

Sec. 4. **REPEALER.**

Minnesota Statutes 2000, sections 13.3806, subdivision 19; and 145.90, are repealed.

Presented to the governor May 25, 2001

Signed by the governor May 29, 2001, 11:26 a.m.

CHAPTER 212—S.F.No. 722

An act relating to energy; enacting the Minnesota Energy Security and Reliability Act; requiring an energy security blueprint and a state transmission plan; establishing position of reliability administrator; providing for essential energy infrastructure; modifying provisions for siting, routing, and determining the need for large electric power facilities; regulating conservation expenditures by energy utilities and eliminating state pre-approval of conservation plans by public utilities; encouraging regulatory flexibility in supplying and obtaining energy; regulating interconnection of distributed utility resources; providing for safety and service standards from distribution utilities; clarifying the state cold weather disconnection requirements; authorizing municipal utilities, municipal power agencies, cooperative utilities, and investor-owned utilities to form joint ventures to provide utility services; eliminating the requirement for individual utility resource plans; requiring reports; making technical, conforming, and clarifying changes; appropriating money; amending Minnesota Statutes 2000, sections 16B.32, subdivision 2; 116C.52, subdivisions 4, 10; 116C.53, subdivisions 2, 3; 116C.57, subdivisions 1, 2, 4, by adding subdivisions; 116C.58; 116C.59, subdivisions 1, 4; 116C.60; 116C.61, subdivisions 1, 3; 116C.62; 116C.64; 116C.645; 116C.65; 116C.66; 116C.69; 216B.095; 216B.097, subdivision 1; 216B.16, subdivision 15; 216B.1645; 216B.241, subdivisions 1, 1a, 1b, 2; 216B.2421, subdivision 2; 216B.243, subdivisions 3, 4, 8; 216B.62, subdivision 5; 216C.051, subdivisions 6, 9; 216C.41, subdivisions 3, 5, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 16B; 116C; 216B; 216C; 452; repealing Minnesota Statutes 2000, sections 116C.55, subdivisions 2, 3; 116C.57, subdivisions 3, 5, 5a; 116C.67; 216B.2421, subdivision 3.

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

ARTICLE 1

PUBLIC BUILDING ENERGY CONSERVATION

Section 1. Minnesota Statutes 2000, section 16B.32, subdivision 2, is amended to read:

Subd. 2. **ENERGY CONSERVATION GOALS; ~~EFFICIENCY PROGRAM.~~**

(a) The commissioner of administration in consultation with the department of public service commerce, in cooperation with one or more public utilities or comprehensive energy services providers, may conduct a shared-savings program involving energy

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conservation expenditures on state-owned and wholly state-leased buildings. The public utility or energy services provider shall contract with appropriate state agencies to implement energy efficiency improvements in the selected buildings. A contract must require the public utility or energy services provider to include all energy efficiency improvements in selected buildings that are calculated to achieve a cost payback within ten years. The contract must require that the public utility or energy services provider be repaid solely from energy cost savings and only to the extent of energy cost savings. Repayments must be interest-free. The goal of the program in this paragraph is to demonstrate that through effective energy conservation the total energy consumption per square foot of state-owned and wholly state-leased buildings could be reduced exceed existing energy code by at least 25 30 percent from consumption in the base year of 1990. All agencies participating in the program must report to the commissioner of administration their monthly energy usage, building schedules, inventory of energy-consuming equipment, and other information as needed by the commissioner to manage and evaluate the program.

(b) The commissioner may exclude from the program of paragraph (a) a building in which energy conservation measures are carried out. "Energy conservation measures" means measures that are applied to a state building that improve energy efficiency and have a simple return of investment in ten years or within the remaining period of a lease, whichever time is shorter, and involves energy conservation, conservation facilities, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit activities.

(c) This subdivision expires January 1, 2001.

Sec. 2. [16B.325] SUSTAINABLE BUILDING GUIDELINES.

The department of administration and the department of commerce, with the assistance of other agencies, shall develop sustainable building design guidelines for all new state buildings by January 15, 2003. The primary objectives of these guidelines are to ensure that all new state buildings initially exceed existing energy code, as established in Minnesota Rules, chapter 7676, by, at least 30 percent. The guidelines must focus on achieving the lowest possible lifetime cost for new buildings and allow for changes in the guidelines that encourage continual energy conservation improvements in new buildings. The design guidelines must establish sustainability guidelines that include air quality and lighting standards and that create and maintain a healthy environment and facilitate productivity improvements; specify ways to reduce material costs; and must consider the long-term operating costs of the building, including the use of renewable energy sources and distributed electric energy generation that uses a renewable source or natural gas or a fuel that is as clean or cleaner than natural gas. In developing the guidelines, the departments shall use an open process, including providing the opportunity for public comment. The guidelines established under this section are mandatory for all new buildings receiving funding from the bond proceeds fund after January 1, 2004.

Sec. 3. BENCHMARKS FOR EXISTING PUBLIC BUILDINGS.

The department of administration shall maintain information on energy usage in all public buildings for the purpose of establishing energy efficiency benchmarks and

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energy conservation goals. The department shall report preliminary energy conservation goals to the chairs of the senate telecommunications, energy and utilities committee and the house regulated industries committee by January 15, 2002. The department shall develop a comprehensive plan by January 15, 2003, to maximize electrical and thermal energy efficiency in existing public buildings through conservation measures having a simple payback within ten to 15 years. The plan must detail the steps necessary to implement the conservation measures and include the projected costs of these measures. The owner or operator of a public building subject to this section shall provide information to the department of administration necessary to accomplish the purposes of this section.

ARTICLE 2

JOINT VENTURES

Section 1. [452.25] JOINT VENTURES BY UTILITIES.

Subdivision 1. APPLICABILITY. This section applies to all home rule charter and statutory cities, except as provided in section 2.

Subd. 2. DEFINITIONS. For purposes of this section:

(a) "City" means a statutory or home rule charter city, section 410.015 to the contrary notwithstanding.

(b) "Cooperative association" means a cooperative association organized under chapter 308A.

(c) "Governing body" means (1) the city council in a city that operates a municipal utility, or (2) a board, commission, or body empowered by law, city charter, or ordinance or resolution of the city council to control and operate the municipal utility.

(d) "Investor-owned utility" means an entity that provides utility services to the public under chapter 216B and that is owned by private persons.

(e) "Municipal power agency" means an organization created under sections 453.51 to 453.62.

(f) "Municipal utility" means a utility owned, operated, or controlled by a city to provide utility services.

(g) "Public utility" or "utility" means a provider of electric or water facilities or services or an entity engaged in other similar or related operations authorized by law or charter.

Subd. 3. AUTHORITY. (a) Upon the approval of its elected utilities commission or, if there be none, its city council, a municipal utility may enter into a joint venture with other municipal utilities, municipal power agencies, cooperative associations, or

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investor-owned utilities to provide utility services. Retail electric utility services provided by a joint venture must be within the boundaries of each utility's exclusive electric service territory as shown on the map of service territories maintained by the department of commerce. The terms and conditions of the joint venture are subject to ratification by the governing bodies of the respective utilities and may include the formation of a corporate or other separate legal entity with an administrative and governance structure independent of the respective utilities.

(b) A corporate or other separate legal entity, if formed:

(1) has the authority and legal capacity and, in the exercise of the joint venture, the powers, privileges, responsibilities, and duties authorized by this section;

(2) is subject to the laws and rules applicable to the organization, internal governance, and activities of the entity;

(3) in connection with its property and affairs and in connection with property within its control, may exercise any and all powers that may be exercised by a natural person or a private corporation or other private legal entity in connection with similar property and affairs; and

(4) a joint venture that does not include an investor-owned utility may elect to be deemed a municipal utility or a cooperative association for purposes of chapter 216B or other federal or state law regulating utility operations; and

(5) for a joint venture that includes an investor-owned utility, the commission has authority over the activities, services and rates of the joint venture, and may exercise that authority, to the same extent the commission has authority over the activities, services and rates of the investor-owned utility itself.

(c) Any corporation, if formed, must comply with section 465.719, subdivisions 9, 10, 11, 12, 13, and 14. The term "political subdivision," as it is used in section 465.719, shall refer to the city council of a city.

Subd. 4. RETAIL CUSTOMERS. Unless the joint venture's retail electric rates, as defined in section 216B.02, subdivision 5, of a joint venture that does not include an investor-owned utility, are approved by the governing body of each municipal utility or municipal power agency and the board of directors of each cooperative association that is party to the joint venture, the retail electric customers of the joint venture, if their number be more than 25, may elect to become subject to electric rate regulation by the public utilities commission as provided in chapter 216B. The election is subject to and must be carried out according to the procedures in section 216B.026 and, for these purposes, each retail electric customer of the joint venture is deemed a member or stockholder as referred to in section 216B.026.

Subd. 5. POWERS. (a) A joint venture under this section has the powers, privileges, responsibilities, and duties of the separate utilities entering into the joint venture as the joint venture agreement may provide, including the powers under paragraph (b), except that:

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(1) with respect to retail electric utility services, a joint venture shall not enlarge or extend the service territory served by the joint venture by virtue of the authority granted in sections 216B.44, 216B.45, and 216B.47;

(2) a joint venture may extend service to an existing connected load of 2,000 kilowatts or more, pursuant to section 216B.42, when the load is outside of the assigned service area of the joint venture, or of the electric utilities party to the joint venture, only if the load is already being served by one of the electric utilities party to the joint venture; and

(3) a privately owned utility, as defined in section 216B.02, may extend service to an existing connected load of 2,000 kilowatts or more, pursuant to section 216B.42, when the load is located within the assigned service territory of the joint venture, or of the electric utilities party to the joint venture, only if the load is already being served by that privately owned utility.

The limitations of clauses (1) to (3) do not apply if written consent to the action is obtained from the electric utility assigned to and serving the affected service territory or connected load.

(b) Joint venture powers include, but are not limited to, the authority to:

(1) finance, own, acquire, construct, and operate facilities necessary to provide utility services to retail customers of the joint venture, including generation, transmission, and distribution facilities, and like facilities used in other utility services;

(2) combine assigned service territories, in whole or in part, upon notice to, hearing by, and approval of the public utilities commission;

(3) serve customers in the utilities' service territories or in the combined service territory;

(4) combine, share, or employ administrative, managerial, operational, or other staff if combining or sharing will not degrade safety, reliability, or customer service standards;

(5) provide for joint administrative functions, such as meter reading and billings;

(6) purchase or sell utility services at wholesale for resale to customers;

(7) provide conservation programs, other utility programs, and public interest programs, such as cold weather shut-off protection and conservation spending programs, as required by law and rule; and

(8) participate as the parties deem necessary in providing utility services with other municipal utilities, cooperative utilities, investor-owned utilities, or other entities, public or private.

(c) Notwithstanding any contrary provision within this section, a joint venture formed under this section may engage in wholesale utility services unless the municipal utility, municipal power agency, cooperative association, or investor-owned utility party to the joint venture is prohibited under current law from conducting that activity; but, in any case, the joint venture may provide wholesale services to a

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municipal utility, a cooperative association, or an investor-owned utility that is party to the joint venture.

(d) This subdivision does not limit the authority of a joint venture to exercise rights of eminent domain for other utility purposes to the same extent as is permitted of those utilities party to the joint venture.

