

CHAPTER 11—H.F.No. 9

An act relating to energy; modifying provisions relating to radioactive waste storage; modifying incentives and objectives for alternative energy development; requiring studies; approving consumptive use of water; amending Minnesota Statutes 2002, sections 116C.71, subdivision 7; 116C.779; 216B.095; 216B.097, by adding a subdivision; 216B.1645, by adding a subdivision; 216B.1691; 216B.241, subdivision 1b, by adding a subdivision; 216B.2411; 216B.2424, subdivision 5; 216B.2425, by adding a subdivision; 216B.243, subdivision 3b; 216C.051, subdivisions 3, 6, 9, by adding a subdivision; 216C.052, subdivisions 2, 3; 216C.41, subdivisions 1, 2, 3, 4, 5, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 116C; 216B; repealing Minnesota Statutes 2002, sections 116C.80; 216C.051, subdivisions 1, 4, 5.

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

ARTICLE 1

NUCLEAR ENERGY PROVISIONS

Section 1. Minnesota Statutes 2002, section 116C.71, subdivision 7, is amended to read:

Subd. 7. **RADIOACTIVE WASTE MANAGEMENT FACILITY.** "Radioactive waste management facility" means a geographic site, including buildings, structures, and equipment in or upon which radioactive waste is retrievably or irretrievably disposed by burial in soil or permanently stored. An independent spent fuel storage installation located on the site of a Minnesota nuclear generation facility for dry cask storage of spent nuclear fuel generated solely by that facility is not a radioactive waste management facility.

Sec. 2. **[116C.83] AUTHORIZATION FOR ADDITIONAL DRY CASK STORAGE.**

Subdivision 1. AUTHORIZATION TO END OF CURRENT PRAIRIE ISLAND LICENSE. Subject to the dry cask storage limits of the federal license for the independent spent fuel storage installation at Prairie Island, the public utility that owns the Prairie Island nuclear generation plant has authorization for sufficient dry cask storage capacity at that installation to allow:

- (1) the unit 1 reactor at Prairie Island to operate until the end of its current license in 2013; and
- (2) the unit 2 reactor at Prairie Island to operate until the end of its current license in 2014.

Subd. 2. COMMISSION PROCESS FOR FUTURE ADDITIONAL AUTHORIZATION. Authorization of any additional dry cask storage other than that provided

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for in subdivision 1, or expansion or establishment of an independent spent fuel storage facility at a nuclear generation facility in this state, is subject to approval of a certificate of need by the public utilities commission pursuant to section 216B.243. In any proceeding under this subdivision, the commission may make a decision that could result in a shutdown of a nuclear generating facility. In considering an application for a certificate of need pursuant to this subdivision, the commission may consider whether the public utility that owns the nuclear generation facility in the state is in compliance with section 216B.1691 and the utility's past performance under that section.

Subd. 3. LEGISLATIVE REVIEW. (a) To allow opportunity for review by the legislature, a decision by the commission on an application for a certificate of need pursuant to subdivision 2 is stayed until the June 1 following the next regular annual session of the legislature that begins after the date of the commission decision. By January 15 of the year of that legislative session, the commission shall issue a report to the chairs of the house and senate committees with jurisdiction over energy and environmental policy issues, providing a summary of the commission's decision and the grounds for that decision, the alternatives considered and rejected by the commission, and the reasons for rejecting those alternatives. If the legislature does not modify or reject the commission's decision by law enacted during that regular legislative session, the commission's decision shall become effective on the expiration of the stay.

(b) The stay of a commission decision to approve an application for a certificate of need for additional dry cask storage under subdivision 2 does not apply to the fabrication of the spent fuel storage casks. However, if the utility proceeds with the fabrication of casks, it does so bearing the risk of an adverse legislative decision.

Subd. 4. OTHER CONDITIONS. (a) The storage of spent nuclear fuel in the pool and in dry casks at a nuclear generating plant must be managed to facilitate the shipment of waste out of state to a permanent or interim storage facility as soon as feasible in a manner that allows the continued operation of the plant consistent with sections 116C.71 to 116C.83 and 216B.1645, subdivision 4.

(b) The authorization for storage capacity pursuant to this section is limited to the storage of spent nuclear fuel generated by a Minnesota nuclear generation facility and stored on the site of that facility.

Subd. 5. WATER STANDARDS. The standards established in section 116C.76, subdivision 1, clauses (1) to (3), apply to an independent spent fuel installation. Such an installation must be operated in accordance with those standards.

Subd. 6. ENVIRONMENTAL REVIEW AND PROTECTION. (a) The siting, construction, and operation of an independent spent fuel storage installation located on the site of a Minnesota generation facility for dry cask storage of spent nuclear fuel generated solely by that facility is subject to all environmental review and protection provisions of this chapter and chapters 115, 115B, 116, 116B, 116D, and 216B, and rules associated with those chapters, except those statutes and rules that apply

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specifically to a radioactive waste management facility as defined in section 116C.71, subdivision 7.

(b) An environmental impact statement is required under chapter 116D for a proposal to construct and operate a new or expanded independent spent fuel storage installation. The environmental quality board shall be the responsible governmental unit for the environmental impact statement. Prior to finding the statement adequate, the board must find that the applicant has demonstrated that the facility is designed to provide a reasonable expectation that the operation of the facility will not result in groundwater contamination in excess of the standards established in section 116C.76, subdivision 1, clauses (1) to (3).

Sec. 3. Minnesota Statutes 2002, section 216B.1645, is amended by adding a subdivision to read:

Subd. 4. SETTLEMENT WITH MDEWAKANTON DAKOTA TRIBAL COUNCIL AT PRAIRIE ISLAND. The commission shall approve a rate schedule providing for the automatic adjustment of charges to recover the costs or expenses of a settlement between the public utility that owns the Prairie Island nuclear generation facility and the Mdewakanton Dakota Tribal Council at Prairie Island, resolving outstanding disputes regarding the provisions of Laws 1994, chapter 641, article 1, section 4. The settlement must provide for annual payments, not to exceed \$2,500,000 annually, by the public utility to the Prairie Island Indian Community, to be used for, among other purposes, acquiring up to 1,500 contiguous or noncontiguous acres of land in Minnesota within 50 miles of the tribal community's reservation at Prairie Island to be taken into trust by the federal government for the benefit of the tribal community for housing and other residential purposes. The legislature acknowledges that the intent to purchase land by the tribe for relocation purposes is part of the settlement agreement and this act. However, the state, through the governor, reserves the right to support or oppose any particular application to place land in trust status.

