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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

NINETIETH SESSION

**H. F. No. 1038**

02/09/2017 Authored by Mahoney, O'Neill, Metsa and Garofalo  
The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy  
02/16/2017 Adoption of Report: Amended and re-referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act  
1.2 relating to energy; establishing an energy fund account and related requirements;  
1.3 establishing a legislative council to make funding recommendations to the  
1.4 legislature; amending Minnesota Statutes 2016, section 116C.779, subdivision 1,  
1.5 by adding a subdivision; proposing coding for new law in Minnesota Statutes,  
1.6 chapter 116C.

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

1.8 Section 1. Minnesota Statutes 2016, section 116C.779, subdivision 1, is amended to read:

1.9 Subdivision 1. ~~Renewable development~~ **Energy fund account.** (a) The energy fund  
1.10 account is established as a separate account in the special revenue fund in the state treasury.  
1.11 Appropriations and transfers to the account are credited to the account. Earnings, such as  
1.12 interest, dividends, and any other earnings arising from assets of the account, are credited  
1.13 to the account. Funds remaining in the account at the end of a fiscal year do not cancel to  
1.14 the general fund, but remain in the account until expended.

1.15 (b) On July 1, 2017, the public utility that owns the Prairie Island nuclear generating  
1.16 plant must transfer all funds in the renewable development account previously established  
1.17 under this subdivision and managed by the public utility to the energy fund account  
1.18 established in paragraph (a). Funds awarded to grantees in previous grant cycles that have  
1.19 not yet been expended and unencumbered funds required to be paid in calendar year 2017  
1.20 under sections 116C.7791, 116C.7792, and 216C.41 are not subject to transfer under this  
1.21 paragraph.

1.22 (c) Except as provided in subdivision 1a, beginning January 15, 2018, and continuing  
1.23 each January 15 thereafter, the public utility that owns the Prairie Island nuclear generating  
1.24 plant must transfer to a ~~renewable development~~ the energy fund account \$500,000 each

2.1 year for each dry cask containing spent fuel that is located at the Prairie Island power plant  
2.2 for each year the plant is in operation, and \$7,500,000 each year the plant is not in operation  
2.3 if ordered by the commission pursuant to paragraph ~~(e)~~ (f). The fund transfer must be made  
2.4 if nuclear waste is stored in a dry cask at the independent spent-fuel storage facility at Prairie  
2.5 Island for any part of a year.

2.6 ~~(b)~~ (d) Except as provided in subdivision 1a, beginning January 15, 2018, and continuing  
2.7 each January 15 thereafter, the public utility that owns the Monticello nuclear generating  
2.8 plant must transfer to the ~~renewable development~~ energy fund account \$350,000 each year  
2.9 for each dry cask containing spent fuel that is located at the Monticello nuclear power plant  
2.10 for each year the plant is in operation, and \$5,250,000 each year the plant is not in operation  
2.11 if ordered by the commission pursuant to paragraph ~~(e)~~ (f). The fund transfer must be made  
2.12 if nuclear waste is stored in a dry cask at the independent spent-fuel storage facility at  
2.13 Monticello for any part of a year.

2.14 (e) Each year, the public utility must withhold from the funds transferred to the energy  
2.15 fund account under paragraphs (c) and (d) the amount necessary to pay its obligations under  
2.16 sections 116C.7791, 116C.7792, and 216C.41 for that calendar year.

2.17 ~~(e)~~ (f) After discontinuation of operation of the Prairie Island nuclear plant or the  
2.18 Monticello nuclear plant and each year spent nuclear fuel is stored in dry cask at the  
2.19 discontinued facility, the commission shall require the public utility to pay \$7,500,000 for  
2.20 the discontinued Prairie Island facility and \$5,250,000 for the discontinued Monticello  
2.21 facility for any year in which the commission finds, by the preponderance of the evidence,  
2.22 that the public utility did not make a good faith effort to remove the spent nuclear fuel stored  
2.23 at the facility to a permanent or interim storage site out of the state. This determination shall  
2.24 be made at least every two years.

2.25 (g) Funds in the account may only be expended to support the expansion of:

2.26 (1) electric energy generated from solar, wind, or biomass resources;

2.27 (2) heat energy from solar thermal or geothermal projects;

2.28 (3) energy efficiency;

2.29 (4) motor vehicles fueled by sources other than gasoline or diesel fuel; or

2.30 (5) energy storage.

2.31 Except as provided in section 116C.7793, subdivision 7, expenditures from the fund must  
2.32 only benefit ratepayers receiving electric service from the utility that owns a nuclear powered  
2.33 electric generating plant in this state.

