

1.1 CONFERENCE COMMITTEE REPORT ON S.F. No. 550

1.2 A bill for an act

1.3 relating to energy; providing for energy conservation; regulating utility rates;
1.4 removing prohibition on issuing certificate of need for new nuclear power
1.5 plant; providing for various Legislative Energy Commission studies; regulating
1.6 utilities; amending Minnesota Statutes 2008, sections 216A.03, subdivision 6, by
1.7 adding a subdivision; 216B.16, subdivisions 2, 6c, 7b, by adding a subdivision;
1.8 216B.1645, subdivision 2a; 216B.169, subdivision 2; 216B.1691, subdivision 2a;
1.9 216B.23, by adding a subdivision; 216B.241, subdivisions 1c, 5a, 9; 216B.2411,
1.10 subdivisions 1, 2; 216B.2424, subdivision 5a; 216B.243, subdivisions 3b, 8, 9;
1.11 216C.11; proposing coding for new law in Minnesota Statutes, chapter 216C;
1.12 repealing Laws 2007, chapter 3, section 3.

1.13 May 13, 2009

1.14 The Honorable James P. Metzen
1.15 President of the Senate

1.16 The Honorable Margaret Anderson Kelliher
1.17 Speaker of the House of Representatives

1.18 We, the undersigned conferees for S.F. No. 550 report that we have agreed upon the
1.19 items in dispute and recommend as follows:

1.20 That the House recede from its amendments and that S.F. No. 550 be further
1.21 amended as follows:

1.22 Delete everything after the enacting clause and insert:

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

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

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

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

2.8 ~~**(b)**~~ **(d)** The Department of Commerce shall determine eligibility of projects under
2.9 section 216C.41 for the purposes of this subdivision. At least quarterly, the Department of
2.10 Commerce shall notify the public utility of the name and address of each eligible project
2.11 owner and the amount due to each project under section 216C.41. The public utility shall
2.12 make payments within 15 working days after receipt of notification of payments due.

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

2.15 **Subd. 3. Initiative for Renewable Energy and the Environment** **(a)** Beginning
2.16 July 1, 2009, and each July 1 through 2012, \$5,000,000 must be allocated from the
2.17 renewable development account to fund a grant to the Board of Regents of the University
2.18 of Minnesota for the Initiative for Renewable Energy and the Environment for the purposes
2.19 described in paragraph (b). The Initiative for Renewable Energy and the Environment
2.20 must set aside at least 15 percent of the funds received annually under the grant for
2.21 qualified projects conducted at a rural campus or experiment station. Any set-aside funds
2.22 not awarded to a rural campus or experiment station at the end of the fiscal year revert
2.23 back to the Initiative for Renewable Energy and the Environment for its exclusive use.
2.24 This subdivision does not create an obligation to contribute funds to the account.

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

2.26 **(1)** environmentally sound production of energy from a renewable energy source,
2.27 including biomass and agricultural crops;

2.28 **(2)** environmentally sound production of hydrogen from biomass and any other
2.29 renewable energy source for energy storage and energy utilization;

2.30 **(3)** development of energy conservation and efficient energy utilization technologies;

2.31 **(4)** energy storage technologies; and

2.32 **(5)** analysis of policy options to facilitate adoption of technologies that use or
2.33 produce low-carbon renewable energy.

2.34 **(c)** For the purposes of this subdivision:

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

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

3.3 (d) Beginning January 15 of 2010, and each year thereafter, the director of the
3.4 Initiative for Renewable Energy and the Environment at the University of Minnesota shall
3.5 submit a report to the chair and ranking minority members of the senate and house of
3.6 representatives committees with primary jurisdiction over energy finance describing the
3.7 activities conducted during the previous year funded under this subdivision.

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

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

3.10 **117.189 PUBLIC SERVICE CORPORATION EXCEPTIONS.**

3.11 Sections 117.031; 117.036; 117.055, subdivision 2, paragraph (b); 117.186; 117.187;
3.12 117.188; and 117.52, subdivisions 1a and 4, do not apply to public service corporations.
3.13 For purposes of an award of appraisal fees under section 117.085, the fees awarded may
3.14 not exceed ~~\$500~~ \$1,500 for all types of property except for a public service corporation's
3.15 use of eminent domain for a high-voltage transmission line, where the award may not
3.16 exceed \$3,000.

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

3.18 Sec. 4. Minnesota Statutes 2008, section 216A.03, subdivision 6, is amended to read:

3.19 Subd. 6. **Record of proceedings.** An audio magnetic or audio electronic recording
3.20 device shall be used to keep a record of all proceedings before the commission ~~unless the~~
3.21 ~~commission provides a hearing reporter to record the proceeding.~~

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

3.23 Sec. 5. Minnesota Statutes 2008, section 216A.03, is amended by adding a subdivision
3.24 to read:

3.25 Subd. 6a. **Hearing reporter.** The commission may delegate to the executive
3.26 secretary authority to require hearing reporter services. The cost of hearing reporter
3.27 services must be borne by the utility, telephone company, or telecommunications carrier
3.28 that is the subject of the proceeding. If more than one company is the subject of a
3.29 proceeding, the commission or, if the commission so delegates, the executive secretary,
3.30 shall determine how the hearing reporter costs are to be allocated for the proceeding.

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

3.32 Sec. 6. Minnesota Statutes 2008, section 216B.16, subdivision 2, is amended to read:

4.1 Subd. 2. **Suspension of proposed rate; hearing; final determination defined.** (a)
4.2 Whenever there is filed with the commission a schedule modifying or resulting in a change
4.3 in any rates then in force as provided in subdivision 1, the commission may suspend the
4.4 operation of the schedule by filing with the schedule of rates and delivering to the affected
4.5 utility a statement in writing of its reasons for the suspension at any time before the rates
4.6 become effective. The suspension shall not be for a longer period than ten months beyond
4.7 the initial filing date except as provided in this subdivision or subdivision 1a.