Subd. 6. CONSTRUCTION. (a) The powers conferred by this section are in addition to the powers conferred by other law or charter. A joint venture under this section, and a municipal utility with respect to any joint venture under this section, have the powers necessary to effect the intent and purpose of this section, including, but not limited to, the expenditure of public funds and the transfer of real or personal property in accordance with the terms and conditions of the joint venture and the joint venture agreement. This section is complete in itself with respect to the formation and operation of a joint venture under this section and with respect to a municipal utility, a cooperative association, or an investor-owned utility party to a joint venture related to their creation of and dealings with the joint venture, without regard to other laws or city charter provisions that do not specifically address or refer to this section or a joint venture created under this section.

(b) This section must not be construed to supersede or modify:

(1) the power of a city council conferred by charter to overrule or override any action of a governing body other than the actions of the joint venture;

(2) chapter 216B;

(3) any referendum requirements applicable to the creation of a new electric utility by a municipality under section 216B.46 or 216B.465; or

(4) any powers, privileges, or authority or any duties or obligations of a municipal utility, municipal power agency, or cooperative association acting as a separate legal entity without reference to a joint venture created under this section.

Sec. 2. EXCEPTION.

Laws 1996, chapter 300, section 1, as amended by Laws 1997, chapter 232, section 1, shall govern joint ventures created under it and those joint ventures are not governed by section 1.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective the day following final enactment.

ARTICLE 3

MISCELLANEOUS

Section 1. [216B.1611] INTERCONNECTION OF ON-SITE DISTRIBUTED GENERATION.

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Subdivision 1. PURPOSE. The purpose of this section is to: (1) establish the terms and conditions that govern the interconnection and parallel operation of on-site distributed generation; (2) to provide cost savings and reliability benefits to customers; (3) to establish technical requirements that will promote the safe and reliable parallel operation of on-site distributed generation resources; (4) to enhance both the reliability of electric service and economic efficiency in the production and consumption of electricity; and (5) to promote the use of distributed resources in order to provide electric system benefits during periods of capacity constraints.

Subd. 2. DISTRIBUTED GENERATION; GENERIC PROCEEDING. (a) The commission shall initiate a proceeding within 30 days of the effective date of this section, to establish, by order, generic standards for utility tariffs for the interconnection and parallel operation of distributed generation fueled by natural gas or a renewable fuel, or another similarly clean fuel or combination of fuels of no more than ten megawatts of interconnected capacity. At a minimum, these tariff standards must:

(1) to the extent possible, be consistent with industry and other federal and state operational and safety standards;

(2) provide for the low-cost, safe, and standardized interconnection of facilities;

(3) take into account differing system requirements and hardware, as well as the overall demand load requirements of individual utilities;

(4) allow for reasonable terms and conditions, consistent with the cost and operating characteristics of the various technologies, so that a utility can reasonably be assured of the reliable, safe, and efficient operation of the interconnected equipment; and

(5) establish: (i) a standard interconnection agreement that sets forth the contractual conditions under which a company and a customer agree that one or more facilities may be interconnected with the company's utility system; and (ii) a standard application for interconnection and parallel operation with the utility system.

(b) The commission may develop financial incentives based on a public utility's performance in encouraging residential and small business customers to participate in on-site generation.

Subd. 3. DISTRIBUTED GENERATION TARIFF. Within 90 days of the issuance of an order under subdivision 2:

(1) each public utility providing electric service at retail shall file a distributed generation tariff consistent with that order, for commission approval or approval with modification; and

(2) each municipal utility and cooperative electric association shall adopt a distributed generation tariff that addresses the issues included in the commission's order.

Subd. 4. REPORTING REQUIREMENTS. (a) Each electric utility shall maintain records concerning applications received for interconnection and parallel

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operation of distributed generation. The records must include the date each application is received, documents generated in the course of processing each application, correspondence regarding each application, and the final disposition of each application.

(b) Every electric utility shall file with the commissioner a distributed generation interconnection report for the preceding calendar year that identifies each distributed generation facility interconnected with the utility's distribution system. The report must list the new distributed generation facilities interconnected with the system since the previous year's report, any distributed generation facilities no longer interconnected with the utility's system since the previous report, the capacity of each facility, and the feeder or other point on the company's utility system where the facility is connected. The annual report must also identify all applications for interconnection received during the previous one-year period, and the disposition of the applications.

Sec. 2. **[216B.79] PREVENTATIVE MAINTENANCE.**

The commission may order public utilities to make adequate infrastructure investments and undertake sufficient preventative maintenance with regard to generation, transmission, and distribution facilities.

Sec. 3. **ALTERNATIVE AND RENEWABLE ENERGY SOURCE DEVELOPMENT.**

The legislative electric energy task force shall evaluate options and priorities related to energy source development of resources derived from agricultural production and to energy options available in rural parts of the state. These energy sources include, but are not limited to:

- (1) alternative diesel engine fuels derived from soybean and other agricultural plant oils or animal fats;
- (2) ethanol derived from grains or other agricultural products or by-products;
- (3) methane or other combustible gases derived from the processing of plant or animal wastes;
- (4) biomass fuels such as short-rotation woody or fibrous agricultural crops produced for conversion to useful energy;
- (5) use of corn and corn by-products as a fuel for electric generation, including for cogeneration facilities; and
- (6) further development of the solar, wind, and biomass energy potential in the state.

ARTICLE 4

CONSUMER PROTECTION

Section 1. Minnesota Statutes 2000, section 216B.095, is amended to read:

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216B.095 DISCONNECTION DURING COLD WEATHER.

The commission shall amend its rules governing disconnection of residential utility customers who are unable to pay for utility service during cold weather to include the following:

(1) coverage of customers whose household income is less than 185 percent of the federal poverty level 50 percent of the state median income;

(2) a requirement that a customer who pays the utility at least ten percent of the customer's income or the full amount of the utility bill, whichever is less, in a cold weather month cannot be disconnected during that month. The customer's income means the actual monthly income of the customer or the average monthly income of the customer computed on an annual calendar year, whichever is less, and does not include any amount received for energy assistance;

(3) that the ten percent figure in clause (2) must be prorated between energy providers proportionate to each provider's share of the customer's total energy costs where the customer receives service from more than one provider;

(4) that a customer's household income does not include any amount received for energy assistance;

(5) verification of income by the local energy assistance provider or the utility, unless the customer is automatically eligible for protection against disconnection as a recipient of any form of public assistance, including energy assistance, that uses income eligibility in an amount at or below the income eligibility in clause (1); and

~~(6) (5) a requirement that the customer receive, from the local energy assistance provider or other entity, budget counseling and referral referrals to energy assistance, weatherization, conservation, or other programs likely to reduce the customer's consumption of energy bills; and~~

(6) a requirement that customers who have demonstrated an inability to pay on forms provided for that purpose by the utility, and who make reasonably timely payments to the utility under a payment plan that considers the financial resources of the household, cannot be disconnected from utility service from October 15 through April 15. A customer who is receiving energy assistance is deemed to have demonstrated an inability to pay.

For the purpose of clause (2), the "customer's income" means the actual monthly income of the customer except for a customer who is normally employed only on a seasonal basis and whose annual income is over 135 percent of the federal poverty level, in which case the customer's income is the average monthly income of the customer computed on an annual calendar year basis.

Sec. 2. Minnesota Statutes 2000, section 216B.097, subdivision 1, is amended to read:

Subdivision 1. APPLICATION; NOTICE TO RESIDENTIAL CUSTOMER.

(a) A municipal utility or a cooperative electric association must not disconnect the

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utility service of a residential customer during the period between October 15 and April 15 if the disconnection affects the primary heat source for the residential unit when the following conditions are met:

(1) ~~the disconnection would occur during the period between October 15 and April 15;~~

(2) the customer has declared inability to pay on forms provided by the utility. For the purposes of this clause, a customer that is receiving energy assistance is deemed to have demonstrated an inability to pay;

(3) (2) the household income of the customer is less than 185 percent of the federal poverty level, as documented by the customer to the utility; and 50 percent of the state median income;

(3) verification of income may be conducted by the local energy assistance provider or the utility, unless the customer is automatically eligible for protection against disconnection as a recipient of any form of public assistance, including energy assistance that uses income eligibility in an amount at or below the income eligibility in clause (2);

(4) the customer's a customer whose account is current for the billing period immediately prior to October 15 or the customer has entered who, at any time, enters into a payment schedule that considers the financial resources of the household and is reasonably current with payments under the schedule; and

(5) the customer receives referrals to energy assistance programs, weatherization, conservation, or other programs likely to reduce the customer's energy bills.

(b) A municipal utility or a cooperative electric association must, between August 15 and October 15 of each year, notify all residential customers of the provisions of this section.

Sec. 3. [216B.098] RESIDENTIAL CUSTOMER PROTECTIONS.

Subdivision 1. APPLICABILITY. The provisions of this section apply to residential customers of public utilities, municipal utilities, and cooperative electric associations. Each municipal utility and cooperative electric association may establish terms and conditions for the plans and agreements required under subdivisions 2 and 3.

Subd. 2. BUDGET BILLING PLANS. A utility shall offer a customer a budget billing plan for payment of charges for service, including adequate notice to customers prior to changing budget payment amounts. Municipal utilities having 3,000 or fewer customers are exempt from this requirement. Municipal utilities having more than 3,000 customers shall implement this requirement within two years of the effective date of this chapter.

Subd. 3. PAYMENT AGREEMENTS. A utility shall offer a payment agreement for the payment of arrears.

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Subd. 4. UNDERCHARGES. A utility shall offer a payment agreement to customers who have been undercharged if no culpable conduct by the customer or resident of the customer's household caused the undercharge. The agreement must cover a period equal to the time over which the undercharge occurred or a different time period that is mutually agreeable to the customer and the utility. No interest or delinquency fee may be charged under this agreement.

Subd. 5. MEDICALLY NECESSARY EQUIPMENT. A utility shall reconnect or continue service to a customer's residence where a medical emergency exists or where medical equipment requiring electricity is necessary to sustain life is in use, provided that the utility receives from a medical doctor written certification, or initial certification by telephone and written certification within five business days, that failure to reconnect or continue service will impair or threaten the health or safety of a resident of the customer's household. The customer must enter into a payment agreement.

Subd. 6. COMMISSION AUTHORITY. In addition to any other authority, the commission has the authority to resolve customer complaints against a public utility, as defined in section 216B.02, subdivision 4, whether or not the complaint involves a violation of this chapter. The commission may delegate this authority to commission staff as it deems appropriate.

Sec. 4. Minnesota Statutes 2000, section 216B.16, subdivision 15, is amended to read:

Subd. 15. LOW-INCOME RATE PROGRAMS; REPORT. (a) The commission may consider ability to pay as a factor in setting utility rates and may establish programs for low-income residential ratepayers in order to ensure affordable, reliable, and continuous service to low-income utility customers. The commission shall order a pilot program for at least one utility. In ordering pilot programs, the commission shall consider the following:

(1) the potential for low-income programs to provide savings to the utility for all collection costs including but not limited to: costs of disconnecting and reconnecting residential ratepayers' service, all activities related to the utilities' attempt to collect past due bills, utility working capital costs, and any other administrative costs related to inability to pay programs and initiatives;

(2) the potential for leveraging federal low-income energy dollars to the state; and

(3) the impact of energy costs as a percentage of the total income of a low-income residential customer.