3.1 ~~(d) Funds in the account may be expended only for any of the following purposes:~~

3.2 ~~(1) to increase the market penetration within the state of renewable electric energy~~  
3.3 ~~resources at reasonable costs;~~

3.4 ~~(2) to promote the start-up, expansion, and attraction of renewable electric energy projects~~  
3.5 ~~and companies within the state;~~

3.6 ~~(3) to stimulate research and development within the state into renewable electric energy~~  
3.7 ~~technologies; and~~

3.8 ~~(4) to develop near-commercial and demonstration scale renewable electric projects or~~  
3.9 ~~near-commercial and demonstration scale electric infrastructure delivery projects if those~~  
3.10 ~~delivery projects enhance the delivery of renewable electric energy.~~

3.11 ~~The utility that owns a nuclear generating plant is eligible to apply for renewable development~~  
3.12 ~~account grants.~~

3.13 ~~(e) Expenditures authorized by this subdivision from the account may be made only~~  
3.14 ~~after approval by order of the Public Utilities Commission upon a petition by the public~~  
3.15 ~~utility. The commission may approve proposed expenditures, may disapprove proposed~~  
3.16 ~~expenditures that it finds to be not in compliance with this subdivision or otherwise not in~~  
3.17 ~~the public interest, and may, if agreed to by the public utility, modify proposed expenditures.~~  
3.18 ~~The commission may approve reasonable and necessary expenditures for administering the~~  
3.19 ~~account in an amount not to exceed five percent of expenditures. Commission approval is~~  
3.20 ~~not required for expenditures required under subdivisions 2 and 3, section 116C.7791, or~~  
3.21 ~~other law.~~

3.22 ~~(f) The account shall be managed by the public utility but the public utility must consult~~  
3.23 ~~about account expenditures with an advisory group that includes, among others,~~  
3.24 ~~representatives of its ratepayers. The commission may require that other interests be~~  
3.25 ~~represented on the advisory group. The advisory group must be consulted with respect to~~  
3.26 ~~the general scope of expenditures in designing a request for proposal and in evaluating~~  
3.27 ~~projects submitted in response to a request for proposals. In addition to consulting with the~~  
3.28 ~~advisory group, the public utility must utilize an independent third-party expert to evaluate~~  
3.29 ~~proposals submitted in response to a request for proposal, including all proposals made by~~  
3.30 ~~the public utility. A request for proposal for research and development under paragraph (d),~~  
3.31 ~~clause (3), may be limited to or include a request to higher education institutions located in~~  
3.32 ~~Minnesota for multiple projects authorized under paragraph (d), clause (3). The request for~~  
3.33 ~~multiple projects may include a provision that exempts the projects from the third-party~~  
3.34 ~~expert review and instead provides for project evaluation and selection by a merit peer~~

4.1 ~~review grant system. The utility should attempt to reach agreement with the advisory group~~  
4.2 ~~after consulting with it but the utility has full and sole authority to determine which~~  
4.3 ~~expenditures shall be submitted to the commission for commission approval. In the process~~  
4.4 ~~of determining request for proposal scope and subject and in evaluating responses to request~~  
4.5 ~~for proposals, the public utility must strongly consider, where reasonable, potential benefit~~  
4.6 ~~to Minnesota citizens and businesses and the utility's ratepayers.~~

4.7 ~~(g) Funds in the account may not be directly appropriated by the legislature by a law~~  
4.8 ~~enacted after January 1, 2012, and unless appropriated by a law enacted prior to that date~~  
4.9 ~~may be expended only pursuant to an order of the commission according to this subdivision.~~

4.10 ~~(h) A request for proposal for renewable energy generation projects must, when feasible~~  
4.11 ~~and reasonable, give preference to projects that are most cost-effective for a particular energy~~  
4.12 ~~source.~~

4.13 ~~(i) The public utility must annually, by February 15, report to the chairs and ranking~~  
4.14 ~~minority members of the legislative committees with jurisdiction over energy policy on~~  
4.15 ~~projects funded by the account for the prior year and all previous years. The report must,~~  
4.16 ~~to the extent possible and reasonable, itemize the actual and projected financial benefit to~~  
4.17 ~~the public utility's ratepayers of each project.~~

4.18 ~~(j) A project receiving funds from the account must produce a written final report that~~  
4.19 ~~includes sufficient detail for technical readers and a clearly written summary for nontechnical~~  
4.20 ~~readers. The report must include an evaluation of the project's financial, environmental, and~~  
4.21 ~~other benefits to the state and the public utility's ratepayers.~~

4.22 ~~(k) Final reports, any mid-project status reports, and renewable development account~~  
4.23 ~~financial reports must be posted online on a public Web site designated by the commission.~~

4.24 ~~(l) All final reports must acknowledge that the project was made possible in whole or~~  
4.25 ~~part by the Minnesota renewable development fund, noting that the fund is financed by the~~  
4.26 ~~public utility's ratepayers.~~

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

4.28 Sec. 2. Minnesota Statutes 2016, section 116C.779, is amended by adding a subdivision  
4.29 to read:

4.30 Subd. 1a. **Payment termination.** (a) The commissioner shall track the cumulative  
4.31 transfers made to the account and its predecessor, the renewable development account, each  
4.32 year since 1999 for each dry cask containing spent fuel that is stored at an independent  
4.33 spent-fuel storage facility at Prairie Island or Monticello. During the time when state law

5.1 required the public utility to transfer a specific amount of funds to the account for all the  
5.2 casks stored, the per-cask allocation shall be calculated by dividing the total amount  
5.3 transferred by the number of casks stored that year.