4.8 (b) During the suspension the commission shall determine whether all questions of
4.9 the reasonableness of the rates requested raised by persons deemed interested or by the
4.10 department can be resolved to the satisfaction of the commission. If the commission
4.11 finds that all significant issues raised have not been resolved to its satisfaction, or upon
4.12 petition by ten percent of the affected customers or 250 affected customers, whichever is
4.13 less, it shall refer the matter to the Office of Administrative Hearings with instructions
4.14 for a public hearing as a contested case pursuant to chapter 14, except as otherwise
4.15 provided in this section.

4.16 (c) The commission may order that the issues presented by the proposed rate
4.17 changes be bifurcated into two separate hearings as follows: (1) determination of the
4.18 utility's revenue requirements and (2) determination of the rate design. Upon issuance of
4.19 both administrative law judge reports, the issues shall again be joined for consideration
4.20 and final determination by the commission.

4.21 (d) All prehearing discovery activities of state agency intervenors shall be
4.22 consolidated and conducted by the Department of Commerce.

4.23 (e) If the commission does not make a final determination concerning a schedule of
4.24 rates within ten months after the initial filing date, the schedule shall be deemed to have
4.25 been approved by the commission; except if:

4.26 (1) an extension of the procedural schedule has been granted under paragraph (f) or
4.27 subdivision 1a, in which case the schedule of rates is deemed to have been approved by
4.28 the commission on the last day of the extended period of suspension; or

4.29 (2) a settlement has been submitted to and rejected by the commission and the
4.30 commission does not make a final determination concerning the schedule of rates, the
4.31 schedule of rates is deemed to have been approved 60 days after the initial or, if applicable,
4.32 the extended period of suspension.

4.33 (f) If the commission finds that it has insufficient time during the suspension period
4.34 to make a final determination of a case involving changes in general rates because of the
4.35 need to make a final determination of ~~another previously filed~~ any pending case involving
4.36 changes in general rates under this section or section 237.075, the commission may extend

5.1 the suspension period to ~~the extent necessary to allow itself 20 working days to~~ allow up
5.2 to a total of 90 additional calendar days to make the final determination after it has made a
5.3 ~~final determination in the previously filed case.~~ An extension of the suspension period
5.4 under this paragraph does not alter the setting of interim rates under subdivision 3.

5.5 (g) For the purposes of this section, "final determination" means the initial decision
5.6 of the commission and not any order which may be entered by the commission in response
5.7 to a petition for rehearing or other further relief. The commission may further suspend
5.8 rates until it determines all those petitions.

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

5.10 Sec. 7. Minnesota Statutes 2008, section 216B.16, subdivision 6c, is amended to read:

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

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

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

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

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

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

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

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

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

5.31 (3) ~~compensate the utility for earnings lost as a result of its conservation~~
5.32 programs adopt any mechanism that satisfies the criteria of this subdivision, such that
5.33 implementation of cost-effective conservation is a preferred resource choice for the public
5.34 utility considering the impact of conservation on earnings of the public utility.

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

6.1 Sec. 8. Minnesota Statutes 2008, section 216B.16, subdivision 7b, is amended to read:

6.2 Subd. 7b. **Transmission cost adjustment.** (a) Notwithstanding any other provision
6.3 of this chapter, the commission may approve a tariff mechanism for the automatic annual
6.4 adjustment of charges for the Minnesota jurisdictional costs of (i) new transmission
6.5 facilities that have been separately filed and reviewed and approved by the commission
6.6 under section 216B.243 or are certified as a priority project or deemed to be a priority
6.7 transmission project under section 216B.2425; and (ii) charges incurred by a utility that
6.8 accrue from other transmission owners' regionally planned transmission projects that have
6.9 been determined by the Midwest Independent System Operator to benefit the utility, as
6.10 provided for under a federally approved tariff.

6.11 (b) Upon filing by a public utility or utilities providing transmission service, the
6.12 commission may approve, reject, or modify, after notice and comment, a tariff that:

6.13 (1) allows the utility to recover on a timely basis the costs net of revenues of
6.14 facilities approved under section 216B.243 or certified or deemed to be certified under
6.15 section 216B.2425 or exempt from the requirements of section 216B.243;

6.16 (2) allows the charges incurred by a utility that accrue from other transmission
6.17 owners' regionally planned transmission projects that have been determined by the
6.18 Midwest Independent System Operator to benefit the utility, as provided for under a
6.19 federally approved tariff. These charges must be reduced or offset by revenues received
6.20 by the utility and by amounts the utility charges to other regional transmission owners, to
6.21 the extent those revenues and charges have not been otherwise offset;

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

6.24 (4) provides a current return on construction work in progress, provided that
6.25 recovery from Minnesota retail customers for the allowance for funds used during
6.26 construction is not sought through any other mechanism;

6.27 (5) allows for recovery of other expenses if shown to promote a least-cost project
6.28 option or is otherwise in the public interest;

6.29 (6) allocates project costs appropriately between wholesale and retail customers;

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

6.32 (8) terminates recovery once costs have been fully recovered or have otherwise
6.33 been reflected in the utility's general rates.

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

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

- 7.1 (2) a schedule for implementation of applicable projects;
- 7.2 (3) the utility's costs for these projects;
- 7.3 (4) a description of the utility's efforts to ensure the lowest costs to ratepayers for
- 7.4 the project; and
- 7.5 (5) calculations to establish that the rate adjustment is consistent with the terms
- 7.6 of the tariff established in paragraph (b).

7.7 (d) Upon receiving a filing for a rate adjustment pursuant to the tariff established in

7.8 paragraph (b), the commission shall approve the annual rate adjustments provided that,

7.9 after notice and comment, the costs included for recovery through the tariff were or are

7.10 expected to be prudently incurred and achieve transmission system improvements at the

7.11 lowest feasible and prudent cost to ratepayers.

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

7.13 Sec. 9. Minnesota Statutes 2008, section 216B.16, is amended by adding a subdivision

7.14 to read:

7.15 Subd. 7d. Central Corridor utility zone cost adjustment. (a) The Central

7.16 Corridor utility zone is the area extending from the Union Depot Station in St. Paul to the

7.17 proposed multimodal station in Minneapolis along the route of the light rail transit project

7.18 connecting those two points, and an area extending approximately one-quarter mile from

7.19 that route and including the entire University of Minnesota, Minneapolis campus.