(b) In determining the structure of the pilot utility program, the commission shall:

(1) consult with advocates for and representatives of low-income utility customers, administrators of energy assistance and conservation programs, and utility representatives;

(2) coordinate eligibility for the program with the state and federal energy assistance program and low-income residential energy programs, including weatherization programs; and

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(3) evaluate comprehensive low-income programs offered by utilities in other states. The purpose of the low-income programs is to lower the percentage of income that low-income households devote to energy bills, to increase customer payments, and to lower the utility costs associated with customer account collection activities. In ordering low-income programs, the commission may require public utilities to file program evaluations, including the coordination of other available low-income bill payment and conservation resources and the effect of the program on:

(1) reducing the percentage of income that participating households devote to energy bills;

(2) service disconnections; and

(3) customer payment behavior, utility collection costs, arrearages, and bad debt.

(c) The commission shall implement at least one pilot project by January 1, 1995, and shall allow a utility required to implement a pilot project to recover the net costs of the project in the utility's rates.

(d) The commission, in conjunction with the commissioner of the department of public service and the commissioner of economic security, shall review low-income rate programs and shall report to the legislature by January 1, 1998. The report must include:

(1) the increase in federal energy assistance money leveraged by the state as a result of this program;

(2) the effect of the program on low-income customer's ability to pay energy costs;

(3) the effect of the program on utility customer bad debt and arrearages;

(4) the effect of the program on the costs and numbers of utility disconnections and reconnections and other costs incurred by the utility in association with inability to pay programs;

(5) the ability of the utility to recover the costs of the low-income program without a general rate change;

(6) how other ratepayers have been affected by this program;

(7) recommendations for continuing, eliminating, or expanding the low-income pilot program; and

(8) how general revenue funds may be utilized in conjunction with low-income programs.

ARTICLE 5

INCENTIVE PAYMENTS

Section 1. Minnesota Statutes 2000, section 216C.41, subdivision 3, is amended to read:

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Subd. 3. **ELIGIBILITY WINDOW.** Payments may be made under this section only for electricity generated:

(1) from a qualified hydroelectric facility that is operational and generating electricity before December 31, ~~2001~~ 2002; or

(2) from a qualified wind energy conversion facility that is operational and generating electricity before January 1, 2005.

Sec. 2. Minnesota Statutes 2000, section 216C.41, subdivision 5, is amended to read:

Subd. 5. **AMOUNT OF PAYMENT.** (a) An incentive payment is based on the number of kilowatt hours of electricity generated. The amount of the payment is 1.5 cents per kilowatt hour. For electricity generated by qualified wind energy conversion facilities, the incentive payment under this section is limited to no more than 100 megawatts of nameplate capacity. During any period in which qualifying claims for incentive payments exceed 100 megawatts of nameplate capacity, the payments must be made to producers in the order in which the production capacity was brought into production.

(b) Beginning January 1, 2002, the total size of a wind energy conversion system under this section must be determined according to this paragraph. Unless the systems are interconnected with different distribution systems, the nameplate capacity of one wind energy conversion system must be combined with the nameplate capacity of any other wind energy conversion system that is:

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

(2) constructed within the same calendar year as the wind energy conversion system; and

(3) under common ownership.

In the case of a dispute, the commissioner of commerce shall determine the total size of the system, and shall draw all reasonable inferences in favor of combining the systems.

(c) In making a determination under paragraph (b), the commissioner of commerce may determine that two wind energy conversion systems are under common ownership when the underlying ownership structure contains similar persons or entities, even if the ownership shares differ between the two systems. Wind energy conversion systems are not under common ownership solely because the same person or entity provided equity financing for the systems.

Sec. 3. Minnesota Statutes 2000, section 216C.41, is amended by adding a subdivision to read:

Subd. 6. **OWNERSHIP; FINANCING; CURE.** (a) For the purposes of subdivision 1, paragraph (c), clause (2), a wind energy conversion facility qualifies if

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it is owned at least 51 percent by one or more of any combination of the entities listed in that clause.

(b) A subsequent owner of a qualified facility may continue to receive the incentive payment for the duration of the original payment period if the subsequent owner qualifies for the incentive under subdivision 1.

(c) Nothing in this section may be construed to deny incentive payment to an otherwise qualified facility that has obtained debt or equity financing for construction or operation as long as the ownership requirements of subdivision 1 and this subdivision are met. If, during the incentive payment period for a qualified facility, the owner of the facility is in default of a lending agreement and the lender takes possession of and operates the facility and makes reasonable efforts to transfer ownership of the facility to an entity other than the lender, the lender may continue to receive the incentive payment for electricity generated and sold by the facility for a period not to exceed 18 months. A lender who takes possession of a facility shall notify the commissioner immediately on taking possession and, at least quarterly, document efforts to transfer ownership of the facility.

(d) If, during the incentive payment period, a qualified facility loses the right to receive the incentive because of changes in ownership, the facility may regain the right to receive the incentive upon cure of the ownership structure that resulted in the loss of eligibility and may reapply for the incentive, but in no case may the payment period be extended beyond the original ten-year limit.

(e) A subsequent or requalifying owner under paragraph (b) or (d) retains the facility's original priority order for incentive payments as long as the ownership structure requalifies within two years from the date the facility became unqualified or two years from the date a lender takes possession.

Sec. 4. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

ARTICLE 6

DISTRIBUTION RELIABILITY

Section 1. **[216B.81] STANDARDS FOR DISTRIBUTION UTILITIES.**

Subdivision 1. STANDARDS. (a) The commission and each cooperative electric association and municipal utility shall adopt standards for safety, reliability, and service quality for distribution utilities. Standards for cooperative electric associations and municipal utilities should be as consistent as possible with the commission standards.

(b) Reliability standards must be based on the system average interruption frequency index, system average interruption duration index, and customer average interruption duration index measurement indices. Service quality standards must

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specify, if technically and administratively feasible:

- (1) average call center response time;
- (2) customer disconnection rate;
- (3) meter-reading frequency;
- (4) complaint resolution response time;
- (5) service extension request response time;
- (6) recording of service and circuit interrupter data;
- (7) summary reporting;
- (8) historical reliability performance reporting;
- (9) notices of interruptions of bulk power supply facilities and other interruptions of power; and
- (10) customer complaints.

(c) Minimum performance standards developed under this section must treat similarly situated distribution systems similarly and recognize differing characteristics of system design and hardware.

(d) Electric distribution utilities shall comply with all applicable governmental and industry standards required for the safety, design, construction, and operation of electric distribution facilities, including section 326.243.

Subd. 2. DEFINITIONS. For the purpose of this section, the terms defined in this subdivision have the meanings given them.

(a) The "system average interruption frequency index" is the average number of interruptions per customer per year. It is determined by dividing the total annual number of customer interruptions by the average number of customers served during the year.

(b) The "system average interruption duration index" is the average customer-minutes of interruption per customer. It is determined by dividing the annual sum of customer-minutes of interruption by the average number of customers served during the year.

(c) The "customer average interruption duration index" is the average customer-minutes of interruption per customer interruption. It approximates the average length of time required to complete service restoration. It is determined by dividing the annual sum of all customer-minutes of interruption durations by the annual number of customer interruptions.

Sec. 2. COST BENEFIT ANALYSIS.

The commissioner of commerce shall provide an analysis of the costs and benefits to consumers and utilities of the provisions of section 216B.81, including any recommended changes to those provisions, to the chairs of the house of representatives

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and senate policy and finance committees with jurisdiction over electric utility issues by February 1, 2003.

Sec. 3. EFFECTIVE DATE.

Section 1 is effective July 1, 2001. Section 2 is effective the day following final enactment.

ARTICLE 7

**SITING AND ROUTING OF
POWER PLANTS AND TRANSMISSION LINES**

Section 1. Minnesota Statutes 2000, section 116C.52, subdivision 4, is amended to read:

Subd. 4. **HIGH VOLTAGE TRANSMISSION LINE.** "High voltage transmission line" means a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 200 100 kilovolts or more, ~~except that the board, by rule, may exempt lines pursuant to section 116C.57, subdivision 5.~~

Sec. 2. Minnesota Statutes 2000, section 116C.52, subdivision 10, is amended to read:

Subd. 10. **UTILITY.** "Utility" shall mean any entity engaged or intending to engage in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipally owned utility.

Sec. 3. Minnesota Statutes 2000, section 116C.53, subdivision 2, is amended to read:

Subd. 2. **JURISDICTION.** The board is hereby given the authority to provide for site and route selection for large electric power facilities. The board shall issue permits for large electric power facilities in a timely fashion. When the public utilities commission has determined the need for the project under section 216B.243 or 216B.2425, questions of need, including size, type, and timing; alternative system configurations; and voltage are not within the board's siting and routing authority and must not be included in the scope of environmental review conducted under sections 116C.51 to 116C.69.

Sec. 4. Minnesota Statutes 2000, section 116C.53, subdivision 3, is amended to read:

Subd. 3. **INTERSTATE ROUTES.** If a route is proposed in two or more states, the board shall attempt to reach agreement with affected states on the entry and exit points prior to authorizing the construction of the designating a route. The board, in discharge of its duties pursuant to sections 116C.51 to 116C.69 may make joint investigations, hold joint hearings within or without the state, and issue joint or

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concurrent orders in conjunction or concurrence with any official or agency of any state or of the United States. The board may negotiate and enter into any agreements or compacts with agencies of other states, pursuant to any consent of Congress, for cooperative efforts in certifying the construction, operation, and maintenance of large electric power facilities in accord with the purposes of sections 116C.51 to 116C.69 and for the enforcement of the respective state laws regarding such facilities.

Sec. 5. Minnesota Statutes 2000, section 116C.57, subdivision 1, is amended to read:

Subdivision 1. **DESIGNATION OF SITES SUITABLE FOR SPECIFIC FACILITIES; REPORTS SITE PERMIT.** A utility must apply to the board in a form and manner prescribed by the board for designation of a specific site for a specific size and type of facility. The application shall contain at least two proposed sites. In the event a utility proposes a site not included in the board's inventory of study areas, the utility shall specify the reasons for the proposal and shall make an evaluation of the proposed site based upon the planning policies, criteria and standards specified in the inventory. Pursuant to sections 116C.57 to 116C.60, the board shall study and evaluate any site proposed by a utility and any other site the board deems necessary which was proposed in a manner consistent with rules adopted by the board concerning the form, content, and timeliness of proposals for alternate sites. No site designation shall be made in violation of the site selection standards established in section 116C.55. The board shall indicate the reasons for any refusal and indicate changes in size or type of facility necessary to allow site designation. Within a year after the board's acceptance of a utility's application, the board shall decide in accordance with the criteria specified in section 116C.55, subdivision 2, the responsibilities, procedures and considerations specified in section 116C.57, subdivision 4, and the considerations in chapter 116D which proposed site is to be designated. The board may extend for just cause the time limitation for its decision for a period not to exceed six months. When the board designates a site, it shall issue a certificate of site compatibility to the utility with any appropriate conditions. The board shall publish a notice of its decision in the State Register within 30 days of site designation. No large electric power generating plant shall be constructed except on a site designated by the board. No person may construct a large electric generating plant without a site permit from the board. A large electric generating plant may be constructed only on a site approved by the board. The board must incorporate into one proceeding the route selection for a high voltage transmission line that is directly associated with and necessary to interconnect the large electric generating plant to the transmission system and whose need is certified as part of the generating plant project by the public utilities commission.