Sec. 4. Minnesota Statutes 2002, section 216B.243, subdivision 3b, is amended to read:

Subd. 3b. NUCLEAR POWER PLANT; NEW CONSTRUCTION PROHIBITED; RELICENSING. (a) The commission may not issue a certificate of need for the construction of a new nuclear-powered electric generating plant.

(b) Any certificate of need for additional storage of spent nuclear fuel for a facility seeking a license extension shall address the impacts of continued operations over the period for which approval is sought.

Sec. 5. PERSONS LIVING NEAR A NUCLEAR FACILITY; HEALTH STUDY.

The commissioner of health shall review data collected by the department, and in the context of other relevant information developed by the National Institutes of Health and other entities, report to the legislature by January 1, 2004, on whether a further health study funded by the owner of the Prairie Island nuclear facility is necessary.

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Sec. 6. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

ARTICLE 2**RENEWABLE ENERGY DEVELOPMENT**

Section 1. Minnesota Statutes 2002, section 116C.779, is amended to read:

116C.779 FUNDING FOR RENEWABLE DEVELOPMENT.

Subdivision 1. RENEWABLE DEVELOPMENT ACCOUNT. (a) The public utility that operates owns the Prairie Island nuclear generating plant must transfer to a renewable development account \$500,000 each year for each dry cask containing spent fuel that is located at the independent spent fuel storage installation at Prairie Island after January 1, 1999 \$16,000,000 annually each year the plant is in operation, and \$7,500,000 each year the plant is not in operation if ordered by the commission pursuant to paragraph (c). The fund transfer must be made if nuclear waste is stored in a dry cask at the independent spent fuel storage facility at Prairie Island for any part of a year. Funds in the account may be expended only for development of renewable energy sources. Preference must be given to development of renewable energy source projects located within the state.

(b) Expenditures from the account may only be made after approval by order of the public utilities commission upon a petition by the public utility.

(c) After discontinuation of operation of the Prairie Island nuclear plant and each year spent nuclear fuel is stored in dry cask at the Prairie Island facility, the commission shall require the public utility to pay \$7,500,000 for any year in which the commission finds, by the preponderance of the evidence, that the public utility did not make a good faith effort to remove the spent nuclear fuel stored at Prairie Island to a permanent or interim storage site out of the state. This determination shall be made at least every two years.

Subd. 2. RENEWABLE ENERGY PRODUCTION INCENTIVE. (a) Until January 1, 2018, up to \$6,000,000 annually must be allocated from available funds in the account to fund renewable energy production incentives. \$4,500,000 of this annual amount is for incentives for up to 100 megawatts of electricity generated by wind energy conversion systems that are eligible for the incentives under section 216C.41. The balance of this amount, up to \$1,500,000 annually, may be used for production incentives for on-farm biogas recovery facilities that are eligible for the incentive under section 216C.41 or for production incentives for other renewables, to be provided in the same manner as under section 216C.41. Any portion of the \$6,000,000

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not expended in any calendar year for the incentive is available for other spending purposes under this section. This subdivision does not create an obligation to contribute funds to the account.

(b) The department of commerce shall determine eligibility of projects under section 216C.41 for the purposes of this subdivision. At least quarterly, the department of commerce shall notify the public utility of the name and address of each eligible project owner and the amount due to each project under section 216C.41. The public utility shall make payments within 15 working days after receipt of notification of payments due.

Sec. 2. [216B.013] HYDROGEN ENERGY ECONOMY GOAL.

It is a goal of this state that Minnesota move to hydrogen as an increasing source of energy for its electrical power, heating, and transportation needs.

Sec. 3. Minnesota Statutes 2002, section 216B.1691, is amended to read:

216B.1691 RENEWABLE ENERGY OBJECTIVES.

Subdivision 1. **DEFINITIONS.** (a) Unless otherwise specified in law, "eligible energy technology" means an energy technology that:

(1) generates electricity from the following renewable energy sources: solar; wind; hydroelectric with a capacity of less than 60 megawatts; hydrogen, provided that after January 1, 2010, the hydrogen must be generated from the resources listed in this clause; or biomass, which includes an energy recovery facility used to capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste as a primary fuel; and

(2) was not mandated by state law Laws 1994, chapter 641, or by commission order enacted or issued pursuant to that chapter prior to August 1, 2001.

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

(c) "Total retail electric sales" means the kilowatt-hours of electricity sold in a year by an electric utility to retail customers of the electric utility or to a distribution utility for distribution to the retail customers of the distribution utility.

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 customers 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 these retail customers utility's total retail electric sales is generated by eligible energy technologies;

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(2) the amount provided under clause (1) is increased by one percent of the utility's total retail electric sales each year until 2015; and

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

(4) ~~(b)~~ (b) Of the eligible energy technology generation required under paragraph (a), clauses (1) and (2), at least not less than 0.5 percent of the energy must be generated by biomass energy technologies, including an energy recovery facility used to capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste as a primary fuel, by 2010 and one percent by 2015 2005. By 2010, one percent of the eligible technology generation required under paragraph (a), clauses (1) and (2), shall be generated by biomass energy technologies. An energy recovery facility used to capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste, with a power sales agreement in effect as of the date of final enactment of this act that terminates after December 31, 2010, does not qualify as an eligible energy technology unless the agreement provides for rate adjustment in the event the facility qualifies as a renewable energy source.

~~(b)~~ (c) By June 1, 2004, and as needed thereafter, the commission shall issue an order detailing the criteria and standards by which it will measure an electric utility's efforts to meet the renewable energy objectives of this section to determine whether the utility is making the required good faith effort. In this order, the commission shall include criteria and standards that protect against undesirable impacts on the reliability of the utility's system and economic impacts on the utility's ratepayers and that consider technical feasibility.

(d) In its order under paragraph (c), the commission shall provide for a weighted scale of how energy produced by various eligible energy technologies shall count toward a utility's objective. In establishing this scale, the commission shall consider the attributes of various technologies and fuels, and shall establish a system that grants multiple credits toward the objectives for those technologies and fuels the commission determines is in the public interest to encourage.

Subd. 3. UTILITY PLANS FILED WITH THE COMMISSION. (a) Each electric utility shall report on its plans, activities, and progress with regard to these objectives in ~~their~~ its filings under section 216B.2422 or in a separate report submitted to the commission every two years, whichever is more frequent, demonstrating to the commission that the utility is making the required good faith effort. In its resource plan or a separate report, each electric utility shall provide a description of:

(1) the status of the utility's renewable energy mix relative to the good faith objective;

(2) efforts taken to meet the objective;

(3) any obstacles encountered or anticipated in meeting the objective; and

(4) potential solutions to the obstacles.