7.20 (b) A public utility that provides retail electric service within the Central Corridor

7.21 utility zone and that is required to replace, relocate, construct, or install new facilities,

7.22 may apply to the commission for approval of new facilities in the Central Corridor

7.23 utility zone and facilities outside the zone that the utility demonstrates must be changed

7.24 as a direct result of changes within the zone. Facilities proposed under this subdivision

7.25 may include transmission facilities, distribution facilities, generation facilities, advanced

7.26 technology-assisted efficiency devices, and energy storage facilities not otherwise subject

7.27 to section 216B.243, or chapter 216E, 216F, or 216G. Upon approval under paragraph (c),

7.28 the utility may construct and install the facilities.

7.29 (c) The commission may approve the construction and installation of facilities in

7.30 the Central Corridor mass transit utility zone proposed by a utility under paragraph (b)

7.31 upon a finding:

7.32 (1) that the facilities:

7.33 (i) are necessary to provide electric service;

7.34 (ii) assist future development of renewable energy, conservation, electric vehicles,

7.35 and advanced technology-assisted efficiency programs and devices; or

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

8.4 (2) that the utility has engaged in a cooperative process with affected local and state
8.5 government agencies in the design, planning, or construction of the Central Corridor
8.6 utility zone project and changes to utility facilities;

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

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

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

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

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

8.17 (d) Upon request of the commission, the utility shall submit periodic reports to
8.18 the commission reviewing the cost and benefits of the facilities constructed within the
8.19 Central Corridor utility zone and their potential applicability to other areas outside the
8.20 Central Corridor utility zone.

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

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

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

8.31 Sec. 10. **[216B.1613] STANDARDIZED CONTRACT.**

8.32 Within 60 days of the effective date of this section, each utility, as defined in section
8.33 216B.1691, subdivision 1, paragraph (b), shall file with the commission a standardized
8.34 contract form for the purchase of electricity from projects with a nameplate capacity
8.35 of 5 megawatts or less. The standardized contract form must be similar in all material
8.36 respects to the standard contract form previously filed with the commission under

9.1 section 216B.2423, subdivision 3, including any revisions to that contract on file with
9.2 the commission as of the effective date of this section. After consultation with wind
9.3 developers and producers, a utility governed by this section may modify the standardized
9.4 contract currently on file under section 216B.2423 prior to submitting its standard contract
9.5 form under this section if the modifications are reasonably necessary to account for
9.6 circumstances that are unique to that particular utility. The commission shall not approve
9.7 a contract that is not in compliance with this section.

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

9.9 Sec. 11. Minnesota Statutes 2008, section 216B.1645, subdivision 2a, is amended to
9.10 read:

9.11 Subd. 2a. **Cost recovery for utility's renewable facilities.** (a) A utility may petition
9.12 the commission to approve a rate schedule that provides for the automatic adjustment of
9.13 charges to recover prudently incurred investments, expenses, or costs associated with
9.14 facilities constructed, owned, or operated by a utility to satisfy the requirements of section
9.15 216B.1691, provided those facilities were previously approved by the commission under
9.16 section 216B.2422 or 216B.243, or were determined by the commission to be reasonable
9.17 and prudent under section 216B.243, subdivision 9. For facilities not subject to review
9.18 by the commission under section 216B.2422 or 216B.243, a utility shall petition the
9.19 commission for eligibility for cost recovery under this section prior to requesting cost
9.20 recovery for the facility. The commission may approve, or approve as modified, a rate
9.21 schedule that:

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

9.24 (i) return on investment;

9.25 (ii) depreciation;

9.26 (iii) ongoing operation and maintenance costs;

9.27 (iv) taxes; and

9.28 (v) costs of transmission and other ancillary expenses directly allocable to
9.29 transmitting electricity generated from a project meeting the specifications of this
9.30 paragraph;

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

9.33 (3) allows recovery of other expenses incurred that are directly related to a
9.34 renewable energy project, including expenses for energy storage, provided that the
9.35 utility demonstrates to the commission's satisfaction that the expenses improve project

10.1 economics, ensure project implementation, advance research and understanding of how
10.2 storage devices may improve renewable energy projects, or facilitate coordination with
10.3 the development of transmission necessary to transport energy produced by the project
10.4 to market;

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

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

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

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

10.10 (2) an implementation schedule for the facilities;

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

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

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

10.16 Sec. 12. Minnesota Statutes 2008, section 216B.169, subdivision 2, is amended to read:

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

10.23 ~~(b) Each public utility shall file an implementation plan within 90 days of July 1,~~
10.24 ~~2001, to implement paragraph (a).~~

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

10.27 (1) reflect the difference between the cost of generating or purchasing the
10.28 additional renewable energy and the cost of generating or purchasing the same amount
10.29 of nonrenewable energy and the cost that would otherwise be attributed to the customer
10.30 for the same amount of energy based on the utility's mix of renewable and nonrenewable
10.31 energy sources; and

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

10.34 ~~(d) Implementation of these rate options may reflect a reasonable amount of lead~~
10.35 ~~time necessary to arrange acquisition of the energy.~~ (c) The utility may acquire the
10.36 energy demanded by customers, in whole or in part, through procuring or generating the

11.1 renewable energy directly, or through the purchase of credits from a provider that has
11.2 received certification of eligible power supply pursuant to subdivision 3. ~~If a utility is not~~
11.3 ~~able to arrange an adequate supply of renewable or high-efficiency energy to meet its~~
11.4 ~~customers' demand under this section, the utility must file a report with the commission~~
11.5 ~~detailing its efforts and reasons for its failure.~~

11.6 (d) For the purposes of this section, "renewable energy" has the meaning given to
11.7 "eligible energy technology" in section 216B.1691, subdivision 1, paragraph (a), but
11.8 does not include energy recovered from combustion of mixed municipal solid waste or
11.9 refuse-derived fuel from mixed municipal solid waste.