Sec. 6. Minnesota Statutes 2000, section 116C.57, subdivision 2, is amended to read:

Subd. 2. **DESIGNATION OF ROUTES; PROCEDURE ROUTE PERMIT.** A utility shall apply to the board in a form and manner prescribed by the board for a permit for the construction of a high voltage transmission line. The application shall contain at least two proposed routes. Pursuant to sections 116C.57 to 116C.60, the board shall study, and evaluate the type, design, routing, right-of-way preparation and

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facility construction of any route proposed in a utility's application and any other route the board deems necessary which was proposed in a manner consistent with rules adopted by the board concerning the form, content, and timeliness of proposals for alternate routes provided, however, that the board shall identify the alternative routes prior to the commencement of public hearings thereon pursuant to section 116C.58. Within one year after the board's acceptance of a utility's application, the board shall decide in accordance with the criteria and standards specified in section 116C.55, subdivision 2, and the considerations specified in section 116C.57, subdivision 4, which proposed route is to be designated. The board may extend for just cause the time limitation for its decision for a period not to exceed 90 days. When the board designates a route, it shall issue a permit for the construction of a high voltage transmission line specifying the type, design, routing, right-of-way preparation and facility construction it deems necessary and with any other appropriate conditions. The board may order the construction of high voltage transmission line facilities which are capable of expansion in transmission capacity through multiple circuiting or design modifications. The board shall publish a notice of its decision in the state register within 30 days of issuance of the permit. No high voltage transmission line shall be constructed except on a route designated by the board, unless it was exempted pursuant to subdivision 5. No person may construct a high voltage transmission line without a route permit from the board. A high voltage transmission line may be constructed only along a route approved by the board.

Sec. 7. Minnesota Statutes 2000, section 116C.57, is amended by adding a subdivision to read:

Subd. 2a. APPLICATION. Any person seeking to construct a large electric power generating plant or a high voltage transmission line must apply to the board for a site or route permit. The application shall contain such information as the board may require. The applicant shall propose at least two sites for a large electric power generating plant and two routes for a high voltage transmission line. The chair of the board shall determine whether an application is complete and advise the applicant of any deficiencies within ten days of receipt. An application is not incomplete if information not in the application can be obtained from the applicant during the first phase of the process and that information is not essential for notice and initial public meetings.

Sec. 8. Minnesota Statutes 2000, section 116C.57, is amended by adding a subdivision to read:

Subd. 2b. NOTICE OF APPLICATION. Within 15 days after submission of an application to the board, the applicant shall publish notice of the application in a legal newspaper of general circulation in each county in which the site or route is proposed and send a copy of the application by certified mail to any regional development commission, county, incorporated municipality, and township in which any part of the site or route is proposed. Within the same 15 days, the applicant shall also send a notice of the submission of the application and description of the proposed project to each owner whose property is on or adjacent to any of the proposed sites for the power plant or along any of the proposed routes for the transmission line. The notice shall identify

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a location where a copy of the application can be reviewed. For the purpose of giving mailed notice under this subdivision, owners shall be those shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. The failure to give mailed notice to a property owner, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made. Within the same 15 days, the applicant shall also send the same notice of the submission of the application and description of the proposed project to those persons who have requested to be placed on a list maintained by the board for receiving notice of proposed large electric generating power plants and high voltage transmission lines.

Sec. 9. Minnesota Statutes 2000, section 116C.57, is amended by adding a subdivision to read:

Subd. 2c. ENVIRONMENTAL REVIEW. The board shall prepare an environmental impact statement on each proposed large electric generating plant or high voltage transmission line for which a complete application has been submitted. For any project that has obtained a certificate of need from the public utilities commission, the board shall not consider whether or not the project is needed. No other state environmental review documents shall be required. The board shall study and evaluate any site or route proposed by an applicant and any other site or route the board deems necessary that was proposed in a manner consistent with rules adopted by the board concerning the form, content, and timeliness of proposals for alternate sites or routes.

Sec. 10. Minnesota Statutes 2000, section 116C.57, is amended by adding a subdivision to read:

Subd. 2d. PUBLIC HEARING. The board shall hold a public hearing on an application for a site permit for a large electric power generating plant or a route permit for a high voltage transmission line. All hearings held for designating a site or route shall be conducted by an administrative law judge from the office of administrative hearings pursuant to the contested case procedures of chapter 14. Notice of the hearing shall be given by the board at least ten days in advance but no earlier than 45 days prior to the commencement of the hearing. Notice shall be by publication in a legal newspaper of general circulation in the county in which the public hearing is to be held and by certified mail to chief executives of the regional development commissions, counties, organized towns, townships, and the incorporated municipalities in which a site or route is proposed. Any person may appear at the hearings and offer testimony and exhibits without the necessity of intervening as a formal party to the proceedings. The administrative law judge may allow any person to ask questions of other witnesses. The administrative law judge shall hold a portion of the hearing in the area where the power plant or transmission line is proposed to be located.

Sec. 11. Minnesota Statutes 2000, section 116C.57, subdivision 4, is amended to read:

Subd. 4. CONSIDERATIONS IN DESIGNATING SITES AND ROUTES. The board's site and route permit determinations must be guided by the state's goals

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to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure. To facilitate the study, research, evaluation and designation of sites and routes, the board shall be guided by, but not limited to, the following responsibilities, procedures, and considerations:

(1) Evaluation of research and investigations relating to the effects on land, water and air resources of large electric power generating plants and high voltage transmission line routes lines and the effects of water and air discharges and electric and magnetic fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including base line studies, predictive modeling, and monitoring of the water and air mass at proposed and operating sites and routes, evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;

(2) Environmental evaluation of sites and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;

(3) Evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;

(4) Evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;

(5) Analysis of the direct and indirect economic impact of proposed sites and routes including, but not limited to, productive agricultural land lost or impaired;

(6) Evaluation of adverse direct and indirect environmental effects which that cannot be avoided should the proposed site and route be accepted;

(7) Evaluation of alternatives to the applicant's proposed site or route proposed pursuant to subdivisions 1 and 2;

(8) Evaluation of potential routes which that would use or parallel existing railroad and highway rights-of-way;

(9) Evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;

(10) Evaluation of the future needs for additional high voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;

(11) Evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved; and

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(12) ~~Where~~ When appropriate, consideration of problems raised by other state and federal agencies and local entities.

(13) If the board's rules are substantially similar to existing rules and regulations of a federal agency to which the utility in the state is subject, the federal rules and regulations shall must be applied by the board.

(14) No site or route shall be designated which violates state agency rules.

Sec. 12. Minnesota Statutes 2000, section 116C.57, is amended by adding a subdivision to read:

Subd. 7. TIMING. The board shall make a final decision on an application within 60 days after receipt of the report of the administrative law judge. A final decision on the request for a site permit or route permit shall be made within one year after the chair's determination that an application is complete. The board may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Sec. 13. Minnesota Statutes 2000, section 116C.57, is amended by adding a subdivision to read:

Subd. 8. FINAL DECISION. (a) No site permit shall be issued in violation of the site selection standards and criteria established in this section and in rules adopted by the board. When the board designates a site, it shall issue a site permit to the applicant with any appropriate conditions. The board shall publish a notice of its decision in the State Register within 30 days of issuance of the site permit.

(b) No route permit shall be issued in violation of the route selection standards and criteria established in this section and in rules adopted by the board. When the board designates a route, it shall issue a permit for the construction of a high voltage transmission line specifying the design, routing, right-of-way preparation, and facility construction it deems necessary, and with any other appropriate conditions. The board may order the construction of high voltage transmission line facilities that are capable of expansion in transmission capacity through multiple circuiting or design modifications. The board shall publish a notice of its decision in the State Register within 30 days of issuance of the permit.

Sec. 14. **[116C.575] ALTERNATIVE REVIEW OF APPLICATIONS.**

Subdivision 1. ALTERNATIVE REVIEW. An applicant who seeks a site permit or route permit for one of the projects identified in this section shall have the option of following the procedures in this section rather than the procedures in section 116C.57. The applicant shall notify the chair at the time the application is submitted which procedure the applicant chooses to follow.

Subd. 2. APPLICABLE PROJECTS. The requirements and procedures in this section apply to the following projects:

(1) large electric power generating plants with a capacity of less than 80 megawatts;

(2) large electric power generating plants that are fueled by natural gas;

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(3) high voltage transmission lines of between 100 and 200 kilovolts;

(4) high voltage transmission lines in excess of 200 kilovolts and less than five miles in length in Minnesota;

(5) high voltage transmission lines in excess of 200 kilovolts if at least 80 percent of the distance of the line in Minnesota will be located along existing high voltage transmission line right-of-way;

(6) a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and

(7) a high voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line.

Subd. 3. APPLICATION. The applicant for a site or route permit for any of the projects listed in subdivision 2 who chooses to follow these procedures shall submit information as the board may require, but the applicant shall not be required to propose a second site or route for the project. The applicant shall identify in the application any other sites or routes that were rejected by the applicant and the board may identify additional sites or routes to consider during the processing of the application. The chair of the board shall determine whether an application is complete and advise the applicant of any deficiencies.

Subd. 4. NOTICE OF APPLICATION. Upon submission of an application under this section, the applicant shall provide the same notice as required by section 116C.57, subdivision 2b.

Subd. 5. ENVIRONMENTAL REVIEW. For the projects identified in subdivision 2 and following these procedures, the board shall prepare an environmental assessment. The environmental assessment shall contain information on the human and environmental impacts of the proposed project and other sites or routes identified by the board and shall address mitigating measures for all of the sites or routes considered. The environmental assessment shall be the only state environmental review document required to be prepared on the project.

Subd. 6. PUBLIC HEARING. The board shall hold a public hearing in the area where the facility is proposed to be located. The board shall give notice of the public hearing in the same manner as notice under section 116C.57, subdivision 2d. The board shall conduct the public hearing under procedures established by the board. The applicant shall be present at the hearing to present evidence and to answer questions. The board shall provide opportunity at the public hearing for any person to present comments and to ask questions of the applicant and board staff. The board shall also afford interested persons an opportunity to submit written comments into the record.

Subd. 7. TIMING. The board shall make a final decision on an application within 60 days after completion of the public hearing. A final decision on the request for a site permit or route permit under this section shall be made within six months after the chair's determination that an application is complete. The board may extend this time

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limit for up to three months for just cause or upon agreement of the applicant.

Subd. 8. CONSIDERATIONS. The considerations in section 116C.57, subdivision 4, shall apply to any projects subject to this section.

Subd. 9. FINAL DECISION. (a) No site permit shall be issued in violation of the site selection standards and criteria established in this section and in rules adopted by the board. When the board designates a site, it shall issue a site permit to the applicant with any appropriate conditions. The board shall publish a notice of its decision in the State Register within 30 days of issuance of the site permit.

(b) No route designation shall be made in violation of the route selection standards and criteria established in this section and in rules adopted by the board. When the board designates a route, it shall issue a permit for the construction of a high voltage transmission line specifying the design, routing, right-of-way preparation, and facility construction it deems necessary and with any other appropriate conditions. The board may order the construction of high voltage transmission line facilities that are capable of expansion in transmission capacity through multiple circuiting or design modifications. The board shall publish a notice of its decision in the State Register within 30 days of issuance of the permit.

Sec. 15. [116C.576] LOCAL REVIEW OF APPLICATIONS.