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(e) (b) The commission, in consultation with the commissioner of commerce, shall compile the information provided to the commission under paragraph (b) (a), 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 of each odd-numbered year.

Subd. 4. RENEWABLE ENERGY CREDITS. (a) To facilitate compliance with this section, the commission, by rule or order, may establish a program for tradable credits for electricity generated by an eligible energy technology. In doing so, the commission shall implement a system that constrains or limits the cost of credits, taking care to ensure that such a system does not undermine the market for those credits.

(b) In lieu of generating or procuring energy directly to satisfy the renewable energy objective of this section, an electric utility may purchase sufficient renewable energy credits, issued pursuant to this subdivision, to meet its objective.

(c) Upon the passage of a renewable energy standard, portfolio, or objective in a bordering state that includes a similar definition of eligible energy technology or renewable energy, the commission may facilitate the trading of renewable energy credits between states.

Subd. 5. TECHNOLOGY BASED ON FUEL COMBUSTION. (a) Electricity produced by fuel combustion may only count towards a utility's objectives if the generation facility:

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

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

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

Subd. 6. ELECTRIC UTILITY THAT OWNS A NUCLEAR GENERATION FACILITY. (a) An electric utility that owns a nuclear generation facility, as part of its good-faith effort under this subdivision and subdivision 2, shall deploy an additional 300 megawatts of nameplate capacity of wind energy conversion systems by 2010, beyond the amount of wind energy capacity to which the utility is required by law or commission order as of May 1, 2003. At least 100 megawatts of this capacity is to be wind energy conversion systems of two megawatts or less, which shall not be eligible for the production incentive under section 216C.41. To the greatest extent technically feasible and economic, these 300 megawatts of wind energy capacity are to be distributed geographically throughout the state. The utility may opt to own, construct,

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and operate up to 100 megawatts of this wind energy capacity, except that the utility may not own, construct, or operate any of the facilities that are under two megawatts of nameplate capacity. The deployment of the wind energy capacity under this subdivision must be consistent with the outcome of the engineering study required under section 21.

(b) The renewable energy objective set forth in subdivision 2 shall be a requirement for the public utility that owns the Prairie Island nuclear generation plant. The objective is a requirement subject to resource planning and least cost planning requirements in section 216B.2422, unless implementation of the objective can reasonably be shown to jeopardize the reliability of the electric system. The least cost planning analysis must include the costs of ancillary services and other necessary generation and transmission upgrades.

(c) Also as part of its good faith effort under this section, the utility that owns a nuclear generation facility is to enter into a power purchase agreement by January 1, 2004, for ten to 20 megawatts of biomass energy and capacity at an all-inclusive price not to exceed \$55 per megawatt-hour, for a project described in section 216B.2424, subdivision 5, paragraph (e), clause (2). The project must be operational and producing energy by June 30, 2005.

Sec. 4. [216B.1693] CLEAN ENERGY TECHNOLOGY.

(a) If the commission finds that a clean energy technology is or is likely to be a least cost resource, including the costs of ancillary services and other generation and transmission upgrades necessary, the utility that owns a nuclear generating facility shall supply at least two percent of the electric energy provided to retail customers from clean energy technology.

(b) Electric energy required by this section shall be supplied by the innovative energy project defined in article 4, section 1, subdivision 1, unless the commission finds doing so contrary to the public interest.

(c) For purposes of this section, "clean energy technology" means a technology utilizing coal as a primary fuel in a highly efficient combined-cycle configuration with significantly reduced sulfur dioxide, nitrogen oxide, particulate, and mercury emissions from those of traditional technologies.

(d) This section expires January 1, 2012.

Sec. 5. Minnesota Statutes 2002, section 216B.241, is amended by adding a subdivision to read:

Subd. 6. RENEWABLE ENERGY RESEARCH. (a) A public utility that owns a nuclear generation facility in the state shall spend five percent of the total amount that utility is required to spend under this section to support basic and applied research and demonstration activities at the University of Minnesota Initiative for Renewable Energy and the Environment for the development of renewable energy sources and technologies. The utility shall transfer the required amount to the University of

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Minnesota on or before July 1 of each year and that annual amount shall be deducted from the amount of money the utility is required to spend under this section. The University of Minnesota shall transfer at least ten percent of these funds to at least one rural campus or experiment station.

(b) Research funded under this subdivision shall include:

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

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

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

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

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

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

(d) This subdivision expires June 30, 2008.

Sec. 6. Minnesota Statutes 2002, section 216B.2411, is amended to read:

216B.2411 DISTRIBUTED ENERGY RESOURCES.

Subdivision 1. GENERATION PROJECTS. (a) To the extent that cost-effective projects are available in the service territory of a utility or association providing conservation services under section 216B.241, the utility or association shall Any municipality or rural electric association providing electric service and subject to section 216B.241 that is meeting the objectives under section 216B.1691 may, and each public utility may, use five percent of the total amount to be spent on energy conservation improvements under section 216B.241, on:

(1) projects in Minnesota to construct an electric generating facility that utilizes eligible renewable fuels energy sources as defined in section 216B.2422, subdivision 1 2, 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 in Minnesota 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.

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

(d) This section expires May 30, 2006.

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

(b) "Eligible renewable energy sources" means fuels and technologies to generate electricity through the use of any of the resources listed in section 216B.1691, subdivision 1, paragraph (a), clause (1), except that the term "biomass" has the meaning provided under paragraph (c).

(c) "Biomass" includes:

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

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

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

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

(5) landfill gas, mixed municipal solid waste, and refuse-derived fuel from mixed municipal solid waste.

Subd. 3. OTHER PROVISIONS. (a) Electricity generated by a facility constructed with funds provided under this section and using an eligible renewable energy source may be counted towards the renewable energy objectives in section 216B.1691, subject to the provisions of that section.

(b) Two or more entities may pool resources under this section to provide assistance jointly to proposed eligible renewable energy projects. The entities shall negotiate and agree among themselves for allocation of benefits associated with a project, such as the ability to count energy generated by a project toward a utility's renewable energy objectives under section 216B.1691. The entities shall provide a summary of the allocation of benefits to the commissioner. A utility may spend funds under this section for projects in Minnesota that are outside the service territory of the utility.