11.10 Sec. 13. Minnesota Statutes 2008, section 216B.1691, subdivision 2a, is amended to
11.11 read:

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

- | | | | |
|-------|-----|------|-------------|
| 11.19 | (1) | 2012 | 12 percent |
| 11.20 | (2) | 2016 | 17 percent |
| 11.21 | (3) | 2020 | 20 percent |
| 11.22 | (4) | 2025 | 25 percent. |

11.23 (b) An electric utility that owned a nuclear generating facility as of January 1, 2007,
11.24 must meet the requirements of this paragraph rather than paragraph (a). An electric utility
11.25 subject to this paragraph must generate or procure sufficient electricity generated by
11.26 an eligible energy technology to provide its retail customers in Minnesota or the retail
11.27 customer of a distribution utility to which the electric utility provides wholesale electric
11.28 service so that at least the following percentages of the electric utility's total retail electric
11.29 sales to retail customers in Minnesota are generated by eligible energy technologies by the
11.30 end of the year indicated:

- | | | | |
|-------|-----|------|------------|
| 11.31 | (1) | 2010 | 15 percent |
| 11.32 | (2) | 2012 | 18 percent |

12.1 (3) 2016 25 percent

12.2 (4) 2020 30 percent.

12.3 Of the 30 percent in 2020, at least 25 percent must be generated by solar energy or
12.4 wind energy conversion systems and the remaining five percent by other eligible energy
12.5 technology. Of the 25 percent that must be generated by wind or solar, no more than
12.6 one percent may be solar generated and the remaining 24 percent or greater must be
12.7 wind generated.

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

12.9 Sec. 14. Minnesota Statutes 2008, section 216B.23, is amended by adding a
12.10 subdivision to read:

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

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

12.20 (1) retroactive ratemaking;

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

12.24 (3) refunds based on claims that approved rates have not encouraged energy
12.25 conservation or renewable energy use, or have not furthered the goals of section 216B.164,
12.26 216B.241, or 216C.05.

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

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

12.31 Sec. 15. Minnesota Statutes 2008, section 216B.241, subdivision 1c, is amended to
12.32 read:

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

13.4 (b) Each individual utility and association shall have an annual energy-savings
13.5 goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the
13.6 commissioner under paragraph (d). The savings goals must be calculated based on the
13.7 most recent three-year weather normalized average. A utility or association may elect to
13.8 carry forward energy savings in excess of 1.5 percent for a year to the succeeding three
13.9 calendar years, except that savings from electric utility infrastructure projects allowed
13.10 under paragraph (d) may be carried forward for five years. A particular energy savings can
13.11 be used only for one year's goal.

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

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

13.21 A utility or association may include in its energy conservation plan energy savings
13.22 from electric utility infrastructure projects approved by the commission under section
13.23 216B.1636 or waste heat recovery converted into electricity projects that may count as
13.24 energy savings in addition to the minimum energy-savings goal of at least one percent for
13.25 energy conservation improvements. Electric utility infrastructure projects must result in
13.26 increased energy efficiency greater than that which would have occurred through normal
13.27 maintenance activity.

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

13.31 (f) An association or utility is not required to make energy conservation investments
13.32 to attain the energy-savings goals of this subdivision that are not cost-effective even
13.33 if the investment is necessary to attain the energy-savings goals. For the purpose of
13.34 this paragraph, in determining cost-effectiveness, the commissioner shall consider the
13.35 costs and benefits to ratepayers, the utility, participants, and society. In addition, the

14.1 commissioner shall consider the rate at which an association or municipal utility is
14.2 increasing its energy savings and its expenditures on energy conservation.

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

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

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

14.13 Sec. 16. Minnesota Statutes 2008, section 216B.241, subdivision 5a, is amended to
14.14 read:

14.15 Subd. 5a. **Qualifying solar energy project.** (a) A utility or association may include
14.16 in its conservation plan programs for the installation of qualifying solar energy projects as
14.17 defined by section 216B.2411 to the extent of the spending allowed for generation projects
14.18 by section 216B.2411. The cost-effectiveness of a qualifying solar energy project may
14.19 be determined by a different standard than for other energy conservation improvements
14.20 under this section if the commissioner determines it is in the public interest to do so to
14.21 encourage solar energy projects. Energy savings from qualifying solar energy projects
14.22 may not be counted toward the minimum energy-savings goal of at least one percent
14.23 for energy conservation improvements required under subdivision 1c, but may, if the
14.24 conservation plan is approved:

14.25 (1) be counted toward energy savings above that minimum percentage; and

14.26 (2) be ~~considered when establishing performance incentives under section 216B.241,~~
14.27 ~~subdivision 2c~~ eligible for a performance incentive under section 216B.16, subdivision 6c,
14.28 or 216B.241, subdivision 2c, that is distinct from the incentive for energy conservation
14.29 and is based on the competitiveness and cost-effectiveness of solar projects in relation to
14.30 other potential solar projects available to the utility.

14.31 (b) Qualifying solar energy projects may not be considered when establishing
14.32 demand-side management targets under section 216B.2422, 216B.243, or any other
14.33 section of this chapter.

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

15.1 Sec. 17. Minnesota Statutes 2008, section 216B.241, is amended by adding a
15.2 subdivision to read:

15.3 Subd. 5b. **Biomethane purchases.** (a) A natural gas utility may include in its
15.4 conservation plan purchases of biomethane, and may use up to five percent of the total
15.5 amount to be spent on energy conservation improvements under this section for that
15.6 purpose. The cost-effectiveness of biomethane purchases may be determined by a
15.7 different standard than for other energy conservation improvements under this section if
15.8 the commissioner determines that doing so is in the public interest in order to encourage
15.9 biomethane purchases. Energy savings from purchasing biomethane may not be counted
15.10 toward the minimum energy-savings goal of at least one percent for energy conservation
15.11 improvements required under subdivision 1c, but may, if the conservation plan is approved:

15.12 (1) be counted toward energy savings above that minimum percentage; and
15.13 (2) be considered when establishing performance incentives under subdivision 2c.

