

**CHAPTER 296—S.F.No. 3337**

*An act relating to utilities; providing standards for state-funded outdoor lighting fixtures; modifying Petrofund program; providing for replacement of PVC piping in heating oil systems in residential locations; providing that certain eminent domain appraisal and negotiation requirements apply to public service corporations; modifying cost recovery provisions for electric transmission and renewable energy facilities; providing for solar-generated electricity under a utility's renewable energy standard; allowing utilities to fund certain solar energy products under the conservation improvement program; exempting certain wind and solar projects from the requirement to obtain a certificate of need; modifying and adding provisions relating to notice to and meetings with local units of government for siting large electric generating plant or high-voltage transmission line; allowing size election for certain wind energy conversion systems and creating Size Election Stakeholder Group; creating a wind project aggregation program; requiring reports on reducing greenhouse gas emissions; requiring reporting of emissions or leakage of greenhouse gases with high global warming potential; providing for wind and solar easements; requiring development of plan for solar rating and certification laboratory; requiring studies and reports; appropriating money; amending Minnesota Statutes 2006, sections 115C.04, subdivision 3; 115C.09, subdivision 3h, by adding a subdivision; 216B.16, subdivision 7b; 216B.1645, subdivisions 1, 2; 216B.2411, subdivision 2; 216B.2424, subdivision 1; 216B.243, by adding a subdivision; 216C.051, as amended; 216E.03, subdivision 4, by adding subdivisions; Minnesota Statutes 2007 Supplement, sections 16B.328, by adding a subdivision; 216B.1645, subdivision 2a; 216B.241, by adding a subdivision; 216B.2411, subdivision 1; 500.30, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 117; 216F; 216H; repealing Minnesota Statutes 2006, section 115C.09, subdivision 3j.*

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

**ARTICLE 1**  
**UTILITIES**

Section 1. Minnesota Statutes 2006, section 115C.04, subdivision 3, is amended to read:

Subd. 3. **Agency Cost recovery; subrogation.** Reasonable and necessary expenses incurred by the agency in taking a corrective action, including costs of investigating a release, administrative and legal expenses, and reimbursement costs described in subdivision 1, paragraph (b), may be recovered in a civil action in district court brought by the attorney general on behalf of the board against a responsible person. The agency's certification of expenses is prima facie evidence that the expenses are reasonable and necessary. If the responsible person has petroleum tank leakage or spill insurance coverage that insures against the liability provided in this section, the agency board is

subrogated to the rights of the responsible person with respect to that insurance coverage, to the extent of the expenses incurred by the agency and described in this subdivision. The agency board may request the attorney general to bring an action in district court against the insurer to enforce this subrogation right. Expenses that are recovered under this section must be deposited in the fund.

Sec. 2. Minnesota Statutes 2006, section 115C.09, subdivision 3h, is amended to read:

Subd. 3h. **Reimbursement; aboveground tanks in bulk plants.** (a) As used in this subdivision, "bulk plant" means an aboveground or underground tank facility with a storage capacity of more than 1,100 gallons but less than 1,000,000 gallons that is used to dispense petroleum into cargo tanks for transportation and sale at another location.

~~(b) Notwithstanding any other provision in this chapter and any rules adopted pursuant to this chapter, the board shall reimburse 90 percent of an applicant's cost for bulk plant upgrades or closures completed between June 1, 1998, and November 1, 2003, to comply with Minnesota Rules, chapter 7151, provided that the board determines the costs were incurred and reasonable. The reimbursement may not exceed \$10,000 per bulk plant. The board may provide reimbursement under this paragraph for work completed after November 1, 2003, if the work was contracted for prior to that date and was not completed by that date as a result of an unanticipated situation, provided that an application for reimbursement under this paragraph, which may be a renewal of an application previously denied, is submitted prior to December 31, 2005.~~

~~(c) For corrective action at a bulk plant located on what is or was railroad right-of-way, the board shall reimburse 90 percent of total reimbursable costs on the first \$40,000 of reimbursable costs and 100 percent of any remaining reimbursable costs when the applicant can document that more than one bulk plant was operated on the same section of right-of-way, as determined by the commissioner of commerce.~~

Sec. 3. Minnesota Statutes 2006, section 115C.09, is amended by adding a subdivision to read:

Subd. 3k. **PVC piping at residential locations.** (a) This subdivision is to assist homeowners who have installed PVC fill piping as part of the heating oil system at their residences. Replacement of the PVC piping with metal piping is intended to avoid the catastrophic release of heating oil, as well as the ensuing cleanup costs, that can occur at residences where the PVC piping fails.

(b) As used in this subdivision:

(1) "residential locations" means a storage tank and appurtenances for heating oil that are used to heat a single-family residence; and

(2) "qualified person" means someone who is registered as a contractor under section 115C.11 and, as part of their trade or business, installs or repairs nonpressure piping, heating systems, air conditioning systems, or storage tank systems.

(c) Notwithstanding any other provision of this chapter or any rules adopted under this chapter, the board shall reimburse a qualified person 90 percent of the cost for replacing PVC fill piping with metal piping at residential locations between May 1, 2008, and September 1, 2011, provided that the board determines the costs were incurred and reasonable. The reimbursement may not exceed \$250 per residential location. The maximum expenditure from the fund may not exceed \$1,500,000.