Sec. 7. Minnesota Statutes 2002, section 216B.2424, subdivision 5, is amended to read:

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Subd. 5. **MANDATE.** (a) A public utility, as defined in section 216B.02, subdivision 4, that operates a nuclear-powered electric generating plant within this state must construct and operate, purchase, or contract to construct and operate (1) by December 31, 1998, 50 megawatts of electric energy installed capacity generated by farm-grown closed-loop biomass scheduled to be operational by December 31, 2001; and (2) by December 31, 1998, an additional 75 megawatts of installed capacity so generated scheduled to be operational by December 31, 2002.

(b) Of the 125 megawatts of biomass electricity installed capacity required under this subdivision, no more than ~~50~~ 55 megawatts of this capacity may be provided by a facility that uses poultry litter as its primary fuel source and any such facility:

(1) need not use biomass that complies with the definition in subdivision 1;

(2) must enter into a contract with the public utility for such capacity, that has an average purchase price per megawatt hour over the life of the contract that is equal to or less than the average purchase price per megawatt hour over the life of the contract in contracts approved by the public utilities commission before April 1, 2000, to satisfy the mandate of this section, and file that contract with the public utilities commission prior to September 1, 2000; and

(3) must schedule such capacity to be operational by December 31, 2002.

(c) Of the total 125 megawatts of biomass electric energy installed capacity required under this section, no more than 75 megawatts may be provided by a single project.

(d) Of the 75 megawatts of biomass electric energy installed capacity required under paragraph (a), clause (2), no more than ~~25~~ 33 megawatts of this capacity may be provided by a St. Paul district heating and cooling system cogeneration facility utilizing waste wood as a primary fuel source. The St. Paul district heating and cooling system cogeneration facility need not use biomass that complies with the definition in subdivision 1.

(e) The public utility must accept and consider on an equal basis with other biomass proposals:

(1) a proposal to satisfy the requirements of this section that includes a project that exceeds the megawatt capacity requirements of either paragraph (a), clause (1) or (2), and that proposes to sell the excess capacity to the public utility or to other purchasers; and

(2) a proposal for a new facility to satisfy more than ten but not more than 20 megawatts of the electrical generation requirements by a small business-sponsored independent power producer facility to be located within the northern quarter of the state, which means the area located north of Constitutional Route No. 8 as described in section 161.114, subdivision 2, and that utilizes biomass residue wood, sawdust, bark, chipped wood, or brush to generate electricity. A facility described in this clause is not required to utilize biomass complying with the definition in subdivision 1, but

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must have the capacity required by this clause operational by December 31, 2002.

(f) If a public utility files a contract with the commission for electric energy installed capacity that uses poultry litter as its primary fuel source, the commission must do a preliminary review of the contract to determine if it meets the purchase price criteria provided in paragraph (b), clause (2), of this subdivision. The commission shall perform its review and advise the parties of its determination within 30 days of filing of such a contract by a public utility. A public utility may submit by September 1, 2000, a revised contract to address the commission's preliminary determination.

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

(h) If a public utility subject to this section exercises an option to increase the generating capacity of a project in a contract approved by the commission prior to April 25, 2000, to satisfy the mandate in this subdivision, the public utility must notify the commission by September 1, 2000, that it has exercised the option and include in the notice the amount of additional megawatts to be generated under the option exercised. Any review by the commission of the project after exercise of such an option shall be based on the same criteria used to review the existing contract.

(i) A facility specified in this subdivision qualifies for exemption from property taxation under section 272.02, subdivision 43.

Sec. 8. Minnesota Statutes 2002, section 216B.2425, is amended by adding a subdivision to read:

Subd. 7. TRANSMISSION NEEDED TO SUPPORT RENEWABLE RESOURCES. Each entity subject to this section shall determine necessary transmission upgrades to support development of renewable energy resources required to meet objectives under section 216B.1691 and shall include those upgrades in its report under subdivision 2.

Sec. 9. Minnesota Statutes 2002, section 216C.41, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) The definitions in this subdivision apply to this section.

(b) "Qualified hydroelectric facility" means a hydroelectric generating facility in this state that:

(1) is located at the site of a dam, if the dam was in existence as of March 31, 1994; and

(2) begins generating electricity after July 1, 1994, or generates electricity after substantial refurbishing of a facility that begins after July 1, 2001.

(c) "Qualified wind energy conversion facility" means a wind energy conversion system in this state that:

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(1) produces two megawatts or less of electricity as measured by nameplate rating and begins generating electricity after December 31, 1996, and before July 1, 1999;

(2) begins generating electricity after June 30, 1999, produces two megawatts or less of electricity as measured by nameplate rating, and is:

(i) located within one county and owned by a natural person who an entity that is not prohibited from owning agricultural land under section 500.24 that owns the land where the facility is sited;

(ii) owned by a Minnesota small business as defined in section 645.445;

(iii) owned by a Minnesota nonprofit organization; or

(iv) owned by a tribal council if the facility is located within the boundaries of the reservation; or

(v) owned by a Minnesota municipal utility or a Minnesota cooperative electric association; or

(vi) owned by a Minnesota political subdivision or local government, including, but not limited to, a county, statutory or home rule charter city, town, school district, or any other local or regional governmental organization such as a board, commission, or association; or

(3) begins generating electricity after June 30, 1999, produces seven megawatts or less of electricity as measured by nameplate rating, and:

(i) is owned by a cooperative organized under chapter 308A other than a Minnesota cooperative electric association; and

(ii) all shares and membership in the cooperative are held by natural persons or estates, at least 51 percent of whom reside in a county or contiguous to a county where the wind energy production facilities of the cooperative are located an entity that is not prohibited from owning agricultural land under section 500.24.

(d) "Qualified on-farm biogas recovery facility" means an anaerobic digester system that:

(1) is located at the site of an agricultural operation;

(2) is owned by a natural person who an entity that is not prohibited from owning agricultural land under section 500.24 that owns or rents the land where the facility is located; and

(3) begins generating electricity after July 1, 2001.

(e) "Anaerobic digester system" means a system of components that processes animal waste based on the absence of oxygen and produces gas used to generate electricity.

Sec. 10. Minnesota Statutes 2002, section 216C.41, subdivision 2, is amended to read:

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Subd. 2. **INCENTIVE PAYMENT; APPROPRIATION.** (a) Incentive payments must be made according to this section to (1) a qualified on-farm biogas recovery facility, (2) the owner or operator of a qualified hydropower facility or qualified wind energy conversion facility for electric energy generated and sold by the facility, (3) a publicly owned hydropower facility for electric energy that is generated by the facility and used by the owner of the facility outside the facility, or (4) the owner of a publicly owned dam that is in need of substantial repair, for electric energy that is generated by a hydropower facility at the dam and the annual incentive payments will be used to fund the structural repairs and replacement of structural components of the dam, or to retire debt incurred to fund those repairs.