15.14 (b) For the purposes of this subdivision, "biomethane" means biogas produced
15.15 through anaerobic digestion of biomass, gasification of biomass, or other effective
15.16 conversion processes, that is cleaned and purified into biomethane that meets natural gas
15.17 utility quality specifications for use in a natural gas utility distribution system.

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

15.19 Sec. 18. Minnesota Statutes 2008, section 216B.241, subdivision 9, is amended to read:

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

15.26 (b) The commissioner shall contract with the Center for Sustainable Building
15.27 Research at the University of Minnesota to coordinate development and implementation
15.28 of energy-efficiency performance standards, strategic planning, research, data analysis,
15.29 technology transfer, training, and other activities related to the purpose of Sustainable
15.30 Building 2030. The commissioner and the Center for Sustainable Building Research
15.31 shall, in consultation with utilities, builders, developers, building operators, and experts
15.32 in building design and technology, develop a Sustainable Building 2030 implementation
15.33 plan that must address, at a minimum, the following issues:

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

16.1 (2) incorporating the performance standards in utility conservation improvement
16.2 programs; and

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

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

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

16.22 (d) The annual amount of the contract with the Center for Sustainable Building
16.23 Research is up to \$500,000. The Center for Sustainable Building Research shall expend
16.24 no more than \$150,000 of this amount each year on administration, coordination, and
16.25 oversight activities related to Sustainable Building 2030. The balance of contract funds
16.26 must be spent on substantive programmatic activities allowed under this subdivision that
16.27 may be conducted by the Center for Sustainable Building Research and others, and for
16.28 subcontracts with not-for-profit energy organizations, architecture and engineering firms,
16.29 and other qualified entities to undertake technical projects and activities in support of
16.30 Sustainable Building 2030. The primary work to be accomplished each year by qualified
16.31 technical experts under subcontracts is the development and thorough justification of
16.32 recommendations for specific energy-efficiency performance standards. Additional work
16.33 may include:

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

17.1 (2) analysis and evaluation of practices in building design, construction,
17.2 commissioning and operations, and analysis and evaluation of energy use in the
17.3 commercial, industrial, and institutional sectors;

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

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

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

17.11 (e) The commissioner shall require utilities to develop and implement conservation
17.12 improvement programs that are expressly designed to achieve energy efficiency goals
17.13 consistent with the Sustainable Building 2030 performance standards. These programs
17.14 must include offerings of design assistance and modeling, financial incentives, and the
17.15 verification of the proper installation of energy-efficient design components in new and
17.16 substantially reconstructed buildings. A utility's design assistance program must consider
17.17 the strategic planting of trees and shrubs around buildings as an energy conservation
17.18 strategy for the designed project. A utility making an expenditure under its conservation
17.19 improvement program that results in a building meeting the Sustainable Building 2030
17.20 performance standards may claim the energy savings toward its energy-savings goal
17.21 established in subdivision 1c.

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

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

17.27 Sec. 19. Minnesota Statutes 2008, section 216B.2411, subdivision 1, is amended to
17.28 read:

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

17.33 (1) projects in Minnesota to construct an electric generating facility that utilizes
17.34 eligible renewable energy sources as defined in subdivision 2, such as methane or other
17.35 combustible gases derived from the processing of plant or animal wastes, biomass fuels

18.1 such as short-rotation woody or fibrous agricultural crops, or other renewable fuel, as
18.2 its primary fuel source;

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

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

18.8 (b) A municipality, rural electric association, or public utility that offers a program
18.9 to customers to promote installing qualifying solar energy projects may request authority
18.10 from the commissioner to exceed the five percent limit in paragraph (a), but not to
18.11 exceed ten percent, to meet customer demand for installation of qualifying solar energy
18.12 projects. In considering this request, the commissioner shall consider customer interest in
18.13 qualifying solar energy and the impact on other customers. A municipality, rural electric
18.14 association, or public utility may not participate in a qualifying solar energy project on
18.15 a property unless it is provided evidence that all reasonable cost-effective conservation
18.16 investments have previously been made to the property.

18.17 ~~For public utilities, as defined under section 216B.02, subdivision 4, (c) For a~~
18.18 ~~municipality, rural electric association, or public utility, projects under this section must~~
18.19 ~~be considered energy conservation improvements as defined in section 216B.241. For~~
18.20 ~~cooperative electric associations and municipal utilities, projects under this section must~~
18.21 ~~be considered load-management activities described in section 216B.241, subdivision 1.~~

18.22 Sec. 20. Minnesota Statutes 2008, section 216B.2411, subdivision 2, is amended to
18.23 read:

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

18.26 (b) "Eligible renewable energy sources" means fuels and technologies to generate
18.27 electricity through the use of any of the resources listed in section 216B.1691, subdivision
18.28 1, paragraph (a), except that the incineration of wastewater sludge is not an eligible
18.29 renewable energy source, "biomass" has the meaning provided under paragraph (c), and
18.30 "solar" must be from a qualified solar energy project as defined in paragraph (d).

18.31 (c) "Biomass" includes:

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

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

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

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

19.5 (5) landfill gas;

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

19.8 (7) mixed municipal solid waste, and refuse-derived fuel from mixed municipal
19.9 solid waste.

19.10 (d) "Qualifying solar energy project" means a qualifying solar thermal project or
19.11 qualifying solar electric project.

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

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

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

19.24 (2) if applicable, equipment that is used to store the electricity generated by a
19.25 qualified solar electric project under clause (1) and that is located proximate to the
19.26 property or facility using the electricity.

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

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

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

19.31 Sec. 21. Minnesota Statutes 2008, section 216B.2412, subdivision 2, is amended to
19.32 read:

19.33 Subd. 2. **Decoupling criteria.** The commission shall, by order, establish criteria and
19.34 standards for decoupling. The commission may establish these criteria and standards in
19.35 a separate proceeding or in a general rate case or other proceeding in which it approves

20.1 a pilot program, and shall design the criteria and standards to mitigate the impact on
20.2 public utilities of the energy-savings goals under section 216B.241 without adversely
20.3 affecting utility ratepayers. In designing the criteria, the commission shall consider energy
20.4 efficiency, weather, and cost of capital, among other factors.

