.0170; 7635.0180; 7635.0200; 7635.0210; 7635.0220;
47.35 7635.0230; 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310;
47.36 7635.0320; 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420;
47.37 7635.0500; 7635.0510; 7635.0520; 7635.0530; 7635.0600; 7635.0610;
47.38 7635.0620; 7635.0630; 7635.0640; 7635.1000; 7635.1010; 7635.1020;
47.39 7635.1030; 7655.0100; 7655.0120; 7655.0200; 7655.0210; 7655.0220;
47.40 7655.0230; 7655.0240; 7655.0250; 7655.0260; 7655.0270; 7655.0280;
47.41 7655.0290; 7655.0300; 7655.0310; 7655.0320; 7655.0330; 7655.0400;
47.42 7655.0410; 7655.0420."

S.F. No. 145, Conference Committee Report - 85th Legislative Session (2007-2008)

48.1 We request the adoption of this report and repassage of the bill.

48.2 Senate Conferees: (Signed)

48.3
48.4 Yvonne Prettner Solon Gary W. Kubly

48.5
48.6 D. Scott Dibble Jim Carlson

48.7
48.8 Julie A. Rosen

48.9 House Conferees: (Signed)

48.10
48.11 Bill Hilty Aaron Peterson

48.12
48.13 Maria Ruud Jeremy Kalin

48.14
48.15 John Berns