(b) Payment may only be made upon receipt by the commissioner of finance of an incentive payment application that establishes that the applicant is eligible to receive an incentive payment and that satisfies other requirements the commissioner deems necessary. The application must be in a form and submitted at a time the commissioner establishes.

(c) There is annually appropriated from the general fund to the commissioner of commerce sums sufficient to make the payments required under this section, other than the amounts funded by the renewable development account as specified in subdivision 5a.

Sec. 11. Minnesota Statutes 2002, section 216C.41, subdivision 3, is amended to read:

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, 2005;

(2) from a qualified wind energy conversion facility that is operational and generating electricity before January 1, ~~2005~~ 2007; or

(3) from a qualified on-farm biogas recovery facility from July 1, 2001, through December 31, ~~2015~~ 2017.

Sec. 12. Minnesota Statutes 2002, section 216C.41, subdivision 4, is amended to read:

Subd. 4. **PAYMENT PERIOD.** (a) A facility may receive payments under this section for a ten-year period. No payment under this section may be made for electricity generated:

(1) by a qualified hydroelectric facility after December 31, ~~2015~~ 2017;

(2) by a qualified wind energy conversion facility after December 31, ~~2015~~ 2017;

or

(3) by a qualified on-farm biogas recovery facility after December 31, 2015.

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(b) The payment period begins and runs consecutively from the first year in which electricity generated from the facility is eligible for incentive payment the date the facility begins generating electricity or, in the case of refurbishment of a hydropower facility, after substantial repairs to the hydropower facility dam funded by the incentive payments are initiated.

Sec. 13. Minnesota Statutes 2002, section 216C.41, subdivision 5, is amended to read:

Subd. 5. **AMOUNT OF PAYMENT; WIND FACILITIES LIMIT.** (a) An incentive payment is based on the number of kilowatt hours of electricity generated. The amount of the payment is:

(1) for a facility described under subdivision 2, paragraph (a), clause (4), 1.0 cent per kilowatt hour; and

(2) for all other facilities, 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) For wind energy conversion systems installed and contracted for after 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. 14. Minnesota Statutes 2002, section 216C.41, is amended by adding a subdivision to read:

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Subd. 5a. RENEWABLE DEVELOPMENT ACCOUNT. The department of commerce shall authorize payment of the renewable energy production incentive to wind energy conversion systems for 100 megawatts of nameplate capacity in addition to the capacity authorized under subdivision 5 and to on-farm biogas recovery facilities. Payment of the incentive shall be made from the renewable energy development account as provided under section 116C.779, subdivision 2.

Sec. 15. Minnesota Statutes 2002, section 216C.41, is amended by adding a subdivision to read:

Subd. 7. ELIGIBILITY PROCESS. (a) A qualifying project is eligible for the incentive on the date the commissioner receives:

(1) an application for payment of the incentive;

(2) one of the following:

(i) a copy of a signed power purchase agreement;

(ii) a copy of a binding agreement other than a power purchase agreement to sell electricity generated by the project to a third person; or

(iii) if the project developer or owner will sell electricity to its own members or customers, a copy of the purchase order for equipment to construct the project with a delivery date and a copy of a signed receipt for a nonrefundable deposit; and

(3) any other information the commissioner deems necessary to determine whether the proposed project qualifies for the incentive under this section.

(b) The commissioner shall determine whether a project qualifies for the incentive and respond in writing to the applicant approving or denying the application within 15 working days of receipt of the information required in paragraph (a). A project that is not operational within 18 months of receipt of a letter of approval is no longer approved for the incentive. The commissioner shall notify an applicant of potential loss of approval not less than 60 days prior to the end of the 18-month period. Eligibility for a project that loses approval may be reestablished as of the date the commissioner receives a new completed application.

Sec. 16. [216B. 2424] [Subd. 5a.]REDUCTION OF BIOMASS MANDATE.

(a) Notwithstanding subdivision 5, the biomass electric energy mandate shall be reduced from 125 megawatts to 110 megawatts.

(b) The public utilities commission shall approve a request pending before the public utilities commission as of May 15, 2003, for an amendment and assignment of a contract for power from a facility that uses short-rotation, woody crops as its primary fuel previously approved to satisfy a portion of the biomass mandate if the developer of the project agrees to reduce the size of its project from 50 megawatts to 35 megawatts, while maintaining a price for energy at or below the current contract price.

New language is indicated by underline, deletions by strikeout.

Sec. 17. RENEWABLE DEVELOPMENT FUND ADMINISTRATION.

The public utilities commission may review the appropriateness of the transfer of the administration of the renewable development account under Minnesota Statutes, section 116C.779, to an independent administrator initially selected by the commissioner of commerce and answerable to a board of directors that includes representatives from the public utility currently administering the fund, environmental organizations, legislators, representatives of residential and business consumers, the Mdewakanton Dakota community, and other affected communities. Upon petition, the commission may approve the transfer if, upon completion of the review, the transfer is consistent with the public interest.

Sec. 18. HYDROGEN ECONOMY RESEARCH.

(a) Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph (b), \$10,000,000 from the renewable development account established in Minnesota Statutes, section 116C.779, from unobligated funds in the account as of June 30, 2003, shall be distributed to the University of Minnesota Initiative for Renewable Energy and the Environment to support basic and applied research and demonstration activities at the university. These funds shall be transferred to the University of Minnesota on or before July 1, 2003. The university shall ensure that at least \$3,000,000 of these funds are available for basic and applied research, for construction and deployment of research technologies, or for other purposes in support of this research, at one rural campus or experiment station.

(b) Research funded under this section must focus on:

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

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

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

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

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

**Sec. 19. DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT;
PROGRAM DEVELOPMENT.**

Subdivision 1. DEVELOPMENT OF BUSINESSES ENGAGED IN HYDROGEN PRODUCTION. The department of trade and economic development must develop a targeted program to promote and encourage the development and attraction of businesses engaged in the biocatalysis of agricultural and forestry plant products for the production of hydrogen, the manufacture of hydrogen fuel cells, and hydrogen electrolysis from renewable energy sources. The program may make use of existing

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departmental programs, either alone or in combination. The department shall report to the legislature by January 15, 2004, on legislative changes or additional funding needed, if any, to accomplish the purposes of this section.