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

20.6 Sec. 22. Minnesota Statutes 2008, section 216B.2424, subdivision 5a, is amended to
20.7 read:

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

20.10 (b) The Public Utilities Commission shall approve a request pending before the
20.11 commission as of May 15, 2003, for amendments to and assignment of a power purchase
20.12 agreement with the owner of a facility that uses short-rotation, woody crops as its primary
20.13 fuel previously approved to satisfy a portion of the biomass mandate if the owner of
20.14 the project agrees to reduce the size of its project from 50 megawatts to 35 megawatts,
20.15 while maintaining an average price for energy in nominal dollars measured over the term
20.16 of the power purchase agreement at or below \$104 per megawatt-hour, exclusive of any
20.17 price adjustments that may take effect subsequent to commission approval of the power
20.18 purchase agreement, as amended. The commission shall also approve, as necessary, any
20.19 subsequent assignment or sale of the power purchase agreement or ownership of the
20.20 project to an entity owned or controlled, directly or indirectly, by two municipal utilities
20.21 located north of Constitutional Route No. 8, as described in section 161.114, which
20.22 currently own electric and steam generation facilities using coal as a fuel and which
20.23 propose to retrofit their existing municipal electrical generating facilities to utilize biomass
20.24 fuels in order to perform the power purchase agreement.

20.25 (c) If the power purchase agreement described in paragraph (b) is assigned to an
20.26 entity that is, or becomes, owned or controlled, directly or indirectly, by two municipal
20.27 entities as described in paragraph (b), and the power purchase agreement meets the
20.28 price requirements of paragraph (b), the commission shall approve any amendments to
20.29 the power purchase agreement necessary to reflect the changes in project location and
20.30 ownership and any other amendments made necessary by those changes. The commission
20.31 shall also specifically find that:

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

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

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

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

21.10 (d) The commission shall specifically approve recovery by the public utility of
21.11 any and all Minnesota jurisdictional costs incurred by the public utility to improve,
21.12 construct, install, or upgrade transmission, distribution, or other electrical facilities owned
21.13 by the public utility or other persons in order to permit interconnection of the retrofitted
21.14 biomass-fueled generating facilities or to obtain transmission service for the energy
21.15 provided by the facilities to the public utility pursuant to section 216B.1645, and shall
21.16 disapprove any provision in the power purchase agreement that requires the developer
21.17 or owner of the project to pay the jurisdictional costs or that permit the public utility to
21.18 terminate the power purchase agreement as a result of the existence of those costs or the
21.19 public utility's obligation to pay any or all of those costs.

21.20 (e) Upon request by the project owner, the public utility shall agree to amend the
21.21 power purchase agreement described in paragraph (b) and approved by the commission
21.22 as required by paragraph (c). The amendment must be negotiated and executed within
21.23 45 days of the effective date of this section and must apply to prices paid after January
21.24 1, 2009. The average price for energy in nominal dollars measured over the term of the
21.25 power purchase agreement must not exceed \$104 per megawatt hour by more than five
21.26 percent. The public utility shall request approval of the amendment by the commission
21.27 within 30 days of execution of the amended power purchase agreement. The amendment
21.28 is not effective until approval by the commission. The commission shall act on the
21.29 amendment within 90 days of submission of the request by the public utility. Upon
21.30 approval of the amended power purchase agreement, the commission shall allow the
21.31 public utility to recover the costs of the amended power purchase agreement, as provided
21.32 in section 216B.1645.

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

21.34 Sec. 23. Minnesota Statutes 2008, section 216B.243, subdivision 8, is amended to read:

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

22.1 (1) cogeneration or small power production facilities as defined in the Federal Power
22.2 Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and
22.3 paragraph (18), subparagraph (A), and having a combined capacity at a single site of less
22.4 than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or
22.5 any case where the commission has determined after being advised by the attorney general
22.6 that its application has been preempted by federal law;

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

22.10 (3) the upgrade to a higher voltage of an existing transmission line that serves
22.11 the demand of a single customer that primarily uses existing rights-of-way, unless the
22.12 applicant opts to request that the commission determine need under this section or section
22.13 216B.2425;

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

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

22.18 (6) the modification of an existing electric generating plant to increase efficiency,
22.19 as long as the capacity of the plant is not increased more than ten percent or more than
22.20 100 megawatts, whichever is greater; ~~or~~

22.21 ~~(7) a large energy facility that (i) generates electricity from wind energy conversion~~
22.22 ~~systems, (ii) will serve retail customers in Minnesota, (iii) is specifically intended to be~~
22.23 ~~used to meet the renewable energy objective under section 216B.1691 or addresses a~~
22.24 ~~resource need identified in a current commission-approved or commission-reviewed~~
22.25 ~~resource plan under section 216B.2422, and (iv) derives at least ten percent of the total~~
22.26 ~~nameplate capacity of the proposed project from one or more C-BED projects, as defined~~
22.27 ~~under section 216B.1612, subdivision 2, paragraph (f).~~

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

22.29 Sec. 24. Minnesota Statutes 2008, section 216B.243, subdivision 9, is amended to read:

22.30 Subd. 9. **Renewable energy standard facilities.** ~~The requirements of~~ This section
22.31 ~~do~~ does not apply to a wind energy conversion system or a solar electric generation
22.32 facility that is intended to be used to meet ~~or exceed~~ the obligations of section 216B.1691;
22.33 provided that, after notice and comment, the commission determines that the facility is
22.34 a reasonable and prudent approach to meeting a utility's obligations under that section.
22.35 When making this determination, the commission ~~may~~ must consider:

- 23.1 (1) the size of the facility relative to a utility's total need for renewable resources ~~and~~;
- 23.2 (2) alternative approaches for supplying the renewable energy to be supplied by
- 23.3 the proposed facility, ~~and must consider~~;
- 23.4 (3) the facility's ability to promote economic development, as required under section
- 23.5 216B.1691, subdivision 9~~2~~;
- 23.6 (4) the facility's ability to maintain electric system reliability ~~and consider~~;
- 23.7 (5) impacts on ratepayers~~2~~; and
- 23.8 (6) other criteria as the commission may determine are relevant.

