

program. Continuation of these programs will be contingent on the availability of federal funds.

**Sec. 3. EFFECTIVE DATE.**

Section 1 is effective for tax refunds or rebates paid after June 30, 1999.

Presented to the governor April 20, 2000

Signed by the governor April 24, 2000, 1:51 p.m.

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**CHAPTER 443—H.F.No. 2757**

*An act relating to energy; regulating a state mandate requiring certain electric energy to be generated by using biomass as a fuel; amending Minnesota Statutes 1998, section 216B.2424, subdivisions 3, 5, and by adding subdivisions.*

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

Section 1. Minnesota Statutes 1998, section 216B.2424, subdivision 3, is amended to read:

Subd. 3. **FUEL EXEMPTION.** Over the duration of the contract of a biomass power facility selected to satisfy the mandate in subdivision 5, fuel sources that are not biomass may be used to satisfy up to 25 percent of the fuel requirements of a biomass power facility selected to satisfy the biomass power mandate in subdivision 5, except that agricultural crop wastes, such as oat hulls, may be used to satisfy more than 25 percent of the fuel requirements of a power facility selected to satisfy the biomass power mandate in subdivision 5 if the wastes are co-fired with the fuel authorized for the facility. A biomass power facility selected to satisfy the mandate in subdivision 5 also may use fuel sources that are not biomass during any period when biomass fuel sources are not reasonably available to the facility due to any circumstances constituting an act of God. Fuel sources that are not biomass used during such a period of biomass fuel source unavailability shall not be counted toward the 25 percent exemption provided in this subdivision. For purposes of this subdivision, "act of God" means any natural disaster or other natural phenomenon of an exceptional, inevitable, or irresistible character, including, but not limited to, flood, fire, drought, earthquake, and crop failure resulting from climatic conditions, infestation, or disease.

Sec. 2. Minnesota Statutes 1998, section 216B.2424, subdivision 5, is amended to read:

Subd. 5. **MANDATE.** (a) A public utility, as defined in section 216B.02, subdivision 4, that operates a nuclear-powered electric generating plant within this state must construct and operate, purchase, or contract to construct and operate (1) by December 31, 1998, 50 megawatts of electric energy installed capacity generated by farm-grown closed-loop biomass scheduled to be operational by December 31, 2001;

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and (2) by December 31, 1998, an additional 75 megawatts of installed capacity so generated scheduled to be operational by December 31, 2002. Of the 125 megawatts of biomass electricity installed capacity required under this subdivision, no more than 50 megawatts of this capacity may be provided by a facility that uses poultry litter as its primary fuel source and any such facility: (i) need not use biomass that complies with the definition in subdivision 1; (ii) must enter into a contract with the public utility for such capacity, that has an average purchase price per megawatt hour over the life of the contract that is equal to or less than the average purchase price per megawatt hour over the life of the contract in contracts approved by the public utilities commission before April 1, 2000, to satisfy the mandate of this section, and file that contract with the public utilities commission prior to September 1, 2000; and (iii) such capacity must be scheduled to be operational by December 31, 2002. Of the total 125 megawatts of biomass electric energy installed capacity required under this section, no more than 75 megawatts may be provided by a single project. Of the 75 megawatts of biomass electric energy installed capacity required under clause (2), no more than 25 megawatts of this capacity may be provided by a St. Paul district heating and cooling system cogeneration facility utilizing waste wood as a primary fuel source. The St. Paul district heating and cooling system cogeneration facility need not use biomass that complies with the definition in subdivision 1. The public utility must accept and consider on an equal basis with other proposals a proposal to satisfy the requirements of this section that includes a project that exceeds the megawatt capacity requirements of either clause (1) or (2) and that proposes to sell the excess capacity to the public utility or to other purchasers.

(b) If a public utility files a contract with the commission for electric energy installed capacity that uses poultry litter as its primary fuel source, the commission must do a preliminary review of the contract to determine if it meets the purchase price criteria provided in paragraph (a), clause (ii), of this subdivision. The commission shall perform its review and advise the parties of its determination within 30 days of filing of such a contract by a public utility. A public utility may submit by September 1, 2000, a revised contract to address the commission's preliminary determination.

(c) The commission shall finally approve, modify, or disapprove no later than July 1, 2001 all contracts submitted by a public utility as of September 1, 2000 to meet the mandate set forth in this subdivision.

(d) If a public utility subject to this section exercises an option to increase the generating capacity of a project in a contract approved by the commission prior to the effective date of this act to satisfy the mandate in this subdivision, the public utility must notify the commission by September 1, 2000, that it has exercised the option and include in the notice the amount of additional megawatts to be generated under the option exercised. Any review by the commission of the project after exercise of such an option shall be based on the same criteria used to review the existing contract.

· Sec. 3. Minnesota Statutes 1998, section 216B.2424, is amended by adding a subdivision to read:

**New language is indicated by underline, deletions by strikeout.**

Subd. 6. REMAINING MEGAWATT COMPLIANCE PROCESS. (a) If there remain megawatts of biomass power generating capacity to fulfill the mandate in subdivision 5 after the commission has taken final action on all contracts filed by September 1, 2000, by a public utility, this subdivision governs final compliance with the biomass energy mandate in subdivision 5 subject to the requirements of subdivision 7.