Subd. 2. ENERGY INNOVATION ZONES. (a) The commissioner of trade and economic development, in consultation with the commissioners of commerce and revenue, shall develop a plan to designate not more than three energy innovation zones to spur the development of fuel cells, fuel cell components, hydrogen infrastructure, and other energy efficiency and renewable energy technologies in the state. In developing the criteria for the designations, the commissioner shall consider:

- (1) the availability of business, academic, and government partners;
- (2) the likelihood of establishing a distributed, renewable energy microgrid to power the zone, providing below-market electricity and heat to businesses from within the zone;
- (3) the prospect of tenants for the zone that will represent net new jobs to the state;
and
- (4) the likelihood of the production, storage, distribution, and use of hydrogen, including its use in fuel cells, for electricity and heat.

(b) Energy under paragraph (a), clause (2), must come from one or more of the following renewable sources: wind, water, sun, biomass, not including municipal solid waste, or hydrogen reformed from natural gas up to 2010.

(c) The plan must allow for interested parties to form energy innovation cooperatives. In addition, the commissioner must consider the feasibility of the sale of energy innovation bonds for the construction of qualifying facilities.

(d) In drafting the plan, the commissioner must consider incentives for investment in the zone, including:

- (1) subsidization of construction of qualifying facilities;
- (2) long-term contracts for market-rate heat and power;
- (3) streamlined interconnection to the existing power grid;
- (4) exemptions from property tax;
- (5) expedited permitting;
- (6) methods for providing technical assistance; and
- (7) other methods of encouraging the development and use of fuel cell and hydrogen generation technologies.

(e) The commissioner shall report to the legislature by January 15, 2004, on legislative changes and necessary funding to accomplish the purposes of this subdivision.

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Sec. 20. DEMONSTRATION PROJECT.

(a) The department of commerce, in cooperation with the department of trade and economic development, must develop and issue a request for proposal for the construction of a hydrogen-to-electricity demonstration project with the following components:

- (1) commercial-scale windmill-powered electrolysis of water to hydrogen;
- (2) on-site storage of hydrogen and fuel cells for hydrogen-to-electricity conversion to maintain the supply of electricity in the absence of wind;
- (3) a hydrogen pipeline of less than ten miles to a public facility demonstration site; and
- (4) a public facility with on-site hydrogen fuel cells providing hydrogen to electricity and, if practicable, heating/cooling function.

(b) For purposes of this section, a "public facility" is a municipal building, public school, state college or university, or other public building.

Sec. 21. INDEPENDENT STUDY ON INTERMITTENT RESOURCES.

The commission shall order the electric utility subject to Minnesota Statutes, section 216B.1691, subdivision 7, to contract with a firm selected by the commissioner of commerce for an independent engineering study of the impacts of increasing wind capacity on its system above the 825 megawatts of nameplate wind energy capacity to which the utility is already committed, to evaluate options available to manage the intermittent nature of this renewable resource. The study shall be completed by June 1, 2004, and incorporated into the utility's next resource plan filing. The costs of the study, options pursued by the utility to manage the intermittent nature of wind energy, and the costs of complying with Minnesota Statutes, section 216B.1691, subdivision 7, shall be recoverable under Minnesota Statutes, section 216B.1645.

Sec. 22. EFFECTIVE DATE.

This article is effective the day following final enactment.

ARTICLE 3**OTHER PROVISIONS**

Section 1. Minnesota Statutes 2002, section 216B.095, is amended to read:

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:

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(1) coverage of customers whose household income is less than 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) 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);

(5) a requirement that the customer receive referrals to energy assistance, weatherization, conservation, or other programs likely to reduce the customer's 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 purposes of this section, "disconnection" includes a service or load limiter or any device that limits or interrupts electric service in any way.

Sec. 2. Minnesota Statutes 2002, section 216B.097, is amended by adding a subdivision to read:

Subd. 4. APPLICATION TO SERVICE LIMITERS. For the purposes of this section, "disconnection" includes a service or load limiter or any device that limits or interrupts electric service in any way.

Sec. 3. [216B.0975] DISCONNECTION DURING EXTREME HEAT CONDITIONS; RECONNECTION.

A utility may not effect an involuntary disconnection of residential services in affected counties when an excessive heat watch, heat advisory, or excessive heat warning issued by the National Weather Service is in effect. For purposes of this section, "utility" means a public utility providing electric service, municipal utility, or cooperative electric association.

Sec. 4. Minnesota Statutes 2002, section 216B.241, subdivision 1b, is amended to read:

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

- (1) a cooperative electric association that 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 1.5 percent of its gross operating revenues from the sale of electricity, excluding gross operating revenues from electric and gas service provided in the state to large electric customer facilities; and

(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 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.

(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 that provides energy services to cooperative electric associations that provide electric service at retail

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to consumers 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.

(g) By June 1, 2002, and every two years thereafter, each municipality or cooperative shall file an overview of its conservation improvement plan with the commissioner. With this overview, the municipality or cooperative shall also provide an evaluation to the commissioner detailing its energy conservation improvement spending and investments 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 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. The overview filed by a municipality with less than \$2,500,000 in annual gross revenues from the retail sale of electric service may consist of a letter from the governing board of the municipal utility to the department providing the amount of annual conservation spending required of that municipality and certifying that the required amount has been spent on conservation programs pursuant to this subdivision.

(h) The commissioner shall also review each 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 at or below 50 percent of the state median income.

(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 by February 1 of each year.

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(j) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system. This paragraph expires July 1, 2007.

Sec. 5. [216B.361] TOWNSHIP AGREEMENT WITH NATURAL GAS UTILITY.

A township may enter into an agreement with a public utility providing natural gas services to provide services within a designated portion or all of the township. If a city annexes township land for which a utility has an agreement with a township to serve, the utility shall continue to have a nonexclusive right to offer and provide service in the area identified by the agreement with the township for the term of that agreement, subject to the authority of the annexing city to manage public rights-of-way within the city as provided in sections 216B.36, 237.162, and 237.163.

Nothing in this section precludes a city from acquiring the property of a public utility under sections 216B.45 to 216B.47 for the purpose of allowing the city to own and operate a natural gas utility, or to extend natural gas and other utility services into newly annexed areas.