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

23.10 Sec. 25. Minnesota Statutes 2008, section 216B.62, subdivision 3, is amended to read:

23.11 Subd. 3. **Assessing all public utilities.** The department and commission shall

23.12 quarterly, at least 30 days before the start of each quarter, estimate the total of their

23.13 expenditures in the performance of their duties relating to (1) public utilities under section

23.14 216A.085, sections 216B.01 to 216B.67, other than amounts chargeable to public utilities

23.15 under subdivision 2 ~~or~~ 6, or 7 and (2) alternative energy engineering activity under

23.16 section 216C.261. The remainder, except the amount assessed against cooperatives and

23.17 municipalities for alternative energy engineering activity under subdivision 5, shall be

23.18 assessed by the commission and department to the several public utilities in proportion

23.19 to their respective gross operating revenues from retail sales of gas or electric service

23.20 within the state during the last calendar year. The assessment shall be paid into the state

23.21 treasury within 30 days after the bill has been transmitted via mail, personal delivery,

23.22 or electronic service to the several public utilities, which shall constitute notice of the

23.23 assessment and demand of payment thereof. The total amount which may be assessed to

23.24 the public utilities, under authority of this subdivision, shall not exceed one-sixth of one

23.25 percent of the total gross operating revenues of the public utilities during the calendar year

23.26 from retail sales of gas or electric service within the state. The assessment for the third

23.27 quarter of each fiscal year shall be adjusted to compensate for the amount by which actual

23.28 expenditures by the commission and department for the preceding fiscal year were more

23.29 or less than the estimated expenditures previously assessed.

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

23.31 Sec. 26. Minnesota Statutes 2008, section 216B.62, subdivision 4, is amended to read:

23.32 Subd. 4. **Objections.** Within 30 days after the date of the transmittal of any bill as

23.33 provided by subdivisions 2 ~~and~~ 3, and 7 the public utility against which the bill has been

23.34 rendered may file with the commission objections setting out the grounds upon which it is

24.1 claimed the bill is excessive, erroneous, unlawful or invalid. The commission shall within
24.2 60 days hold a hearing and issue an order in accordance with its findings. The order shall
24.3 be appealable in the same manner as other final orders of the commission.

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

24.5 Sec. 27. Minnesota Statutes 2008, section 216B.62, is amended by adding a
24.6 subdivision to read:

24.7 Subd. 7. **Audit investigation costs.** The audit investigation account is created as a
24.8 separate account in the special revenue fund in the state treasury. If the commission, in a
24.9 proceeding upon its own motion, on complaint, or upon an application to it, determines
24.10 that it is necessary, in order to carry out its duties imposed under this chapter or chapter
24.11 216, 216A, 216E, 216F, or 216G, to conduct an investigation or audit of any public utility
24.12 operations, practices, or policies requiring specialized technical professional investigative
24.13 services for the inquiry, the commission may request the commissioner of commerce to
24.14 seek authority from the commissioner of finance to incur costs reasonably attributable to
24.15 the specialized services. If the investigation or audit is approved by the commissioner of
24.16 finance, the commissioner of commerce shall carry out the investigation in the manner
24.17 directed by the commission and shall render separate bills to the public utility for the
24.18 costs incurred for such technical professional investigative services. The bill constitutes
24.19 notice of the assessment and demand for payment. The amount assessed must be paid
24.20 by the public utility to the commissioner of commerce within 30 days after the date of
24.21 assessment. Money received under this subdivision must be deposited in the state treasury
24.22 and credited to the audit investigation account, and is appropriated to the commissioner of
24.23 commerce for the purposes of this subdivision.

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

24.25 Sec. 28. **[216C.054] ANNUAL TRANSMISSION ADEQUACY REPORT TO**
24.26 **LEGISLATURE.**

24.27 The commissioner of commerce, in consultation with the Public Utilities
24.28 Commission, shall annually by January 15 submit a written report to the chairs and the
24.29 ranking minority members of the legislative committees with primary jurisdiction over
24.30 energy policy that contains a narrative describing what electric transmission infrastructure
24.31 is needed within the state over the next 15 years and what specific progress is being
24.32 made to meet that need. To the extent possible, the report must contain a description
24.33 of specific transmission needs and the current status of proposals to address that need.
24.34 The report must identify any barriers to meeting transmission infrastructure needs and
24.35 make recommendations, including any legislation, that are necessary to overcome those

25.1 barriers. The report must be based on the best available information and must describe
25.2 what assumptions are made as the basis for the report. If the commissioner determines
25.3 that there are difficulties in accurately assessing future transmission infrastructure needs,
25.4 the commissioner shall explain those difficulties as part of the report. The commissioner is
25.5 not required to conduct original research to support the report. The commissioner may
25.6 utilize information the commissioner, the commission, and the Office of Energy Security
25.7 possess and utilize in carrying out their existing statutory duties related to the state's
25.8 transmission infrastructure. The report must be in easily understood, nontechnical terms.

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

25.10 Sec. 29. **[216C.055] KEY ROLE OF SOLAR AND BIOMASS RESOURCES IN**
25.11 **PRODUCING THERMAL ENERGY.**

25.12 The annual legislative proposals required to be submitted by the commissioners
25.13 of commerce and the Pollution Control Agency under section 216H.07, subdivision
25.14 4, must include proposals regarding the use of solar energy and the combustion of
25.15 grasses, agricultural wastes, trees, and other vegetation to produce thermal energy for
25.16 heating commercial, industrial, and residential buildings and for industrial processes if
25.17 the commissioners determine that such policies are appropriate to achieve the state's
25.18 greenhouse gas emissions reduction goals. No legal claim against any person is allowed
25.19 under this section. This section does not apply to the combustion of municipal solid waste
25.20 or refuse-derived fuel to produce thermal energy. For purposes of this section, removal
25.21 of woody biomass from publicly owned forests must be consistent with the principles of
25.22 sustainable forest management.