(d) A heating oil vendor is not a responsible person for a heating oil spill inside a residential location if the spill was caused solely by the failure of a tank or appurtenance to a tank owned by the homeowner.

Sec. 4. **[117.054] COPIES OF APPRAISAL TO LANDOWNER.**

A public utility, municipal utility, cooperative electric association, natural gas pipeline or crude oil or petroleum products pipeline company must provide the property owner with a copy of each appraisal it has obtained for a property before presenting a petition under section 117.055 to acquire the property.

**EFFECTIVE DATE.** This section is effective August 1, 2008, and applies to eminent domain proceedings commenced on or after October 1, 2008.

Sec. 5. Minnesota Statutes 2006, section 216B.16, subdivision 7b, is amended to read:

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

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

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

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

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

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

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

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

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

~~(7)~~ (8) terminates recovery once costs have been fully recovered or have otherwise been reflected in the utility's general rates.

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

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

(2) a schedule for implementation of applicable projects;

(3) the utility's costs for these projects;

(4) a description of the utility's efforts to ensure the lowest costs to ratepayers for the project; and

(5) calculations to establish that the rate adjustment is consistent with the terms of the tariff established in paragraph (b).

(d) Upon receiving a filing for a rate adjustment pursuant to the tariff established in paragraph (b), the commission shall approve the annual rate adjustments provided that, after notice and comment, the costs included for recovery through the tariff were or are expected to be prudently incurred and achieve transmission system improvements at the lowest feasible and prudent cost to ratepayers.

Sec. 6. Minnesota Statutes 2006, section 216B.1645, subdivision 1, is amended to read:

Subdivision 1. **Commission authority.** 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.169, 216B.2423, and 216B.2424, and to satisfy the renewable energy objectives and standards set forth in section 216B.1691, including reasonable investments and expenditures made to:

(1) transmit the electricity generated from sources developed under those sections that is ultimately used to provide service to the utility's retail customers, including studies necessary to identify new transmission facilities needed to transmit electricity to Minnesota retail customers from generating facilities constructed to satisfy the renewable energy objectives and standards, provided that the costs of the studies have not been recovered previously under existing tariffs and the utility has filed an application for a certificate of need or for certification as a priority project under section 216B.2425 for the new transmission facilities identified in the studies;

(2) provide storage facilities for renewable energy generation facilities that contribute to the reliability, efficiency, or cost-effectiveness of the renewable facilities; or

~~(2)~~ (3) develop renewable energy sources from the account required in section 116C.779.

Sec. 7. Minnesota Statutes 2006, section 216B.1645, subdivision 2, is amended to read:

Subd. 2. **Cost recovery.** 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 under subdivision 1, 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.

Sec. 8. Minnesota Statutes 2007 Supplement, section 216B.1645, subdivision 2a, is amended to read:

Subd. 2a. **Cost recovery for owned renewable facilities.** (a) A utility may petition the commission to approve a rate schedule that provides for the automatic adjustment of charges to recover prudently incurred investments, expenses, or costs associated with facilities constructed, owned, or operated by a utility to satisfy the requirements of section 216B.1691, provided those facilities were previously approved by the commission under section 216B.2422 or 216B.243, or were determined by the commission to be reasonable and prudent under section 216B.243, subdivision 9. The commission may approve, or approve as modified, a rate schedule that:

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

- (i) return on investment;
- (ii) depreciation;
- (iii) ongoing operation and maintenance costs;
- (iv) taxes; and

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

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

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

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

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

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

- (1) a description of the facilities for which costs are to be recovered;
- (2) an implementation schedule for the facilities;
- (3) the utility's costs for the facilities;

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

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

Sec. 9. Minnesota Statutes 2007 Supplement, section 216B.241, is amended by adding a subdivision to read:

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

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

(2) be considered when establishing performance incentives under section 216B.241, subdivision 2c.

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

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

Sec. 10. Minnesota Statutes 2007 Supplement, section 216B.2411, subdivision 1, is amended to read:

Subdivision 1. **Generation projects.** (a) 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 energy sources as defined in subdivision 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; ~~or~~

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

(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.

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

Sec. 11. Minnesota Statutes 2006, section 216B.2411, subdivision 2, is amended to read:

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), and "solar" must be from a qualified solar energy project as defined in paragraph (d).

(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.

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

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

(f) "Qualifying solar electric project" means solar electric equipment that meets the requirements of section 216C.25 with a total peak generating capacity of 100 kilowatts or less used for generating electricity primarily for use in a residential property or small business to reduce the effective electric load for that residence or small business.

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

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

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

Sec. 12. Minnesota Statutes 2006, section 216B.2424, subdivision 1, is amended to read:

Subdivision 1. **Farm-grown closed-loop biomass.** (a) For the purposes of this section, "farm-grown closed-loop biomass" means ~~biomass, as defined in section 216C.051, subdivision 7~~ herbaceous crops, trees, agricultural waste, and aquatic plant matter that is used to generate electricity, but does not include mixed municipal solid waste, as defined in section 115A.03, and that:

(1) is intentionally cultivated, harvested, and prepared for use, in whole or in part, as a fuel for the generation of electricity;

(2) when combusted, releases an amount of carbon dioxide that is less than or approximately equal to the carbon dioxide absorbed by the biomass fuel during its growing cycle; and

(3) is fired in a new or substantially retrofitted electric generating facility that is:

(i) located within 400 miles of the site of the biomass production; and

(ii) designed to use biomass to meet at least 75 percent of its fuel requirements.