Sec. 6. Minnesota Statutes 2002, section 216C.051, subdivision 3, is amended to read:

Subd. 3. **FUTURE ENERGY SOLUTIONS; TECHNICAL AND ECONOMIC ANALYSIS.** (a) In light of the electric energy guidelines established in subdivision 7 and in light of existing conservation improvement programs and plans, utility resource plans, and other existing energy plans and analyses, the legislative task force on energy shall undertake an analysis of the technical and economic feasibility of an electric energy future for the state that relies on environmentally and economically sustainable and advantageous electric energy supply utility resource plans and competitive bidding docket before the commission, the task force shall gather information and make recommendations to the legislature regarding potential electric energy resources. The task force shall may contract with one or more energy policy experts and energy economists to assist it in its analysis. The task force may not contract for service nor employ any person who was involved in any capacity in any portion of any proceeding before the public utilities commission, the administrative law judge, the state court of appeals, or the United States Nuclear Regulatory Commission related to the dry cask storage proposal on Prairie Island. The task force must gather information on at least the following electric energy resources, but may expand its inquiry as warranted by the information collected:

- (1) wind energy;
- (2) hydrogen as a fuel carrier produced from renewable and fossil fuel resources;
- (3) biomass;
- (4) decomposition gases produced by solid waste management facilities;
- (5) solid waste as a direct fuel or refuse-derived fuel; and

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(6) clean coal technology.

(b) The analysis must address In evaluating these electric energy resources, the task force must consider at least the following:

(1) to the best of forecasting abilities, how much electric generation capacity and demand for electric energy is necessary to maintain a strong economy and a high quality of life in the state over the next 15 to 20 years; how is this demand level affected by achievement of the maximum reasonably feasible and cost-effective demand side management and generation and distribution efficiencies;

(2) what alternative forms of energy can provide a stable supply of energy and are producible and sustainable in the state and at what cost;

(3) what are the costs to the state and ratepayers to ensure that new electric energy generation utilizes less environmentally damaging sources; how do those costs change as the time frame for development and implementation of new generation sources is compressed;

(4) what are the implications for delivery systems for energy produced in areas of the state that do not now have high-volume transmission capability; are new transmission technologies being developed that can address some of the concerns with transmission; can a more dispersed electric generation system lessen the need for long-distance transmission;

(5) what are the actual costs and benefits of purchasing electricity and fuel to generate electricity from outside the state; what are the present costs to the state's economy of exporting a large percentage of the state's energy dollars and what is the future economic impact of continuing to do so;

(6) are there benefits to be had from a large immediate investment in quickly implementing alternative electric energy sources in terms of developing an exportable technology and/or commodity; is it feasible to turn around the flow of dollars for energy so that the state imports dollars and exports energy and energy technology; what is a reasonable time frame for the shift if it is possible;

(7) are there taxation or regulatory barriers to developing more sustainable and less problematic electric energy generation; what are they specifically and how can they be specifically addressed;

(8) can an approach be developed that moves quickly to development and implementation of alternative energy sources that can be forgiving of interim failures but that is also sufficiently deliberate to ensure ultimate success on a large scale; and

(9) in what specific ways can the state assist regional energy suppliers to accelerate phasing out energy production processes that produce wastes or emissions that must necessarily be carefully controlled and monitored to minimize adverse effects on the environment and human health and to assist in developing and implementing base load energy production that both prevents or minimizes by its nature adverse

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environmental and human health effects and utilizes resources that are available or producible in the state;

(10) whether there is a need to establish additional dislocated worker assistance for workers at the Prairie Island nuclear power plant; if so, how that assistance should be structured;

(11) can the state monitor, evaluate, and affect federal actions relating to permanent storage of high-level radioactive waste; what actions by the state over what period of time would expedite federal action to take responsibility for the waste;

(12) should the state establish a legislative oversight commission on energy issues; should the responsibilities of an oversight commission be coordinated with the activities of the public utilities commission and the department of public service and if so, how; and

(13) is it feasible to convert existing nuclear power and coal-fired electric generating plants to utilization of energy sources that result in significantly less environmental damage; if so, what are the short-term and long-term costs and benefits of doing so; how do shorter or longer time periods for conversion affect the cost/benefit analysis.

(c) The task force must study issues related to the transportation of spent nuclear fuel from this state to interim or permanent repositories outside this state. The task force must also gather information on at least the following factors, but may expand its inquiry as warranted by the information collected:

(1) Minnesota's actual and projected electricity demand;

(2) electricity export potential;

(3) inventory of energy resources currently used to generate all electricity sold in Minnesota and an analysis of the social, economic, and environmental benefits and burdens associated with each energy resource;

(4) electricity demand savings from greater efficiency; and

(5) job growth and economic development potential.

(d) The public utility that owns the Prairie Island and Monticello nuclear generation facilities shall update the reports required under section 116C.772, subdivisions 3 to 5, and shall submit those updates periodically to the public utilities commission with the utility's resource plan filing under section 216B.2422 and to the task force.

Sec. 7. Minnesota Statutes 2002, section 216C.051, is amended by adding a subdivision to read:

Subd. 4a. REPORT AND RECOMMENDATIONS. By January 15, 2005, and every two years thereafter, the task force shall submit a report to the chairs of the committees in the house of representatives and the senate that have responsibility for

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energy and for environmental and natural resources issues that contains an overview of information gathered and analyses that have been prepared, and specific recommendations, if any, for legislative action that will ensure development and implementation of electric energy policy that will provide the state with adequate, renewable, and economic electric power for the long term. The report shall also identify issues that must be addressed to provide Minnesotans with adequate electricity from in-state renewable energy sources for the long term and export to adjacent states.

Sec. 8. Minnesota Statutes 2002, 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 commerce shall assess from 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 \$150,000 \$250,000 in a fiscal year. 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 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 2002, section 216C.051, subdivision 9, is amended to read:

Subd. 9. **EXPIRATION.** This section is repealed June 30, ~~2005~~ 2007.

Sec. 10. Minnesota Statutes 2002, section 216C.052, subdivision 2, is amended to read:

Subd. 2. **ADMINISTRATIVE ISSUES.** (a) The commissioner may select the administrator who shall serve for a four-year term. The administrator may not have been a party or a participant in a commission energy proceeding for at least one year prior to selection by the commissioner. 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

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power agencies providing natural gas or electric service in the state.

(c) The department of commerce shall pay:

(1) the general administrative costs of the administrator, not to exceed \$1,500,000 ~~\$1,000,000~~ 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.

Sec. 11. Minnesota Statutes 2002, section 216C.052, subdivision 3, is amended to read:

Subd. 3. **ASSESSMENT AND APPROPRIATION.** In addition to the amount noted in subdivision 2, the commissioner of ~~commerce~~ shall transfer ~~may assess~~ utilities, using the mechanism specified in that subdivision, up to an additional \$500,000 annually of the amounts provided for in subdivision 2 to the commissioner of administration through June 30, 2006. The amounts assessed under this subdivision are appropriated to the commissioner, and some or all of the amounts assessed may be transferred to the commissioner of administration, for the purposes provided specified in section 16B.325 and Laws 2001, chapter 212, article 1, section 3, as needed to implement that section those sections.