Subdivision 1. LOCAL REVIEW. (a) Notwithstanding the requirements of sections 116C.57 and 116C.575, an applicant who seeks a site or route permit for one of the projects identified in this section shall have the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the board. If the applicant files an application with the board, the applicant shall be deemed to have waived its right to seek local approval of the project.

(b) A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the board to assume jurisdiction and make a decision on a site or route permit under the applicable provisions of sections 116C.52 to 116C.69. A local unit of government must file the request with the board within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the board to assume jurisdiction, jurisdiction over the project transfers to the board. If the local units of government maintain jurisdiction over the project, the board shall select the appropriate local unit of government to be the responsible governmental unit to conduct environmental review of the project.

Subd. 2. APPLICABLE PROJECTS. Applicants may seek approval from local units of government to construct the following projects:

(1) large electric power generating plants with a capacity of less than 80 megawatts;

(2) large electric power generating plants of any size that burn natural gas and are intended to be a peaking plant;

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- (3) high voltage transmission lines of between 100 and 200 kilovolts;
- (4) substations with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;
- (5) a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and
- (6) a high voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line.

Subd. 3. NOTICE OF APPLICATION. Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant shall notify the board that the applicant has elected to seek local approval of the proposed project.

Sec. 16. [116C.57] EMERGENCY PERMIT.

(a) Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line due to a major unforeseen event may apply to the board for an emergency permit after providing notice in writing to the public utilities commission of the major unforeseen event and the need for immediate construction. The permit must be issued in a timely manner, no later than 195 days after the board's acceptance of the application and upon a finding by the board that (1) a demonstrable emergency exists, (2) the emergency requires immediate construction, and (3) adherence to the procedures and time schedules specified in section 116C.57 would jeopardize the utility's electric power system or would jeopardize the utility's ability to meet the electric needs of its customers in an orderly and timely manner.

(b) A public hearing to determine if an emergency exists must be held within 90 days of the application. The board, after notice and hearing, shall adopt rules specifying the criteria for emergency certification.

Sec. 17, Minnesota Statutes 2000, section 116C.58, is amended to read:

116C.58 PUBLIC HEARINGS; NOTICE ANNUAL HEARING.

The board shall hold an annual public hearing at a time and place prescribed by rule in order to afford interested persons an opportunity to be heard regarding its ~~inventory~~ of study areas and any other aspects of the board's activities and duties or policies specified in sections ~~116C.51 to 116C.69~~. The board shall hold at least one public hearing in each county where a site or route is being considered for designation pursuant to section 116C.57. Notice and agenda of public hearings and public meetings of the board held in each county shall be given by the board at least ten days in advance but no earlier than 45 days prior to such hearings or meetings. Notice shall be by publication in a legal newspaper of general circulation in the county in which the public hearing or public meeting is to be held and by certified mailed notice to chief executives of the regional development commissions, counties, organized towns and the incorporated municipalities in which a site or route is proposed. All hearings held

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for designating a site or route or for exempting a route shall be conducted by an administrative law judge from the office of administrative hearings pursuant to the contested case procedures of chapter 14. Any person may appear at the hearings and present testimony and exhibits and may question witnesses without the necessity of intervening as a formal party to the proceedings any matters relating to the siting of large electric generating power plants and routing of high voltage transmission lines. At the meeting, the board shall advise the public of the permits issued by the board in the past year. The board shall provide at least ten days but no more than 45 days' notice of the annual meeting by mailing notice to those persons who have requested notice and by publication in the EQB Monitor.

Sec. 18. Minnesota Statutes 2000, section 116C.59, subdivision 1, is amended to read:

Subdivision 1. **ADVISORY TASK FORCE.** The board may appoint one or more advisory task forces to assist it in carrying out its duties. Task forces appointed to evaluate sites or routes considered for designation shall be comprised of as many persons as may be designated by the board, but at least one representative from each of the following: Regional development commissions, counties and municipal corporations and one town board member from each county in which a site or route is proposed to be located. No officer, agent, or employee of a utility shall serve on an advisory task force. Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees. The task forces expire as provided in section 15.059, subdivision 6. At the time the task force is appointed, the board shall specify the charge to the task force. The task force shall expire upon completion of its charge, upon designation by the board of alternative sites or routes to be included in the environmental impact statement, or upon the specific date identified by the board in the charge, whichever occurs first.

Sec. 19. Minnesota Statutes 2000, section 116C.59, subdivision 4, is amended to read:

Subd. 4. **SCIENTIFIC ADVISORY TASK FORCE.** The board may appoint one or more advisory task forces composed of technical and scientific experts to conduct research and make recommendations concerning generic issues such as health and safety, underground routes, double circuiting and long-range route and site planning. Reimbursement for expenses incurred shall be made pursuant to the rules governing reimbursement of state employees. The task forces expire as provided in section 15.059, subdivision 6. The time allowed for completion of a specific site or route procedure may not be extended to await the outcome of these generic investigations.

Sec. 20. Minnesota Statutes 2000, section 116C.60, is amended to read:

116C.60 PUBLIC MEETINGS; TRANSCRIPT OF PROCEEDINGS; WRITTEN RECORDS.

Meetings of the board, including hearings, shall be open to the public. Minutes shall be kept of board meetings and a complete record of public hearings shall be kept. All books, records, files, and correspondence of the board shall be available for public

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inspection at any reasonable time. The ~~council~~ board shall also be subject to chapter 13D.

Sec. 21. Minnesota Statutes 2000, section 116C.61, subdivision 1, is amended to read:

Subdivision 1. **REGIONAL, COUNTY AND LOCAL ORDINANCES, RULES, REGULATIONS; PRIMARY RESPONSIBILITY AND REGULATION OF SITE DESIGNATION, IMPROVEMENT AND USE.** To assure the paramount and controlling effect of the provisions herein over other state agencies, regional, county and local governments, and special purpose government districts, the issuance of a certificate of site permit compatibility or transmission line construction route permit and subsequent purchase and use of such site or route locations for large electric power generating plant and high voltage transmission line purposes shall be the sole site or route approval required to be obtained by the utility. Such ~~certificate or permit~~ shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose government.

Sec. 22. Minnesota Statutes 2000, section 116C.61, subdivision 3, is amended to read:

Subd. 3. **STATE AGENCY PARTICIPATION.** State agencies authorized to issue permits required for construction or operation of large electric power generating plants or high voltage transmission lines shall participate in and present the position of the agency during routing and siting at public hearings and all other activities of the board on specific site or route designations and design considerations of the board, which ~~position and~~ shall clearly state whether the site or route being considered for designation or permit and other design matters under consideration for approval for a certain size and type of facility will be in compliance with state agency standards, rules or policies.

Sec. 23. Minnesota Statutes 2000, section 116C.62, is amended to read:

116C.62 IMPROVEMENT OF SITES AND ROUTES.

Utilities ~~which~~ that have acquired a site or route in accordance with sections 116C.51 to 116C.69 may proceed to construct or improve the site or route for the intended purposes at any time, subject to section 116C.61, subdivision 2, provided that if the construction and improvement ~~commences more than~~ has not commenced within four years after a ~~certificate or permit~~ for the site or route has been issued, then the utility must certify to the board that the site or route continues to meet the conditions upon which the ~~certificate of site compatibility or transmission line construction or route permit~~ was issued.

Sec. 24. Minnesota Statutes 2000, section 116C.64, is amended to read:

116C.64 FAILURE TO ACT.

If the board fails to act within the times specified in section 116C.57, the applicant or any affected utility person may seek an order of the district court requiring the board to designate or refuse to designate a site or route.

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Sec. 25. Minnesota Statutes 2000, section 116C.645, is amended to read:

116C.645 REVOCATION OR SUSPENSION.

A ~~site certificate or construction route permit~~ may be revoked or suspended by the board after adequate notice of the alleged grounds for revocation or suspension and a full and fair hearing in which the affected utility has an opportunity to confront any witness and respond to any evidence against it and to present rebuttal or mitigating evidence upon a finding by the board of:

(1) Any false statement knowingly made in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted a change in the board's findings;

(2) Failure to comply with material conditions of the site certificate or construction permit, or failure to maintain health and safety standards; or

(3) Any material violation of the provisions of sections 116C.51 to 116C.69, any rule promulgated pursuant thereto, or any order of the board.

Sec. 26. Minnesota Statutes 2000, section 116C.65, is amended to read:

116C.65 JUDICIAL REVIEW.

Any ~~utility applicant, party or person aggrieved by the issuance of a certificate site or route permit or emergency certificate of site compatibility or transmission line construction permit~~ from the board or a certification of continuing suitability filed by a utility with the board or by a final order in accordance with any rules promulgated by the board, may appeal to the court of appeals in accordance with chapter 14. The appeal shall be filed within ~~60~~ 30 days after the publication in the State Register of notice of the issuance of the ~~certificate or permit~~ by the board or certification filed with the board or the filing of any final order by the board.

Sec. 27. Minnesota Statutes 2000, section 116C.66, is amended to read:

116C.66 RULES.

The board, in order to give effect to the purposes of sections 116C.51 to 116C.69, ~~shall prior to July 1, 1978, may~~ adopt rules consistent with sections 116C.51 to 116C.69, including promulgation of site and route designation criteria, the description of the information to be furnished by the utilities, establishment of minimum guidelines for public participation in the development, revision, and enforcement of any rule, plan or program established by the board, procedures for the revocation or suspension of a ~~construction site or route permit or a certificate of site compatibility~~, and the procedure and timeliness for proposing alternative routes and sites, and ~~route exemption criteria and procedures~~. No rule adopted by the board shall grant priority to state-owned wildlife management areas over agricultural lands in the designation of route avoidance areas. The provisions of chapter 14 shall apply to the appeal of rules adopted by the board to the same extent as it applies to review of rules adopted by any other agency of state government.

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The chief administrative law judge shall, ~~prior to January 1, 1978,~~ adopt procedural rules for public hearings relating to the site and route ~~designation permit process and to the route exemption process.~~ The rules shall attempt to maximize citizen participation in these processes consistent with the time limits for board decision established in sections 116C.57, subdivision 8, and 116C.575, subdivision 7.

Sec. 28. Minnesota Statutes 2000, section 116C.69, is amended to read:

116C.69 BIENNIAL REPORT; APPLICATION FEES; APPROPRIATION; FUNDING.

Subdivision 1. **BIENNIAL REPORT.** Before November 15 of each even-numbered year the board shall prepare and submit to the legislature a report of its operations, activities, findings and recommendations concerning sections 116C.51 to 116C.69. The report shall also contain information on the board's biennial expenditures, its proposed budget for the following biennium, and the amounts paid in ~~certificate and permit application fees pursuant to subdivisions 2 and 2a and in assessments pursuant to subdivision 3~~ this section. The proposed budget for the following biennium shall be subject to legislative review.