(b) The legislature finds that the negative environmental impacts within 400 miles of the facility resulting from transporting and combusting the biomass are offset in that region by the environmental benefits to air, soil, and water of the biomass production.

(c) Among the biomass fuel sources that meet the requirements of paragraph (a), clauses (1) and (2), are poplar, aspen, willow, switch grass, sorghum, alfalfa, cultivated prairie grass, and sustainably managed woody biomass.

(d) For the purpose of this section, "sustainably managed woody biomass" means:

(1) brush, trees, and other biomass harvested from within designated utility, railroad, and road rights-of-way;

(2) upland and lowland brush harvested from lands incorporated into brushland habitat management activities of the Minnesota Department of Natural Resources;

(3) upland and lowland brush harvested from lands managed in accordance with Minnesota Department of Natural Resources "Best Management Practices for Managing Brushlands";

(4) logging slash or waste wood that is created by harvest, by precommercial timber stand improvement to meet silvicultural objectives, or by fire, disease, or insect control treatments, and that is managed in compliance with the Minnesota Forest Resources Council's "Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers" as modified by the requirement of this subdivision; and

(5) trees or parts of trees that do not meet the utilization standards for pulpwood, posts, bolts, or sawtimber as described in the Minnesota Department of Natural Resources Division of Forestry Timber Sales Manual, 1998, as amended as of May 1, 2005, and the Minnesota Department of Natural Resources Timber Scaling Manual, 1981, as amended as of May 1, 2005, except as provided in paragraph (a), clause (1), and this paragraph, clauses (1) to (3).

Sec. 13. Minnesota Statutes 2006, section 216B.243, is amended by adding a subdivision to read:



Subd. 9. **Renewable energy standard facilities.** The requirements of this section do not apply to a wind energy conversion system or a solar electric generation facility that is intended to be used to meet or exceed the obligations of section 216B.1691; provided that, after notice and comment, the commission determines that the facility is a reasonable and prudent approach to meeting a utility's obligations under that section. When making this determination, the commission may consider the size of the facility relative to a utility's total need for renewable resources and alternative approaches for supplying the renewable energy to be supplied by the proposed facility, and must consider the facility's ability to promote economic development, as required under section 216B.1691, subdivision 9, maintain electric system reliability and consider impacts on ratepayers, and other criteria as the commission may determine are relevant.

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

Sec. 14. Minnesota Statutes 2006, section 216C.051, as amended by Laws 2007, chapter 57, article 2, sections 24 and 25, is amended to read:

**216C.051 LEGISLATIVE ~~ELECTRIC~~ ENERGY ~~TASK~~ ~~FORCE~~ COMMISSION.**

Subd. 2. **Establishment.** (a) There is established a Legislative ~~Electric~~ Energy Task Force Commission to study ~~future electric energy sources and costs~~ and to make recommendations for legislation for an environmentally and economically sustainable and advantageous electric energy supply concerning issues related to its duties under subdivision 3.

(b) The ~~task force~~ commission consists of:

(1) ten members of the house of representatives including the chairs of the Environment and Natural Resources Committee and the Energy Finance and Policy Division and eight members to be appointed by the speaker of the house, four of whom must be from the minority caucus appointed by the speaker of the house of representatives, four of whom must be from the minority caucus, and including the chair of the committee with primary jurisdiction over energy policy; the chair or another member of each of the committees with primary jurisdiction over environmental policy, agricultural policy, and transportation policy; and a legislator who is a member of the NextGen Energy Board; and

(2) ten members of the senate including the chairs of the Environment, Energy and Natural Resources Budget Division and Energy, Utilities, Technology and Communications committees and eight members to be appointed by the Subcommittee on Committees, four of whom must be from the minority caucus.

(2) ten members of the senate to be appointed by the Subcommittee on Committees, four of whom must be from the minority caucus, and including the chair of the committee with primary jurisdiction over energy policy; the chair or another member of each of the committees with primary jurisdiction over environmental policy, agricultural policy, and transportation policy; and a legislator who is a member of the NextGen Energy Board.

(c) The ~~task force~~ commission may employ full-time and part-time staff, contract for consulting services, and may reimburse the expenses of persons requested to assist it in its duties other than state employees or employees of electric utilities. The director of the Legislative Coordinating Commission shall assist the ~~task force~~ commission in administrative matters. The ~~task force~~ commission shall elect cochairs, one member of

the house and one member of the senate from among the committee and subcommittee chairs named to the ~~committee~~ commission. The ~~task force~~ commission members from the house shall elect the house cochair, and the ~~task force~~ commission members from the senate shall elect the senate cochair.

Subd. 2a. Subcommittees. The commission may establish subcommittees as necessary to perform its duties.