Sec. 12. **REFURBISHMENT OF METROPOLITAN GENERATING PLANTS.**

Notwithstanding Minnesota Statutes, section 216B.1692, subdivision 1, clause (2), and subdivision 5, paragraphs (c) and (d), all investments in repowering, emissions reduction technologies and equipment, and power plant rehabilitation and life

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extension described in the primary metropolitan emission reduction proposal filed with the public utilities commission in July 2002 by the public utility that owns the Prairie Island nuclear generation facility and currently pending before the commission are deemed qualifying projects under Minnesota Statutes, section 216B.1692, and all costs related to all such investments are eligible for rider recovery under Minnesota Statutes, section 216B.1692, subdivision 5. Upon receiving approval by the commission, the utility shall implement the approved proposal or justify to the commission its decision not to do so.

Sec. 13. CONSERVATION IMPROVEMENT PROGRAM; EVALUATION.

Subdivision 1. CONSERVATION IMPROVEMENT PROGRAM; GENERAL EVALUATION. (a) The commissioner of commerce shall contract with the legislative auditor or other independent third party for a review of:

(1) the relevant state statutes, to determine if conservation requirements could be eliminated or modified to ensure that conservation dollars are directed toward the most cost-effective conservation investments;

(2) the relevant state rules, to determine if current rules allow or facilitate optimum conservation practices and procedures; and

(3) the department of commerce's conservation regulatory processes, to determine if the regulatory review process currently employed results in optimum conservation investments.

(b) The costs of the review under paragraph (a) may be recovered by the department as a general administrative expense under Minnesota Statutes, section 216C.052, subdivision 2.

Sec. 14. LEGISLATIVE APPROVAL OF CONSUMPTIVE USE OF WATER; PROPOSED FACILITY ROSEMOUNT.

Pursuant to Minnesota Statutes, section 103G.265, subdivision 3, the legislature approves the consumptive use under a permit of more than 2,000,000 gallons per day average in a 30-day period in Rosemount, in connection with a gas-fueled combined-cycle electric generating facility, subject to the commissioner of natural resources making a determination that the water remaining in the basin of origin will be adequate to meet the basin's need for water and approval by the commissioner of natural resources of all applicable permits.

Sec. 15. LEGISLATIVE APPROVAL OF CONSUMPTIVE USE OF WATER; PROPOSED FACILITY MANKATO.

Pursuant to Minnesota Statutes, section 103G.265, subdivision 3, the legislature approves the consumptive use under a permit of more than 2,000,000 gallons per day average in a 30-day period in Mankato, in connection with a gas-fueled combined-cycle electric generating facility, subject to the commissioner of natural resources making a determination that the water remaining in the basin of origin will be adequate

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to meet the basin's need for water and approval by the commissioner of natural resources of all applicable permits.

Sec. 16. REPEALER.

Minnesota Statutes 2002, sections 116C.80 and 216C.051, subdivisions 1, 4, and 5, are repealed.

Sec. 17. EFFECTIVE DATE.

This article is effective the day following final enactment.

ARTICLE 4

INNOVATIVE ENERGY PROJECT

Section 1. [216B. 1694] INNOVATIVE ENERGY PROJECT.

Subdivision 1. DEFINITION. For the purposes of this section, the term "innovative energy project" means a proposed energy generation facility or group of facilities which may be located on up to three sites:

(1) that makes use of an innovative generation technology utilizing coal as a primary fuel in a highly efficient combined-cycle configuration with significantly reduced sulfur dioxide, nitrogen oxide, particulate, and mercury emissions from those of traditional technologies;

(2) that the project developer or owner certifies is a project capable of offering a long-term supply contract at a hedged, predictable cost; and

(3) that is designated by the commissioner of the iron range resources and rehabilitation board as a project that is located in the taconite tax relief area on a site that has substantial real property with adequate infrastructure to support new or expanded development and that has received prior financial and other support from the board.

Subd. 2. REGULATORY INCENTIVES. (a) An innovative energy project:

(1) is exempted from the requirements for a certificate of need under section 216B.243, for the generation facilities, and transmission infrastructure associated with the generation facilities, but is subject to all applicable environmental review and permitting procedures of sections 116C.51 to 116C.69;

(2) once permitted and constructed, is eligible to increase the capacity of the associated transmission facilities without additional state review upon filing notice with the commission;

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(3) has the power of eminent domain, which shall be limited to the sites and routes approved by the environmental quality board for the project facilities. The project shall be considered a utility as defined in section 116C.52, subdivision 10, for the limited purpose of section 116C.63. The project shall report any intent to exercise eminent domain authority to the board;

(4) shall qualify as a "clean energy technology" as defined in section 216B.1693;

(5) shall, prior to the approval by the commission of any arrangement to build or expand a fossil-fuel-fired generation facility, or to enter into an agreement to purchase capacity or energy from such a facility for a term exceeding five years, be considered as a supply option for the generation facility, and the commission shall ensure such consideration and take any action with respect to such supply proposal that it deems to be in the best interest of ratepayers;

(6) shall make a good faith effort to secure funding from the United States Department of Energy and the United States Department of Agriculture to conduct a demonstration project at the facility for either geologic or terrestrial carbon sequestration projects to achieve reductions in facility emissions or carbon dioxide;

(7) shall be entitled to enter into a contract with a public utility that owns a nuclear generation facility in the state to provide 450 megawatts of baseload capacity and energy under a long-term contract, subject to the approval of the terms and conditions of the contract by the commission. The commission may approve, disapprove, amend, or modify the contract in making its public interest determination, taking into consideration the project's economic development benefits to the state; the use of abundant domestic fuel sources; the stability of the price of the output from the project; the project's potential to contribute to a transition to hydrogen as a fuel resource; and the emission reductions achieved compared to other solid fuel baseload technologies; and

(8) shall be eligible for a grant from the renewable development account, subject to the approval of the entity administering that account, of \$2,000,000 a year for five years for development and engineering costs, including those costs related to mercury removal technology; thermal efficiency optimization and emission minimization; environmental impact statement preparation and licensing; development of hydrogen production capabilities; and fuel cell development and utilization.

(b) This subdivision does not apply to nor affect a proposal to add utility-owned resources that is pending on the date of enactment of this act before the public utilities commission or to competitive bid solicitations to provide capacity or energy that is scheduled to be online by December 31, 2006.

Sec. 2. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

Presented to the governor May 27, 2003

Signed by the governor May 29, 2003, 10:20 a.m.

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