Subd. 2. **SITE APPLICATION FEE.** Every applicant for a site ~~certificate permit~~ shall pay to the board a fee in an amount equal to \$500 for each \$1,000,000 of production plant investment in the proposed installation as defined in the Federal Power Commission Uniform System of Accounts. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. The applicant shall pay within 30 days of notification any additional fees reasonably necessary for completion of the site evaluation and designation process by the board. In no event shall the total fees required of the applicant under this subdivision exceed an amount equal to 0.001 of said production plant investment (\$1,000 for each \$1,000,000). All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the board to pay expenses incurred in processing applications for ~~certificates~~ site permits in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

Subd. 2a. **ROUTE APPLICATION FEE.** Every applicant for a transmission line ~~construction route permit~~ shall pay to the board a base fee of \$35,000 plus a fee in an amount equal to \$1,000 per mile length of the longest proposed route. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. In the event the actual cost of processing an application up to the board's final decision to designate a route exceeds the above fee schedule, the board may assess the applicant any additional fees necessary to cover the actual costs, not to exceed an amount equal to \$500 per mile length of the longest proposed route. All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the board to pay expenses incurred in processing applications for ~~construction route permits~~ route permits in accordance with

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sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

Subd. 3. **FUNDING; ASSESSMENT.** The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site certificates and construction route permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the board against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.333, as determined by the board. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision shall not exceed the sum of the annual budget of the board for carrying out the purposes of this subdivision. The assessment for the second quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the board for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

Sec. 29. Minnesota Statutes 2000, section 216B.2421, subdivision 2, is amended to read:

Subd. 2. **LARGE ENERGY FACILITY.** "Large energy facility" means:

(1) any electric power generating plant or combination of plants at a single site with a combined capacity of ~~80,000~~ kilowatts or more, or any facility of 50,000 kilowatts or more which requires oil, natural gas, or natural gas liquids as a fuel and for which an installation permit has not been applied for by May 19, 1977 pursuant to Minn. Reg. APC 3(a) and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system;

(2) any high voltage transmission line with a capacity of 200 kilovolts or more and with more than 50 miles of its length in Minnesota; or,

(3) any high voltage transmission line with a capacity of ~~300~~ 100 kilovolts or more with more than ~~25~~ ten miles of its length in Minnesota or that crosses a state line;

(~~3~~) (4) any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of coal, crude petroleum or petroleum fuels or oil or their derivatives;

(4) (5) any pipeline for transporting natural or synthetic gas at pressures in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota;

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~~(5)~~ (6) any facility designed for or capable of storing on a single site more than 100,000 gallons of liquefied natural gas or synthetic gas;

~~(6)~~ (7) any underground gas storage facility requiring permit pursuant to section 103I.681;

~~(7)~~ (8) any nuclear fuel processing or nuclear waste storage or disposal facility; and

(8) (9) any facility intended to convert any material into any other combustible fuel and having the capacity to process in excess of 75 tons of the material per hour.

Sec. 30. [216B.2425] STATE TRANSMISSION PLAN.

Subdivision 1. LIST. The commission shall maintain a list of certified high voltage transmission line projects.

Subd. 2. LIST DEVELOPMENT. (a) By November 1 of each odd-numbered year, each public utility, municipal utility, and cooperative electric association, or the generation and transmission organization that serves each utility or association, that owns or operates electric transmission lines in Minnesota shall jointly or individually submit a transmission projects report to the commission. The report must:

(1) list specific present and reasonably foreseeable future inadequacies in the transmission system in Minnesota;

(2) identify alternative means of addressing each inadequacy listed;

(3) identify general economic, environmental, and social issues associated with each alternative; and

(4) provide a summary of public input the utilities and associations have gathered related to the list of inadequacies and the role of local government officials and other interested persons in assisting to develop the list and analyze alternatives.

(b) To meet the requirements of this subdivision, entities may rely on available information and analysis developed by a regional transmission organization or any subgroup of a regional transmission organization and may develop and include additional information as necessary.

Subd. 3. COMMISSION APPROVAL. By June 1 of each even-numbered year, the commission shall adopt a state transmission project list and shall certify, certify as modified, or deny certification of the projects proposed under subdivision 2. The commission may only certify a project that is a high voltage transmission line as defined in section 216B.2421, subdivision 2, that the commission finds is:

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

(2) needed, applying the criteria in section 216B.241, subdivision 3; and

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

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Subd. 4. LIST; EFFECT. Certification of a project as a priority electric transmission project satisfies section 216B.243. A certified project on which construction has not begun more than six years after being placed on the list, must be reapproved by the commission.

Subd. 5. TRANSMISSION INVENTORY. The department of commerce shall create, maintain, and update annually an inventory of transmission lines in the state.

Subd. 6. EXCLUSION. This section does not apply to any transmission line proposal that has been approved, or was pending before a local unit of government, the environmental quality board, or the public utilities commission on August 1, 2001.

Sec. 31. Minnesota Statutes 2000, section 216B.243, subdivision 3, is amended to read:

Subd. 3. **SHOWING REQUIRED FOR CONSTRUCTION.** No proposed large energy facility shall be certified for construction unless the applicant can show that demand for electricity cannot be met more cost-effectively through energy conservation and load-management measures and unless the applicant has otherwise justified its need. In assessing need, the commission shall evaluate:

(1) the accuracy of the long-range energy demand forecasts on which the necessity for the facility is based;

(2) the effect of existing or possible energy conservation programs under sections 216C.05 to 216C.30 and this section or other federal or state legislation on long-term energy demand;

(3) the relationship of the proposed facility to overall state energy needs, as described in the most recent state energy policy and conservation report prepared under section 216C.18;

(4) promotional activities that may have given rise to the demand for this facility;

~~(5) socially beneficial uses of the output benefits of this facility, including its uses to protect or enhance environmental quality, and to increase reliability of energy supply in Minnesota and the region;~~

~~(6) the effects of the facility in inducing future development;~~

~~(7) (6) possible alternatives for satisfying the energy demand or transmission needs including but not limited to potential for increased efficiency and upgrading of existing energy generation and transmission facilities, load management programs, and distributed generation;~~

~~(8) (7) the policies, rules, and regulations of other state and federal agencies and local governments; and~~

~~(9) (8) any feasible combination of energy conservation improvements, required under section 216B.241, that can (i) replace part or all of the energy to be provided by the proposed facility, and (ii) compete with it economically.~~

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Sec. 32. Minnesota Statutes 2000, section 216B.243, subdivision 4, is amended to read:

Subd. 4. **APPLICATION FOR CERTIFICATE; HEARING.** Any person proposing to construct a large energy facility shall apply for a certificate of need prior to construction of the facility applying for a site or route permit under sections 116C.51 to 116C.69 or construction of the facility. The application shall be on forms and in a manner established by the commission. In reviewing each application the commission shall hold at least one public hearing pursuant to chapter 14. The public hearing shall be held at a location and hour reasonably calculated to be convenient for the public. An objective of the public hearing shall be to obtain public opinion on the necessity of granting a certificate of need. The commission shall designate a commission employee whose duty shall be to facilitate citizen participation in the hearing process. If the commission and the environmental quality board determine that a joint hearing on siting and need under this subdivision and section 116C.57, subdivision 2d, is feasible, more efficient, and may further the public interest, a joint hearing under those subdivisions may be held.

Sec. 33. Minnesota Statutes 2000, section 216B.243, subdivision 8, is amended to read:

Subd. 8. **EXEMPTIONS.** This section does not apply to:

(1) cogeneration or small power production facilities as defined in the Federal Power Act, United States Code, title 16, sections 796(18)(A) and 796(17)(A), and having a combined capacity at a single site of less than 80,000 kilowatts or to plants or facilities for the production of ethanol or fuel alcohol nor in any case where the commission shall determine after being advised by the attorney general that its application has been preempted by federal law;

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

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

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

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

Sec. 34. Minnesota Statutes 2000, section 216B.62, subdivision 5, is amended to read:

Subd. 5. **ASSESSING COOPERATIVES AND MUNICIPALS.** The commission and department may charge cooperative electric associations and municipal

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electric utilities their proportionate share of the expenses incurred in the review and disposition of resource plans, adjudication of service area disputes, proceedings under section 216B.2425, and the costs incurred in the adjudication of complaints over service standards, practices, and rates. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section 216B.026, subdivision 4, are also subject to this section. Neither a cooperative electric association nor a municipal electric utility is liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities under subdivision 2. A cooperative electric association or municipal electric utility may object to and appeal bills of the commission and department as provided in subdivision 4.

The department shall assess cooperatives and municipalities for the costs of alternative energy engineering activities under section 216C.261. Each cooperative and municipality shall be assessed in proportion that its gross operating revenues for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.

Sec. 35. STATE ENERGY PLANNING REPORT.

(a) The commissioner of the department of commerce shall prepare a state energy planning report and submit it to the legislature by December 15, 2001 and update the report by December 15, 2002. The report must identify important trends and issues in energy consumption, supply, technologies, conservation, environmental effects, and economics, and must recommend energy goals relating to the energy needs of the state. The report must recommend goals for the role of energy conservation, utilization of renewable energy resources, deployment of distributed generation resources, other modern energy technologies, and traditional energy technologies, and affordability of energy services for all Minnesotans. The report must recommend strategies to reach the recommended goals, including recommendations for amendments to state law.

(b) The report must address, among other issues:

- (1) projected energy consumption over the next ten years;
- (2) the need for new energy production and transportation facilities;
- (3) options for streamlining of the procedures for certification of need, routing and siting, environmental review, and permitting of energy facilities;
- (4) the potential role of energy conservation, modern and emerging energy technologies, and renewable generation;
- (5) the role for traditional energy technologies;
- (6) the environmental effects of energy consumption, including an analysis of the costs associated with reducing those effects; and
- (7) projected energy costs over the next ten years.

(c) In preparing the report, the commissioner shall invite public participation and shall consult with other state agencies, including the environmental quality board staff,

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the public utilities commission staff, the pollution control agency, the department of health and other relevant agencies, local government units, regional energy planning groups, energy utilities, and other interested persons. Not later than October 1, 2001, the commissioner shall issue a draft report. The commissioner shall accept written comments and hold at least one public meeting to gather additional public input on the draft report.

Sec. 36. REPEALER.

Minnesota Statutes 2000, sections 116C.55, subdivisions 2 and 3; 116C.57, subdivisions 3, 5, and 5a; 116C.67; and 216B.2421, subdivision 3, are repealed.

Sec. 37. EFFECTIVE DATE.

This article is effective for certificates of need and route and site permits applied for on or after August 1, 2001.

ARTICLE 8

RENEWABLE ENERGY AND CONSERVATION

Section 1. Minnesota Statutes 2000, section 216B.1645, is amended to read:

216B.1645 POWER PURCHASE CONTRACT OR INVESTMENT.

Upon the petition of a public utility, the public utilities commission shall approve or disapprove power purchase contracts, investments, or expenditures entered into or made by the utility to satisfy the wind and biomass mandates contained in sections 216B.2423 and, 216B.2424, and 216B.169, including reasonable investments and expenditures made to transmit the electricity generated from sources developed under those sections that is ultimately used to provide service to the utility's retail customers, or to develop renewable energy sources from the account required in section 116C.779. The expenses incurred by the utility over the duration of the approved contract or useful life of the investment and expenditures made pursuant to section 116C.779 shall be recoverable from the ratepayers of the utility, to the extent they are not offset by utility revenues attributable to the contracts, investments, or expenditures. Upon petition by a public utility, the commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover the expenses or costs approved by the commission, which, in the case of transmission expenditures, are limited to the portion of actual transmission costs that are directly allocable to the need to transmit power from the renewable sources of energy. The commission may not approve recovery of the costs for that portion of the power generated from sources governed by this section that the utility sells into the wholesale market. Nothing in this section shall be construed to determine the manner or extent to which revenues derived from other generation facilities of the utility may be considered in determining the recovery of the approved cost or expenses associated with the mandated contracts, investments, or expenditures in the event there is retail competition for electric energy.