Subd. 3. ~~Technical and economic considerations, analyses, and recommendations~~ Duties. (a) ~~In light of the electric energy guidelines established in subdivision 7 and 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 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~~
- ~~(6) clean coal technology.~~

~~(b) 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 environmental and human health effects and utilizes resources that are available or producible in the state.~~

~~(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.~~

(a) The commission shall continuously evaluate the energy policies of this state and the degree to which they promote an environmentally and economically sustainable energy future. The commission shall monitor the state's progress in achieving its goals to develop renewable sources of electric energy under section 216B.1691, subdivision 2a, and the progress of energy-related sectors in reducing greenhouse gas emissions under the state's greenhouse gas emissions-reductions goals established in section 216H.02, subdivision 1. The commission may review proposed energy legislation and may recommend legislation. The commission shall when feasible solicit and consider public testimony regarding the economic, environmental, and social implications of state energy plans and policies. Notwithstanding any other law to the contrary the commission's evaluations and reviews under this subdivision shall include new and existing technologies for nuclear power.

(b) The commission may study, analyze, hold hearings, and make legislative recommendations regarding the following issues:

(1) the generation, transmission, and distribution of electricity;

- (2) the reduction of greenhouse gas emissions;
- (3) the conservation of energy;
- (4) alternative energy sources available to replace dwindling fossil fuel and other nonrenewable fuel sources;
- (5) the development of renewable energy supplies;
- (6) the economic development potential associated with issues described in clauses (1) to (5); and
- (7) other energy-related subjects the commission finds significant.

Subd. 3a. **Nuclear report.** 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~~ commission.

~~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 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.~~

~~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 \$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.~~

~~Subd. 7. **Guidelines; preferred electric generation sources; definitions.** (a) The Legislative Task Force on Electric Energy shall undertake its responsibilities in light of the guidelines specified in this subdivision.~~

~~(b) The highest priority in electric energy production and consumption is conservation of electric energy and management of demand by all segments of the community.~~

~~(c) The following energy sources for generating electric power distributed in the state, listed in their descending order of preference, based on minimizing long-term negative environmental, social, and economic burdens imposed by the specific energy sources, are:~~

- ~~(1) wind and solar;~~
- ~~(2) biomass and low-head or refurbished hydropower;~~
- ~~(3) decomposition gases produced by solid waste management facilities, natural gas-fired cogeneration, and waste materials or byproducts combined with natural gas;~~
- ~~(4) natural gas, hydropower that is not low-head or refurbished hydropower, and solid waste as a direct fuel or refuse-derived fuel, and~~
- ~~(5) coal and nuclear power.~~

~~(d) For the purposes of paragraph (c) within each clause, the more efficient an energy source is in generating electricity or the more efficient a technology is that utilizes an energy source, the more preferred it is for use in generating electricity for distribution and consumption in the state.~~

~~(e) For the purposes of paragraph (c), clauses (3) and (4), the use of waste materials and byproducts for generating electric power must be limited to those waste materials and byproducts that are necessarily generated or produced by efficient processes and systems. Preventing and minimizing waste and byproducts are preferred in every situation to relying on the continued generation or production of waste materials and byproducts.~~

~~(f) For the purposes of this section, "preferred" or "renewable" energy sources are those described in paragraph (c), clauses (1) to (3), and "subordinate" or "traditional" energy sources are those described in paragraph (c), clauses (4) and (5).~~

~~(g) For the purposes of this section:~~

~~(1) "biomass" means herbaceous crops, trees, agricultural waste, and aquatic plant matter, excluding mixed municipal solid waste, as defined in section 115A.03, used to generate electricity; and~~

~~(2) "low-head hydropower" means a hydropower facility that has a head of less than 66 feet.~~

Subd. 8. **Subpoena power.** The ~~task force~~ commission may issue a subpoena under section 3.153 to any person for production of information held by that person that is relevant to the work of the ~~task force~~ commission.

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

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

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

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

~~(b) Nothing in this section shall be construed as a directive to the government of Canada or the province of Manitoba.~~

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

~~Subd. 9. **Expiration.** This section is repealed June 30, 2010.~~

Subd. 10. **Data from state agencies.** A state agency shall reply promptly to a request for data from the commission, subject to the requirements of chapter 13 and section 15.17.

Subd. 11. **Assessment; appropriation.** (a) Upon request by the cochairs of the commission, the commissioner of commerce shall assess the amount requested for the operation of the commission, not to exceed \$250,000 in a fiscal year, from the following sources:

(1) all public utilities, municipal utilities, electric cooperative associations, generation and transmission cooperative electric associations, and municipal power agencies providing electric or natural gas services in Minnesota; and

(2) all bulk terminals located in this state from which petroleum products and liquid petroleum gas are dispensed for sale in this state.

(b) The commissioner of commerce shall apportion the assessment amount requested among the entities in paragraph (a), clauses (1) and (2), in proportion to their respective gross operating revenues from energy sold within the state during the most recent calendar year, while ensuring that wholesale and retail sales are not double counted.

(c) The entities in paragraph (a), clauses (1) and (2), must provide information to the commissioner of commerce to allow for calculation of the assessment.

(d) The assessments under this subdivision are in addition to assessments made under section 216B.62. The amount assessed under this section is appropriated to the director of the Legislative Coordinating Commission for the purposes of this section, and is available until expended. Utilities selling gas and electric service at retail must be assessed and billed in accordance with the procedures provided in section 216B.62, to the extent that these procedures do not conflict with this subdivision.