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

25.24 Sec. 30. Minnesota Statutes 2008, section 216C.11, is amended to read:

25.25 **216C.11 ENERGY CONSERVATION INFORMATION CENTER.**

25.26 The commissioner shall establish an Energy Information Center in the department's
25.27 offices in St. Paul. The information center shall maintain a toll-free telephone information
25.28 service and disseminate printed materials on energy conservation topics, including but
25.29 not limited to, availability of loans and other public and private financing methods
25.30 for energy conservation physical improvements, the techniques and materials used to
25.31 conserve energy in buildings, including retrofitting or upgrading insulation and installing
25.32 weatherstripping, the projected prices and availability of different sources of energy,
25.33 and alternative sources of energy.

26.1 The Energy Information Center shall serve as the official Minnesota Alcohol Fuels
26.2 Information Center and shall disseminate information, printed, by the toll-free telephone
26.3 information service, or otherwise on the applicability and technology of alcohol fuels.

26.4 The information center shall include information on the potential hazards of energy
26.5 conservation techniques and improvements in the printed materials disseminated. The
26.6 commissioner shall not be liable for damages arising from the installation or operation of
26.7 equipment or materials recommended by the information center.

26.8 The information center shall use the information collected under section 216C.02,
26.9 subdivision 1, to maintain a central source of information on conservation and other
26.10 energy-related programs, including both programs required by law or rule and programs
26.11 developed and carried on voluntarily. In particular, the information center shall compile
26.12 and maintain information on policies covering disconnections or denials of fuel
26.13 during cold weather adopted by public utilities and other fuel suppliers not governed
26.14 by ~~Minnesota Rules, parts 7820.1500 to 7820.2300~~ section 216B.096 or 216B.097,
26.15 including the number of households disconnected or denied fuel and the duration of the
26.16 disconnections or denials.

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

26.18 Sec. 31. Minnesota Statutes 2008, section 216C.41, subdivision 5a, is amended to read:

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

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

26.26 Sec. 32. **NATURAL GAS UTILITIES; INTERIM ENERGY SAVINGS PLAN.**

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

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

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

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

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

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

27.5 (iii) achieve average annual savings of at least one percent over years four through
27.6 nine following submission of the plan.

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

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

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

27.17 **Sec. 33. UTILITY RATES STUDY.**

27.18 The Public Utilities Commission, in consultation with the Office of Energy
27.19 Security, shall conduct a study of automatic cost-recovery mechanisms and alternative
27.20 forms of utility rate regulation. This study shall include an assessment of the impact of
27.21 automatic cost-recovery mechanisms on prices charged to utility consumers compared
27.22 to traditional cost-recovery mechanisms, an assessment of the impact of automatic
27.23 recovery mechanisms on the level of customer understanding of utility rates compared to
27.24 traditional cost-recovery mechanisms, and an assessment of alternative forms of utility
27.25 rate regulation that may be used in place of automatic cost-recovery mechanisms. The
27.26 study shall also address methods to improve administration and customer understanding
27.27 of automatic cost-recovery mechanisms. The commission shall submit this report to the
27.28 legislature on or before June 30, 2010. The commission may assess public utilities for
27.29 the cost of the study. The assessment is not subject to a cap on assessments provided by
27.30 section 216B.62 or any other law.

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

27.32 **Sec. 34. MOUNTAIN IRON ECONOMIC DEVELOPMENT AUTHORITY;**
27.33 **WIND ENERGY PROJECT.**

27.34 (a) The Mountain Iron Economic Development Authority may form or become a
27.35 member of a limited liability company organized under Minnesota Statutes, chapter 322B,

28.1 for the purpose of developing a community-based energy development project pursuant
28.2 to Minnesota Statutes, section 216B.1612. A limited liability company formed or joined
28.3 under this section is subject to the open meeting requirements established in Minnesota
28.4 Statutes, chapter 13D. A project authorized by this section may not sell, transmit, or
28.5 distribute the electrical energy at retail or provide for end use of the electricity to an
28.6 off-site facility of the economic development corporation or the limited liability company.
28.7 Nothing in this section modifies the exclusive service territories or exclusive right to serve
28.8 as provided in Minnesota Statutes, sections 216B.37 to 216B.43.

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

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

28.15 **Sec. 35. SOLAR CITIES REPORT.**

28.16 The cities of Minneapolis and St. Paul, designated as solar cities under the federal
28.17 Department of Energy's Solar America Initiative, shall, by October 1, 2009, and October
28.18 1, 2010, submit a report to the cochairs of the Legislative Energy Commission containing
28.19 strategies to accelerate the rate of solar thermal and solar electric energy installations
28.20 in all building types throughout the state. The report must, at a minimum, address the
28.21 following issues:

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

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

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

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

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

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

30.1 subdivision; 117.189; 216A.03, subdivision 6, by adding a subdivision; 216B.16,
30.2 subdivisions 2, 6c, 7b, by adding a subdivision; 216B.1645, subdivision 2a;
30.3 216B.169, subdivision 2; 216B.1691, subdivision 2a; 216B.23, by adding
30.4 a subdivision; 216B.241, subdivisions 1c, 5a, 9, by adding a subdivision;
30.5 216B.2411, subdivisions 1, 2; 216B.2412, subdivision 2; 216B.2424, subdivision
30.6 5a; 216B.243, subdivisions 8, 9; 216B.62, subdivisions 3, 4, by adding a
30.7 subdivision; 216C.11; 216C.41, subdivision 5a; proposing coding for new law
30.8 in Minnesota Statutes, chapters 216B; 216C; repealing Laws 2007, chapter 3,
30.9 section 3."

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

31.2 Senate Conferees: (Signed)

31.3
31.4 Yvonne Prettner Solon John Doll

31.5
31.6 D. Scott Dibble David Senjem

31.7
31.8 Dan Sparks

31.9 House Conferees: (Signed)

31.10
31.11 Bill Hilty Andrew Falk

31.12
31.13 Sheldon Johnson Jeremy Kalin

31.14
31.15 Michael Beard