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Sec. 2. [216B.169] RENEWABLE AND HIGH-EFFICIENCY ENERGY RATE OPTIONS.

Subdivision 1. DEFINITIONS. For the purposes of this section, the following terms have the meanings given them.

(a) "Utility" means a public utility, municipal utility, or cooperative electric association providing electric service at retail to Minnesota consumers.

(b) "Renewable energy" has the meaning given in section 216B.2422, subdivision 1, paragraph (c).

(c) "High-efficiency, low emissions, distributed generation" means a distributed generation facility of no more than ten megawatts of interconnected capacity that is certified by the commissioner under subdivision 3 as a high-efficiency, low emissions facility.

Subd. 2. RENEWABLE AND HIGH-EFFICIENCY ENERGY RATE OPTIONS. (a) Each utility shall offer its customers, and shall advertise the offer at least annually, one or more options that allow a customer to determine that a certain amount of the electricity generated or purchased on behalf of the customer is renewable energy or energy generated by high-efficiency, low emissions, distributed generation such as fuel cells and microturbines fueled by a renewable fuel.

(b) Each public utility shall file an implementation plan within 90 days of the effective date of this section to implement paragraph (a).

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

(1) reflect the difference between the cost of generating or purchasing the renewable energy and the cost of generating or purchasing the same amount of nonrenewable energy; and

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

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

Subd. 3. CERTIFICATION AND TRADEABLE CREDITS. (a) The commissioner shall certify a power supply or supplies as eligible to satisfy customer requirements under this section upon finding:

(1) the power supply is renewable energy or energy generated by high-efficiency, low emissions, distributed generation; and

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(2) the sales arrangements of energy from the supplies are such that the power supply is only sold once to retail consumers.

(b) To facilitate compliance with this section, the commission may, by order, establish a program for tradeable credits for eligible power supplies.

Sec. 3. [216B.1691] RENEWABLE ENERGY OBJECTIVES.

Subdivision 1. DEFINITIONS. (a) "Eligible energy technology" means:

(1) an energy technology that generates electricity from the following renewable energy sources: solar, wind, hydroelectric with a capacity of less than 60 megawatts, or biomass; and

(2) was not mandated by state law or commission order.

(b) "electric utility" means a public utility providing electric service, a generation and transmission cooperative electric association, or a municipal power agency.

Subd. 2. ELIGIBLE ENERGY OBJECTIVES. (a) Each electric utility shall make a good faith effort to generate or procure sufficient electricity generated by an eligible energy technology to provide its retail consumers, or the retail members of a distribution utility to which the electric utility provides wholesale electric service, so that:

(1) commencing in 2005, at least one percent of the electric energy provided to those retail customers is generated by eligible energy technologies;

(2) the amount provided under clause (1) is increased by one percent each year until 2015;

(3) ten percent of the electric energy provided to retail customers in Minnesota is generated by eligible energy technologies; and

(4) of the eligible energy technology generation required under clauses (1) and (2), at least 0.5 percent of the energy must be generated by biomass energy technologies by 2010 and one percent by 2015.

(b) Each electric utility shall report on its activities and progress with regard to these objectives in their filings under section 216B.2422.

(c) The commission, in consultation with the commissioner of commerce, shall compile the information provided to the commission under paragraph (b), and report to the chairs of the house of representatives and senate committees with jurisdiction over energy and environment policy issues as to the progress of utilities in the state in increasing the amount of renewable energy provided to retail customers, with any recommendations for regulatory or legislative action, by January 15, 2002.

Sec. 4. Minnesota Statutes 2000, section 216B.241, subdivision 1, is amended to read:

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

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(a) "Commission" means the public utilities commission.

(b) "Commissioner" means the commissioner of public service.

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

(d) "Department" means the department of public service.

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

(f) "Energy conservation improvement" means the purchase or installation of a device, method, material, or project that:

(1) reduces consumption of or increases efficiency in the use of electricity or natural gas, including but not limited to insulation and ventilation, storm or thermal doors or windows, caulking and weatherstripping, furnace efficiency modifications, thermostat or lighting controls, awnings, or systems to turn off or vary the delivery of energy;

(2) creates, converts, or actively uses energy from renewable sources such as solar, wind, and biomass, provided that the device or method conforms with national or state performance and quality standards whenever applicable;

(3) seeks to provide energy savings through reclamation or recycling and that is used as part of the infrastructure of an electric generation, transmission, or distribution system within the state or a natural gas distribution system within the state; or

(4) provides research or development of new means of increasing energy efficiency or conserving energy or research or development of improvement of existing means of increasing energy efficiency or conserving energy a project that results in energy conservation.

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

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

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

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

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(i) “Load management” means an activity, service, or technology to change the timing or the efficiency of a customer’s use of energy that allows a utility or a customer to respond to wholesale market fluctuations or to reduce the overall demand for energy or capacity.

Sec. 5. Minnesota Statutes 2000, section 216B.241, subdivision 1a, is amended to read:

Subd. 1a. **INVESTMENT, EXPENDITURE, AND CONTRIBUTION; PUBLIC UTILITY.** (a) For purposes of this subdivision and subdivision 2, “public utility” has the meaning given it in section 216B.02, subdivision 4. Each public utility shall spend and invest for energy conservation improvements under this subdivision and subdivision 2 the following amounts:

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

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

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

For purposes of this paragraph (a), “gross operating revenues” do not include revenues from large electric customer facilities exempted by the commissioner of ~~the department of public service pursuant to~~ under paragraph (b).

(b) The owner of a large electric customer facility may petition the commissioner ~~of the department of public service~~ to exempt both electric and gas utilities serving the large energy customer facility from the investment and expenditure requirements of paragraph (a) with respect to retail revenues attributable to the facility. At a minimum, the petition must be supported by evidence relating to competitive or economic pressures on the customer and a showing by the customer of reasonable efforts to identify, evaluate, and implement cost-effective conservation improvements at the facility. If a petition is filed on or before October 1 of any year, the order of the commissioner to exempt revenues attributable to the facility can be effective no earlier than January 1 of the following year. The commissioner shall not grant an exemption if the commissioner determines that granting the exemption is contrary to the public interest. The commissioner may, after investigation, rescind any exemption granted under this paragraph upon a determination that cost-effective energy conservation improvements are available at the large electric customer facility. For the purposes of this paragraph, “cost-effective” means that the projected total cost of the energy conservation improvement at the large electric customer facility is less than the projected present value of the energy and demand savings resulting from the energy conservation improvement. For the purposes of investigations by the commissioner under this paragraph, the owner of any large electric customer facility shall, upon request, provide the commissioner with updated information comparable to that originally supplied in or with the owner’s original petition under this paragraph.

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

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

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

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

Sec. 6. Minnesota Statutes 2000, section 216B.241, subdivision 1b, is amended to read:

Subd. 1b. CONSERVATION IMPROVEMENT BY COOPERATIVE ASSOCIATION OR MUNICIPALITY. (a) This subdivision applies to:

(1) a cooperative electric association that ~~generates and transmits electricity to associations that provide electricity at retail including a cooperative electric association not located in this state that serves associations or others in the state~~ provides retail service to its members;

(2) a municipality that provides electric service to retail customers; and

(3) a municipality with gross operating revenues in excess of \$5,000,000 from sales of natural gas to retail customers.

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

(1) for a municipality, 0.5 percent of its gross operating revenues from the sale of gas and ~~one 1.5 percent of its gross operating revenues from the sale of electricity not purchased from a public utility governed by subdivision 1a or a cooperative electric association governed by this subdivision~~, excluding gross operating revenues from electric and gas service provided in the state to large electric customer facilities; and

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

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

(d) Each municipality and cooperative electric association subject to this subdivision may spend and invest annually up to ~~15~~ ten percent of the total amount required to be spent and invested on energy conservation improvements under this subdivision on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the municipality or cooperative electric association. ~~Load management may be used to meet the requirements of this subdivision if it reduces the demand for or increases the efficiency of electric services.~~

(e) Load management activities that do not reduce energy use but that increase the efficiency of the electric system may be used to meet the following percentage of the conservation investment and spending requirements of this subdivision:

- (1) 2002 - 90 percent;
- (2) 2003 - 80 percent;
- (3) 2004 - 65 percent; and
- (4) 2005 and thereafter - 50 percent.

(f) A generation and transmission cooperative electric association may include as spending and investment required under this subdivision conservation improvement spending and investment by that provides energy services to cooperative electric associations that provide electric service at retail to consumers and that are served by the generation and transmission association may invest in energy conservation improvements on behalf of the associations it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis. A municipal power agency or other not-for-profit entity that provides energy service to municipal utilities that provide electric service at retail may invest in energy conservation improvements on behalf of the municipal utilities it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis, under an agreement between the municipal power agency or not-for-profit entity and each municipal utility for funding the investments.

(d) (g) By February 1 of each year June 1, 2002, and every two years thereafter, each municipality or cooperative shall report file an overview of its conservation improvement plan with the commissioner. With this overview, the municipality or

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cooperative shall also provide an evaluation to the commissioner detailing its energy conservation improvement spending and investments with a brief analysis of effectiveness in reducing consumption of electricity or gas for the previous period. The evaluation must briefly describe each conservation program and must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility or association that is the result of the spending and investments. The evaluation must analyze the cost-effectiveness of the utility's or association's conservation programs, using a list of baseline energy and capacity savings assumptions developed in consultation with the department.

The commissioner shall review each ~~report~~ evaluation and make recommendations, where appropriate, to the municipality or association to increase the effectiveness of conservation improvement activities. Up to three percent of a utility's conservation spending obligation under this section may be used for program pre-evaluation, testing, and monitoring and program evaluation.

(h) The commissioner shall also review each ~~report~~ evaluation for whether a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons unless an insufficient number of appropriate programs are available. For the purposes of this subdivision and subdivision 2, "low-income" means an income of less than 185 percent of the federal poverty level at or below 50 percent of the state median income.

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

Sec. 7. Minnesota Statutes 2000, section 216B.241, subdivision 2, is amended to read:

Subd. 2. **PROGRAMS.** (a) The commissioner may by ~~rule~~ require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers. The required programs must cover a two-year period. Public utilities shall file conservation improvement plans by June 1, on a schedule determined by order of the commissioner. Plans received by a public utility by June 1 must be approved or approved as modified by the commissioner by December 1 of that same year. The commissioner shall require at least one public utility to establish a pilot program to make investments in and expenditures for energy from renewable resources such as solar, wind, or biomass and shall give special consideration and encouragement to programs that bring about significant net savings through the use of energy-efficient lighting. The commissioner shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The rules of the department commissioner's order must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, material, or project

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constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, or project seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable.

(b) The commissioner may require a utility to make an energy conservation improvement investment or expenditure whenever the commissioner finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. The commissioner shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department. Load management may be used to meet the requirements for energy conservation improvements under this section if it results in a demonstrable reduction in consumption of energy.

(c) Each public utility subject to subdivision 1a may spend and invest annually up to 15 ~~ten~~ percent of the total amount required to be spent and invested on energy conservation improvements under this section by the utility on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the public utility.

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

(e) ~~No utility may make an energy conservation improvement under this section to a building envelope unless:~~

(1) ~~it is the primary supplier of energy used for either space heating or cooling in the building;~~

(2) ~~the commissioner determines that special circumstances, that would unduly restrict the availability of conservation programs, warrant otherwise; or~~

(3) ~~the utility has been awarded a contract under subdivision 2a.~~

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

(f) The commissioner shall ensure that a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the

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needs of renters and low-income persons, in proportion to the amount the utility has historically spent on such programs based on the most recent three-year average relative to the utility's total conservation spending under this section, unless an insufficient number of appropriate programs are available.