**EFFECTIVE DATE.** This section is effective January 3, 2009.

Sec. 15. Minnesota Statutes 2006, section 216E.03, is amended by adding a subdivision to read:

Subd. 3a. **Project notice.** At least 90 days before filing an application with the commission, the applicant shall provide notice to each local unit of government within which a route may be proposed. The notice must describe the proposed project and the opportunity for a preapplication consultation meeting with local units of government as provided in subdivision 3b.

**EFFECTIVE DATE.** This section is effective September 1, 2008.

Sec. 16. Minnesota Statutes 2006, section 216E.03, is amended by adding a subdivision to read:

Subd. 3b. **Preapplication consultation meetings.** Within 30 days of receiving a project notice, local units of government may request the applicant to hold a consultation meeting with local units of government. Upon receiving notice from a local unit of government requesting a preapplication consultation meeting, the applicant shall arrange the meeting at a location chosen by the local units of government. A single public meeting for which each local government unit requesting a meeting is given notice satisfies the meeting requirement of this subdivision.

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

Sec. 17. Minnesota Statutes 2006, section 216E.03, subdivision 4, is amended to read:

Subd. 4. **Notice of Application notice.** Within 15 days after submission of an application to the commission, 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~~ town 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~~ must identify a location where a copy of the application can be reviewed. For the purpose of giving mailed notice under this subdivision, owners ~~shall be~~ are 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~~ does 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 commission for receiving notice of proposed large electric generating power plants and high voltage transmission lines.

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

Sec. 18. **[216F.012] SIZE ELECTION.**

(a) A wind energy conversion system of less than 25 megawatts of nameplate capacity as determined under section 216F.011 is a small wind energy conversion system if, by July 1, 2009, the owner so elects in writing and submits a completed application for zoning approval and the written election to the county or counties in which the project is proposed to be located. The owner must notify the Public Utilities Commission of the election at the time the owner submits the election to the county.

(b) Notwithstanding paragraph (a), a wind energy conversion system with a nameplate capacity exceeding five megawatts that is proposed to be located wholly or partially within a wind access buffer adjacent to state lands that are part of the outdoor recreation system, as enumerated in section 86A.05, is a large wind energy conversion system. The Department of Natural Resources shall negotiate in good faith with a system

owner regarding siting and may support the system owner in seeking a variance from the system setback requirements if it determines that a variance is in the public interest.

(c) The Public Utilities Commission shall issue an annual report to the chairs and ranking minority members of the house of representatives and senate committees with primary jurisdiction over energy policy and natural resource policy regarding any variances applied for and not granted for systems subject to paragraph (b).

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

Sec. 19. **[216F.09] WECS AGGREGATION PROGRAM.**

Subdivision 1. **Program established.** The entity selected to provide rural wind development assistance under Laws 2007, chapter 57, article 2, section 3, subdivision 6, shall also establish a wind energy conversion system (WECS) aggregation program. The purpose of the program is to create a clearinghouse to coordinate and arrange umbrella sales arrangements for groups of individuals, farmstead property owners, farmers' cooperative associations, community-based energy project developers, school districts, and other political subdivisions to aggregate small-volume purchases, as a group, in order to place large orders for wind energy conversion systems with WECS manufacturers.

Subd. 2. **Responsibilities.** The entity shall:

(1) provide application procedures for participation in the program;

(2) set minimum standards for wind energy conversion systems to be considered for purchase through the program, which may include price, quality and installation standards, timely delivery schedules and arrangements, performance and reliability ratings, and any other factors considered necessary or desirable for participants;

(3) set eligibility considerations and requirements for purchasers, including availability to the applicant of land authorized for installation and use of WECS, likelihood of a permit being approved by the commission or a county under this chapter, documentation of adequate financing, and other necessary or usual financial or business practices or requirements;

(4) provide a minimal framework for soliciting or contacting manufacturers on behalf of participants; and

(5) coordinate purchase agreements between the manufacturer and participants.

Subd. 3. **Report.** By February 1 of 2009, and each year thereafter, the commissioner of commerce shall submit a report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy on the activities and results of the program, including the number of participants and the number of purchases made.

Subd. 4. **Assessment; appropriation.** Annual costs of the program, up to \$100,000, must be assessed under section 216C.052, subdivision 2, paragraph (c), clause (1). The assessment is appropriated to the commissioner of commerce to be used by the director of the Office of Energy Security for a grant to the entity to carry out the purposes of this section.

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



Sec. 20. **[216H.07] GREENHOUSE GAS EMISSION REDUCTION ATTAINMENT; POLICY DEVELOPMENT PROCESS.**

Subdivision 1. **Definitions.** (a) For the purpose of this section, the terms defined in this subdivision have the meanings given them.

(b) "Reductions" means the greenhouse gas emissions reductions goals specified in section 216H.02, subdivision 1.

Subd. 2. **Purpose.** This section is intended to create a nonexclusive, regular, mandated process for the state to develop policies to attain the greenhouse gas reduction goals specified in section 216H.02.