(b) To the extent not inconsistent with this subdivision, the provisions of subdivisions 2, 3, 4, and 5 apply to proposals subject to this subdivision.

(c) A public utility must submit proposals to the commission to complete the biomass mandate. The commission shall require a public utility subject to this section to issue a request for competitive proposals for projects for electric generation utilizing biomass as defined in paragraph (f) of this subdivision to provide the remaining megawatts of the mandate. The commission shall set an expedited schedule for submission of proposals to the utility, selection by the utility of proposals or projects, negotiation of contracts, and review by the commission of the contracts or projects submitted by the utility to the commission.

(d) Notwithstanding the provisions of subdivisions 1 to 5 but subject to the provisions of subdivision 7, a new or existing facility proposed under this subdivision that is fueled either by biomass or by co-firing biomass with non-biomass may satisfy the mandate in this section. Such a facility need not use biomass that complies with the definition in subdivision 1 if it uses biomass as defined in paragraph (f) of this subdivision. Generating capacity produced by co-firing of biomass that is operational as of the effective date of this act does not meet the requirements of the mandate, except that additional co-firing capacity added at an existing facility after the effective date of this act may be used to satisfy this mandate. Only the number of megawatts of capacity at a facility which co-fires biomass that are directly attributable to the biomass and that become operational after the effective date of this act count toward meeting the biomass mandate in this section.

(e) Nothing in this subdivision precludes a facility proposed and approved under this subdivision from using fuel sources that are not biomass in compliance with subdivision 3.

(f) Notwithstanding the provisions of subdivision 1, for proposals subject to this subdivision, "biomass" includes farm-grown closed-loop biomass, agricultural wastes, including animal, poultry, and plant wastes, and waste wood, including chipped wood, bark, brush, residue wood, and sawdust.

(g) Nothing in this subdivision affects in any way contracts entered into as of the effective date of this act to satisfy the mandate in subdivision 5.

(h) Nothing in this subdivision requires a public utility to retrofit its own power plants for the purpose of co-firing biomass fuel, nor is a utility prohibited from retrofitting its own power plants for the purpose of co-firing biomass fuel to meet the requirements of this subdivision.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 1998, section 216B.2424, is amended by adding a subdivision to read:

**Subd. 7. EFFECT ON EXISTING PROJECTS.** The commission may not approve a project proposed after the effective date of this act which would have an adverse impact on the ability of a project approved before the effective date of this act to obtain an adequate supply of the fuel source designated for the project.

Sec. 5. Minnesota Statutes 1998, section 216B.2424, is amended by adding a subdivision to read:

**Subd. 8. AGRICULTURAL BIOMASS REQUIREMENT.** Of the 125 megawatts mandated in subdivision 5, at least 75 megawatts of the generating capacity must be generated by facilities that use agricultural biomass as the principal fuel source. For purposes of this subdivision, agricultural biomass includes only farm-grown closed-loop biomass and agricultural waste, including animal, poultry, and plant wastes. For purposes of this subdivision, principal fuel source means a fuel source that satisfies at least 75 percent of the fuel requirements of an electric power generating facility. Nothing in this subdivision is intended to expand the fuel source requirements of subdivision 5.

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective the day following final enactment.

Presented to the governor April 20, 2000

Signed by the governor April 24, 2000, 1:55 p.m.

#### CHAPTER 444—S.F.No. 3169

*An act relating to family law; providing for parenting plans; clarifying the procedure for obtaining custody and parenting time when a recognition of parentage has been executed; altering the standards for modifying physical custody; changing certain terminology; amending Minnesota Statutes 1998, sections 15.87; 119A.37; 124D.23, subdivision 8; 256L.01, subdivision 3a; 257.541; 257.75, subdivision 3; 257A.01, subdivision 2; 257A.03, subdivision 2; 480.30, subdivision 1; 494.015, subdivision 1; 517.08, subdivision 1c; 518.003, subdivision 3, and by adding a subdivision; 518.131, subdivisions 1, 2, 3, 7, and by adding a subdivision; 518.156; 518.157, subdivisions 1 and 3; 518.165, subdivision 1; 518.175, subdivisions 1, 1a, 2, 3, 5, 6, and 8; 518.1751; 518.176, subdivision 2; 518.177; 518.179, subdivision 1; 518.18; 518.612; 518.619, subdivision 1; 518.68, subdivisions 1 and 2; 518B.01, subdivisions 4, 6, and 8; 519.11, subdivision 1a; 609.26, subdivision 2; 629.341, subdivision 3; and 631.52, subdivision 1; Minnesota Statutes 1999 Supplement, sections 119A.45; 257.66, subdivision 3; 494.03; 518.155; 518.165, subdivision 2; 518.178; 518.551, subdivision 5; 609.26, subdivision 1; and 626.556, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 518.*

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

New language is indicated by underline, deletions by ~~strikeout~~.