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

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

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

Sec. 8. Minnesota Statutes 2000, section 216C.051, subdivision 6, is amended to read:

Subd. 6. **ASSESSMENT; APPROPRIATION.** On request by the cochairs of the legislative task force and after approval of the legislative coordinating commission, the commissioner of the ~~department of public service~~ commerce shall assess from ~~electric utilities~~ all public utilities, generation and transmission cooperative electric associations, and municipal power agencies providing electric or natural gas services in Minnesota, in addition to assessments made under section 216B.62, the amount requested for the operation of the task force not to exceed ~~\$700,000~~ \$150,000 in a fiscal year. ~~This authority to assess continues until the commissioner has assessed a total of \$700,000.~~ The amount assessed under this section is appropriated to the director of the legislative coordinating commission for those purposes, and is available until expended. The department shall apportion those costs among all energy utilities in proportion to their respective gross operating revenues from the sale of gas or electric service within the state during the last calendar year. For the purposes of administrative efficiency, the department shall assess energy utilities and issue bills in accordance with

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the billing and assessment procedures provided in section 216B.62, to the extent that these procedures do not conflict with this subdivision.

Sec. 9. Minnesota Statutes 2000, section 216C.051, subdivision 9, is amended to read:

Subd. 9. **EXPIRATION.** This section is repealed ~~March 15, 2001~~ June 30, 2005.

Sec. 10. **[216C.052] RELIABILITY ADMINISTRATOR.**

Subdivision 1. RESPONSIBILITIES. (a) There is established the position of reliability administrator in the department of commerce. The administrator shall act as a source of independent expertise and a technical advisor to the commissioner, the commission, the public, and the legislative electric energy task force on issues related to the reliability of the electric system. In conducting its work, the administrator shall:

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

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

(3) present independent, factual, expert, and technical information on infrastructure proposals and reliability issues at public meetings hosted by the task force, the environmental quality board, the department, or the commission.

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

(c) The administrator may not advocate for any particular outcome in a commission proceeding, but may give technical advice to the commission as to the impact on the reliability of the energy system of a particular project or projects. The administrator must not be considered a party or a participant in any proceeding before the commission.

Subd. 2. ADMINISTRATIVE ISSUES. (a) The commissioner may select the administrator who shall serve for a four-year term. The commissioner shall oversee and direct the work of the administrator, annually review the expenses of the administrator, and annually approve the budget of the administrator. The administrator may hire staff and may contract for technical expertise in performing duties when existing state resources are required for other state responsibilities or when special expertise is required. The salary of the administrator is governed by section 15A.0815, subdivision 2.

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

(c) The department of commerce shall pay:

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(1) the general administrative costs of the administrator, not to exceed \$1,500,000 in a fiscal year, and shall assess energy utilities for reimbursement for those administrative costs. These costs must be consistent with the budget approved by the commissioner under paragraph (a). The department shall apportion the costs among all energy utilities in proportion to their respective gross operating revenues from sales of gas or electric service within the state during the last calendar year, and shall then render a bill to each utility on a regular basis; and

(2) costs relating to a specific proceeding analysis or project and shall render a bill for reimbursement to the specific energy utility or utilities participating in the proceeding, analysis, or project directly, either at the conclusion of a particular proceeding, analysis, or project, or from time to time during the course of the proceeding, analysis, or project.

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

Subd. 3. EXPIRATION. This section expires June 30, 2006.

Sec. 11. CONSERVATION IMPROVEMENT PLAN; EVALUATION OF COOPERATIVE AND MUNICIPAL PROGRAMS.

(a) In consultation with the department of commerce, cooperative electric associations and municipal utilities shall evaluate their energy and capacity conservation programs, develop plans for future programs, and report their findings and plans to the chairs of the house of representatives and senate committees with jurisdiction over energy issues by June 1, 2002. Evaluations may be conducted jointly with other entities subject to this section, and shall address:

(1) whether the utility or association has implemented and is implementing cost-effective energy conservation programs;

(2) the availability of basic conservation services and programs to customers;

(3) methodologies that best quantify energy savings, cost-effectiveness, and the potential for cost-effective conservation improvements;

(4) the role of capacity conservation in meeting utility planning needs and state energy goals; and

(5) the ability of energy conservation programs to avoid the need for construction of generation facilities and transmission lines.

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(b) The evaluation must develop program and performance goals that recognize customer class, utility service area demographics, cost of program delivery, regional economic indicators, and utility load shape. The cost of the evaluation may be deducted from the utility's or association's conservation spending obligation under Minnesota Statutes 2000, section 216B.241.

Sec. 12. [216B.241] [Subd. 1d.] COOPERATIVE CONSERVATION INVESTMENT INCREASE PHASE-IN.

The increase in required conservation improvement expenditures by a cooperative electric association that results from the amendments in section 6 to Minnesota Statutes, section 216B.241, subdivision 1b, paragraph (a), clause (1), must be phased in as follows:

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

Sec. 13. [216B.2411] DISTRIBUTED ENERGY RESOURCES.

(a) To the extent that cost-effective projects are available in the service territory of a utility or association providing conservation services under Minnesota Statutes, section 216B.241, the utility or association shall use five percent of the total amount to be spent on energy conservation improvements under Minnesota Statutes, section 216B.241, on:

(1) projects to construct an electric generating facility that utilizes renewable fuels as defined in Minnesota Statutes, section 216B.2422, subdivision 1, such as methane or other combustible gases derived from the processing of plant or animal wastes, biomass fuels such as short-rotation woody or fibrous agricultural crops, or other renewable fuel, as its primary fuel source; or

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

(b) For public utilities, as defined under Minnesota Statutes, section 216B.02, subdivision 4, projects under this section must be considered energy conservation improvements as defined in Minnesota Statutes, section 216B.241. For cooperative electric associations and municipal utilities, projects under this section must be considered load management activities described in Minnesota Statutes, section 216B.241, subdivision 1, paragraph (i).

(c) This section expires May 30, 2006.

Sec. 14. [216B.2411] [Paragraph (c)] TRANSITION.

The commission may provide an alternative recovery mechanism for the expense of continuing existing approved cost-effective projects by a rate-regulated distribution cooperative electric association.

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Sec. 15. CONSERVATION INVESTMENT PROGRAM STUDY.

(a) The commissioner of commerce shall study the conservation investment program created under Minnesota Statutes, section 216B.241, and make recommendations to the legislature on changes in the program that will assist the program to obtain the maximum energy savings possible from spending and investments under the program. The study must include, at a minimum:

(1) a review of administrative burdens imposed by the program with the goal to reduce them to the maximum extent consistent with ensuring that the program will meet its goal of maximum energy savings with program funds;

(2) identification of spending and investments with high potential for saving energy and suggestions for targeting the program at those expenditures and investments; and

(3) appropriate levels of spending and investment under the program.

(b) The commissioner shall solicit written public comment on the study and submit a report and a copy of the written comments to the committees of the legislature having principal jurisdiction on energy matters by November 15, 2001.

Sec. 16. EXEMPTION EXTENDED.

(a) The commissioner of commerce shall not review the exemption under Minnesota Statutes, section 216B.241, subdivision 1a, paragraph (b), of a large electric customer facility, as defined in Minnesota Statutes, section 216B.241, subdivision 1, paragraph (g), from the investment and expenditure requirements of Minnesota Statutes, section 216B.241, subdivision 1a, paragraph (b), for five years from the date the exemption was granted, provided the exemption was granted before April 15, 2001.

(b) A large electric customer facility as defined in Minnesota Statutes, section 216B.241, subdivision 1, that is exempt from the investment and expenditure requirements of Minnesota Statutes, section 216B.241, by virtue of a contract approved by the public utilities commission prior to April 15, 2001, under Minnesota Statutes, section 216B.162, shall remain exempt from those requirements until April 15, 2006.

(c) This section does not apply if the customer facility's monthly peak measured demand for three consecutive months exceeds 110 percent of the annual peak measured demand of the facility in the year the exemption was granted.

Sec. 17. UNIVERSAL ENERGY SERVICE PROGRAM.

The department of commerce shall report to the legislature by January 15, 2002, regarding the development of a universal energy service program. The purpose of the program is to provide energy bill payment and conservation assistance to low- and moderate-income energy customers. The report shall include proposals for implementing the program, including, but not limited to, proposals to establish income eligibility, estimate the percentage of income that eligible customers devote to energy costs, determine the level of funding required to significantly lower the energy burden of eligible customers, establish funding collection and distribution methods, and measure

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the impact of charges for the program on all Minnesota energy consumers.

Sec. 18. **[216C.052] [Subd. 3.] APPROPRIATION.**

The commissioner of commerce shall transfer up to \$500,000 annually of the amounts provided for in section 11, subdivision 2, to the commissioner of administration for the purposes provided in article 1, section 2, as needed to implement that section.

Sec. 19. **EFFECTIVE DATE.**

Sections 14, 15, and 16 are effective the day following final enactment. Sections 4 to 7, 10, 12, 13, and 18 are effective January 1, 2002. Section 9 is effective retroactively from March 1, 2001. Section 8 is effective July 1, 2001.

Presented to the governor May 25, 2001

Signed by the governor May 29, 2001, 11:29 a.m.

CHAPTER 213—S.F.No. 1769

An act relating to transportation; modifying provisions relating to highway information signs; transferring, discontinuing, or changing description of portions of certain trunk highways; authorizing commissioner of transportation to set certain highway construction contract conditions in taconite tax relief areas; allowing commissioner of transportation to convey interest in certain land to property owners; modifying provisions for speed limits in highway work zones; modifying seasonal highway weight limitations; transferring responsibilities from transportation regulation board to commissioner of transportation; making technical and clarifying changes; repealing obsolete or invalid provisions; amending Minnesota Statutes 2000, sections 160.292, subdivision 10; 161.114; 161.115, subdivisions 36, 48, by adding a subdivision; 161.24, subdivision 4; 161.442; 169.14, subdivision 5d; 169.825, subdivision 11; 174.02, subdivisions 4, 5; 174.10, subdivisions 1, 3, 4; 174A.02, subdivisions 1, 2, 4; 174A.04; 174A.06; 218.031, subdivision 2; 218.041, subdivisions 4, 5, 6; 219.074, subdivision 2; 219.402; 222.632; proposing coding for new law in Minnesota Statutes, chapter 161; repealing Minnesota Statutes 2000, sections 174A.01; 174A.02, subdivision 5; 174A.03; 174A.05; 219.558; 219.559; 219.56; 219.681; 219.69; 219.691; 219.692; 219.695; 219.70; 219.71; 219.741; 219.743; 219.751; 219.755; 219.85; 219.88; 219.97, subdivisions 6, 7, 10; 222.633.

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

Section 1. Minnesota Statutes 2000, section 160.292, subdivision 10, is amended to read:

Subd. 10. **SPECIFIC SERVICE.** "Specific service" means restaurants; rural agricultural or tourist-oriented businesses; places of worship; gasoline service stations and other retail motor fuel businesses; and motels, resorts, or recreational camping areas that provide sleeping accommodations for the traveling public. "Tourist-oriented business" means a business, service, or activity that receives the major portion of its income or visitors during the normal business season from motorists not residing in the

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