Subd. 3. **Biennial reduction progress report.** By January 15 of each odd-numbered year, the commissioners of commerce and the Pollution Control Agency shall jointly report to the chairs and ranking minority members of the legislative committees with primary policy jurisdiction over energy and environmental issues the most recent and best available evidence identifying the level of reductions already achieved and the level necessary to achieve the reductions timetable in section 216H.02. The report must be in easily understood nontechnical terms.

Subd. 4. **Annual legislative proposal.** The commissioners of commerce and the Pollution Control Agency shall annually by January 15 provide to the chairs of the legislative committees with primary policy jurisdiction over energy and environmental issues proposed legislation the commissioners determine appropriate to achieve the reductions. The legislation must be based on the principles in subdivision 5. If the commissioners determine no legislation is appropriate, they shall report that determination to the chairs along with an explanation of the determination.

Subd. 5. **Reduction principles.** Legislation proposed under subdivision 4 must be based on the following principles:

(1) the greenhouse gas emission reduction goals specified in section 216H.02, subdivision 1, must be attained;

(2) the reductions must be attained on a schedule that keeps pace with the reduction timetable required by section 216H.02, subdivision 1;

(3) conservation, including ceasing some activities, doing some activities less, and doing some activities more energy efficiently, is the first choice for reduction;

(4) public education is a key component;

(5) all levels of government should lead by example;

(6) strategies that may lead to economic dislocation should be phased in and should be coupled with strategies that address the dislocation; and

(7) there must be coordination with other federal and regional greenhouse gas emission reduction requirements so that the state benefits and is not penalized from its reduction activities.

Sec. 21. **[216H.10] DEFINITIONS.**

Subdivision 1. **Applicability.** For purposes of sections 216H.10 to 216H.13, the following terms have the meanings given.

Subd. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subd. 3. **Carbon dioxide equivalent.** "Carbon dioxide equivalent" means the quantity of carbon dioxide that has the same global warming potential as a given amount of another greenhouse gas.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subd. 5. **Global warming.** "Global warming" means the observed and predicted increase in the temperature of the atmosphere near the earth's surface and the oceans.

Subd. 6. **Global warming potential or GWP.** "Global warming potential" or "GWP" means a quantitative measure of the potential of an emission of a greenhouse gas to contribute to global warming over a 100-year period expressed in terms of the equivalent emission of carbon dioxide needed to produce the same 100-year warming effect, as reported in Fourth Assessment Report: Climate Change 2007, Intergovernmental Panel on Climate Change.

Subd. 7. **High-GWP greenhouse gas.** "High-GWP greenhouse gas" means hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Subd. 8. **Mobile air conditioner.** "Mobile air conditioner" means mechanical vapor compression refrigeration equipment used to cool the passenger compartment of a motor vehicle.

Subd. 9. **Motor vehicle.** "Motor vehicle" has the meaning given in section 168.011, subdivision 4.

Subd. 10. **New motor vehicle.** "New motor vehicle" has the meaning given in section 80E.03, subdivision 7.

Subd. 11. **Refrigerant.** "Refrigerant" means a substance used, sold for use, or designed and intended for use in a mobile air conditioner to transfer heat out of the space being cooled.

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

#### Sec. 22. **[216H.11] HIGH-GWP GREENHOUSE GAS REPORTING.**

Subdivision 1. **Gas manufacturers.** Beginning October 1, 2008, and each year thereafter, a manufacturer of a high-GWP greenhouse gas must report to the agency the total amount of each high-GWP greenhouse gas sold to a purchaser in this state during the previous year.

Subd. 2. **Purchases.** Beginning October 1, 2008, and each year thereafter, a person in this state who purchases 500 metric tons or more carbon dioxide equivalent of a high-GWP greenhouse gas must report to the agency, on a form prescribed by the commissioner, the total amount of each high-GWP greenhouse gas purchased during the previous year and the purpose for which the gas was used.

Subd. 3. **Acceptance of federal filing.** With the approval of the commissioner, this section may be satisfied by filing with the commissioner a copy of a greenhouse gas emissions report filed with a federal agency.

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

Sec. 23. **[216H.12] MOBILE AIR CONDITIONER LEAKAGE RATES; DISCLOSURE.**

Subdivision 1. Leakage disclosure. Beginning January 1, 2009, a manufacturer selling or offering for sale a new motor vehicle in this state containing a mobile air conditioner that uses the high-GWP greenhouse gas HFC-134a (1,1,1,2-tetrafluoroethane) as a refrigerant must, 90 days prior to the initial sale or offer for sale, report to the commissioner the leakage rate, in grams of refrigerant per year, for the type of mobile air conditioner contained in that make, model, and model year. The leakage rate must be calculated using the information provided in the most recently published version of the SAE International document J2727, "HFC-134a Mobile Air Conditioning System Emission Chart." The method by which the leakage rate is calculated, accounting for each component of the air conditioning unit, must also be reported to the commissioner.

Subd. 2. Posting. Beginning January 1, 2009, the agency and the Office of the Attorney General must post on their Web sites:

(1) the leakage rate disclosed by a manufacturer under subdivision 1 for each model and make of new motor vehicle sold or offered for sale in this state; and

(2) the following statement: "Vehicle air conditioning systems may leak refrigerants. Information provided in the chart compares the potential global warming effects of refrigerant leakage from different makes and models of vehicles."

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

Sec. 24. **[216H.13] ENFORCEMENT.**

Sections 216H.10 to 216H.12 may be enforced under section 116.072.

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

Sec. 25. Minnesota Statutes 2007 Supplement, section 500.30, subdivision 2, is amended to read:

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

**EFFECTIVE DATE.** This section is effective June 1, 2010.

Sec. 26. **REPORT.**

By February 1, 2009, the commissioner of the Pollution Control Agency shall submit a report to the chairs and ranking minority members of the senate and house of

representatives committees with primary jurisdiction over environmental policy that identifies the uses and emissions sources of hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride in this state and suggests options for reducing or eliminating those uses and emissions and the costs of implementing those options. The options for reducing emissions must include phasing out specific consumer products containing high global warming potential gases where that is cost-effective.

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

Sec. 27. **SOLAR RATING AND CERTIFICATION LABORATORY.**

The director of the Office of Energy Security shall convene technical stakeholders who are expert in the design, manufacture, installation, and operation of solar energy systems to develop criteria and characteristics for a Minnesota-based solar rating and certification laboratory. The criteria shall include, but not be limited to, consideration of durability, cold-weather operations, and indoor air quality. The director shall develop and, by September 15, 2008, issue a request for proposals for the development of a plan, based on the criteria and characteristics developed by the stakeholder group, for a solar rating and certification laboratory in the state, including cost estimates. By January 15, 2009, the director shall submit a report to the chairs of the house and senate committees with jurisdiction over energy finance issues, detailing the responses to the request and making recommendations, including draft legislation.

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

Sec. 28. **SIZE ELECTION STAKEHOLDER GROUP.**

(a) By July 30, 2008, the commissioner of commerce shall convene a Size Election Stakeholder Group to evaluate the effect of new Minnesota Statutes, section 216F.012, on the process for obtaining a site permit for wind energy conversion systems with a combined nameplate capacity between five and 25 megawatts. The Department of Commerce shall provide staff and administrative support to the group.

(b) The stakeholder group must consist of 13 members, as follows:

(1) two legislators from the house of representatives, one from the majority party and one from the minority party, appointed by the speaker of the house;

(2) two legislators from the senate, one from the majority party and one from the minority party, appointed by the Subcommittee on Committees of the Committee on Rules and Administration; and

(3) nine members, jointly appointed by the chairs of the senate and house of representatives committees with primary jurisdiction over energy policy. Four of the nine members must have experience developing or owning wind energy conversion systems in Minnesota with a combined nameplate capacity between five and 25 megawatts; one must represent the Department of Commerce; one must represent the Department of Natural Resources; one must represent counties or county associations; one must represent a nonprofit organization with experience in wind energy conversion system development issues; and one must represent a wildlife conservation organization. The members shall select one legislator each from the senate and house of representatives to serve as co-chairs of the stakeholder group.

(c) The stakeholder group shall collect and analyze data regarding site permits for wind energy conversion systems with a combined nameplate capacity between five and 25 megawatts and submit a report based on that analysis, by January 15, 2009, to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy, including recommendations as to whether Minnesota Statutes, section 216F.012, should be amended.

(d) Members of the stakeholder group are eligible for reimbursement of expenses, which the commissioner of commerce shall pay from the assessment under Minnesota Statutes, section 216C.052, subdivision 2, paragraph (c), clause (1).

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

Sec. 29. **STATE VIDEO FRANCHISING STUDY.**

Subdivision 1. Study contents. The Department of Commerce shall contract with the University of Minnesota for a study of the impact of legislation enacted in at least three states that requires franchises for video service to be issued by a state agency. The contractor conducting the study shall, prior to its initiation, consult with associations representing municipalities and communities of color. The study shall contain, at a minimum, the following information:

(1) the number of new video service providers that have applied for a state video franchise;

(2) the number of incumbent video service providers that have elected to terminate an existing franchise agreement and apply for a state video franchise;

(3) the amount of capital invested by new video service providers to furnish video service;

(4) the number of communities in which new video service providers intend to offer video services, as reflected in their application;

(5) the number of communities with an incumbent video provider in which new providers intend to offer video services;

(6) the number of communities with no incumbent video service provider in which new video service providers intend to offer video services;

(7) the effect on video service prices in communities with an incumbent video provider in which new video service providers offer video services;

(8) the effect on franchise fee revenues received by municipalities from video service providers;

(9) the effect on the number of PEG channels available to communities;

(10) the effect on the amount of revenues received by municipalities to support the provision of PEG programming in communities;

(11) the effect on the amount of PEG programming available in communities;

(12) the progress of new video providers in meeting any build-out requirements in the law; and

(13) the effect on municipal services provided to communities by video service providers.

Subd. 2. **Report.** The department shall submit the report described in subdivision 1 to the chairs and ranking minority members of the senate and house committees with primary jurisdiction over telecommunications policy by February 1, 2009.

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

Sec. 30. **BROADBAND MAPPING PROJECT.**

Subdivision 1. **Project.** The commissioner of commerce shall contract with a nonprofit organization that has significant experience working with broadband providers to develop geographical information system maps displaying levels of broadband service by connection speed and type of technology used and integrating the maps with demographic information to produce a comprehensive statewide inventory and mapping of existing broadband service and capability.

Subd. 2. **Mapping.** Data must be collected from broadband providers and entered into a geographic information system to produce maps that, for the state of Minnesota and any defined geographical entity within it, clearly convey the following information:

- (1) areas unserved by any broadband provider;
- (2) areas served by a single broadband provider;
- (3) the location of towers used to transmit and receive broadband signals;
- (4) actual upstream and downstream transmission speeds at the county level of detail;
- (5) areas served by multiple broadband providers; and
- (6) the types of technology used to provide broadband service.

The data used to produce the maps must be capable of being integrated with demographic data from other sources including, but not limited to, population density and household income to allow for the production of maps that measure, down to the census block level of detail, various characteristics of residents in areas receiving different levels of broadband services and utilizing different technologies. Data provided by a broadband provider to the contractor under this subdivision is nonpublic data under Minnesota Statutes, section 13.02, subdivision 9. Maps produced under this subdivision are public data under Minnesota Statutes, section 13.03.

For the purposes of this section, "technology" or "technologies" means different methods of connecting to the Internet including, but not limited to, cable modem, DSL, ADSL, VDSL, and fiber optics.

The initial maps must be provided to the commissioner of commerce by February 1, 2009.

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

Sec. 31. **WIND PROPERTY INTEREST MEDIATION AND REPORT.**

The commissioner of commerce shall, by July 1, 2008, convene a work group of interested parties to mediate differences concerning the termination of property interests related to wind energy systems developments. The commissioner must investigate and determine whether there is a factual basis for concerns that wind energy development may be hindered if termination of those property interests is not required by law if

development has not occurred over some specified period of time. The commissioner shall, by January 15, 2009, report to the chairs and ranking minority members of the committees of the legislature with primary jurisdiction over energy issues on the results of the factual investigation and any legislative recommendations related to termination of those property interests.

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

Sec. 32. **APPROPRIATION; DEPARTMENT OF COMMERCE.**

(a) \$175,000 is appropriated for fiscal year 2009 from the telecommunication access Minnesota fund account in the special revenue fund to the commissioner of commerce for the purpose of section 30. This is a onetime appropriation.

(b) \$85,000 is appropriated for fiscal year 2009 from the telecommunication access Minnesota fund account in the special revenue fund to the commissioner of commerce for the purpose of section 29. This is a onetime appropriation.

Sec. 33. **AUTHORIZATION.**

The director of the Legislative Coordinating Commission may expend money appropriated for the use of the Legislative Electric Energy Task Force for the purposes of the Legislative Energy Commission established in Minnesota Statutes, section 3.8851, and those funds are available until expended and the money is appropriated to the director for that purpose.

**EFFECTIVE DATE.** This section is effective January 3, 2009.

Sec. 34. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall recodify Minnesota Statutes, section 216C.051, as section 3.8851.

Sec. 35. **REPEALER.**

Minnesota Statutes 2006, section 115C.09, subdivision 3j, is repealed.

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

## ARTICLE 2 OUTDOOR LIGHTING

Section 1. Minnesota Statutes 2007 Supplement, section 16B.328, is amended by adding a subdivision to read:

Subd. 3. **Standards for state-funded outdoor lighting fixtures.** (a) An outdoor lighting fixture may be installed or replaced using state funds only if:

(1) the new or replacement outdoor lighting fixture is a cutoff luminaire if the rated output of the outdoor lighting fixture is greater than 1,800 lumens;

(2) the minimum illuminance adequate for the intended purpose is used with consideration given to nationally recognized standards;

(3) for lighting of a designated highway of the state highway system, the Department of Transportation determines that the purpose of the outdoor lighting fixture cannot be achieved by the installation of reflective road markers, lines, warning or informational signs, or other effective passive methods; and

(4) full consideration has been given to energy conservation and savings, reducing glare, minimizing light pollution, and preserving the natural night environment.

(b) Paragraph (a) does not apply if:

(1) a federal law, rule, or regulation preempts state law;

(2) the outdoor lighting fixture is used on a temporary basis because emergency personnel require additional illumination for emergency procedures;

(3) the outdoor lighting fixture is used on a temporary basis for nighttime work;

(4) special events or situations require additional illumination, provided that the illumination installed shields the outdoor lighting fixtures from direct view and minimizes upward lighting and light pollution;

(5) the outdoor lighting fixture is used solely to highlight the aesthetic aspects of a single object or distinctive building; or

(6) a compelling safety interest exists that cannot be addressed by another method.

(c) This subdivision does not apply to the operation and maintenance of lights or lighting systems purchased or installed, or for which design work is completed, before August 1, 2008.

(d) This section does not apply if a state agency or local unit of government determines that compliance with this section would:

(1) require an increased use of electricity;

(2) increase the construction cost of a lighting system more than 15 percent over the construction cost of a lighting system that does not comply with this section;

(3) increase the cost of operation and maintenance of the lighting system more than ten percent over the cost of operating and maintaining the existing lighting system over the life of the lighting system; or

(4) result in a negative safety impact.

Presented to the governor May 8, 2008

Signed by the governor May 12, 2008, 1:23 p.m.