5.4 (b) When the commissioner determines that the cumulative transfers calculated under  
5.5 paragraph (a) for a specific cask reach \$10,000,000, the commissioner shall notify the public  
5.6 utility that no additional transfers to the account for that cask shall be made.

5.7 (c) This subdivision does not affect any provisions of subdivision 1, paragraph (c) or  
5.8 (d), with respect to transfers to the account made after a plant has ceased operation.

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

5.10 **Sec. 3. [116C.7793] LEGISLATIVE RENEWABLE ENERGY COUNCIL.**

5.11 Subdivision 1. **Establishment.** (a) The Legislative Renewable Energy Council of 11  
5.12 members is established in the legislative branch, consisting of:

5.13 (1) five members of the house of representatives appointed by the speaker of the house,  
5.14 three of whom are from the majority caucus and two of whom are from the minority caucus;  
5.15 and

5.16 (2) five members of the senate appointed by the Subcommittee on Committees of the  
5.17 Committee on Rules and Administration, three of whom are from the majority caucus and  
5.18 two of whom are from the minority caucus; and

5.19 (3) one representative of the Prairie Island Indian Community appointed by that  
5.20 community's tribal council.

5.21 (b) Eight legislative members appointed to the council must represent legislative districts  
5.22 in which at least 60 percent of residents receive electric service from the utility that owns  
5.23 a nuclear powered electric generating plant in this state. No member may be appointed to  
5.24 the council from a legislative district that does not contain any electric retail customers of  
5.25 the utility that owns a nuclear powered electric generating plant in this state. Council  
5.26 members must be geographically balanced to represent the entire electric service area of  
5.27 that utility.

5.28 (c) Council members shall elect a chair, a vice-chair, and other officers as determined  
5.29 by the council. The chair may convene meetings as necessary to conduct the duties prescribed  
5.30 by this section.

5.31 (d) The Legislative Coordinating Commission may appoint nonpartisan staff and contract  
5.32 with consultants as necessary to support the functions of the council. The council has final

6.1 approval authority to hire an executive director. Up to one-half of one percent of the money  
6.2 appropriated from the fund may be used to pay for the council's administrative expenses.

6.3 Subd. 2. **Council recommendations.** (a) The council must make recommendations to  
6.4 the legislature on appropriations from the energy fund account established under section  
6.5 116C.779 that are consistent with that section and state law. The council's recommendations  
6.6 must be submitted no later than December 15 each year. The council must present its  
6.7 recommendations to the senate and house of representatives committees with jurisdiction  
6.8 over energy policy and finance by February 15 in odd-numbered years, and within the first  
6.9 four weeks of the legislative session in even-numbered years.

6.10 (b) Recommendations of the council, including approval of recommendations for  
6.11 expenditures from the energy fund account, require an affirmative vote of at least eight  
6.12 members of the council.

6.13 (c) The council must develop and implement a decision-making process that ensures  
6.14 citizens and potential recipients of funds are included at each stage of the process. The  
6.15 process must include a fair, equitable, and thorough method to review funding requests,  
6.16 and a clear and easily understood process to rank projects.

6.17 Subd. 3. **Conflict of interest.** (a) A council member may not be an advocate for or  
6.18 against a council action or vote on any action that may be a conflict of interest. A conflict  
6.19 of interest must be disclosed as soon as it is discovered. The council must follow the policies  
6.20 and requirements related to conflicts of interest developed by the Office of Grants  
6.21 Management under section 16B.98.

6.22 (b) For the purposes of this section, a conflict of interest exists when a person has an  
6.23 organizational conflict of interest or a direct financial conflict of interest, and the conflict  
6.24 of interest presents the appearance that it will be difficult for the person to impartially fulfill  
6.25 the person's duties as a member of the council. An organizational conflict of interest exists  
6.26 when a person has an affiliation with an organization subject to council activities that presents  
6.27 the appearance of a conflict between organizational interests and the council member's  
6.28 duties under this section. An organizational conflict of interest does not exist if the person's  
6.29 only affiliation with an organization is being a member of the organization.

6.30 Subd. 4. **Audit.** The legislative auditor must audit energy fund account expenditures  
6.31 recommended by the council, including administrative and staffing expenditures, to ensure  
6.32 the money is spent in compliance with all applicable laws.

6.33 Subd. 5. **Recipient requirements.** (a) A recipient of a direct appropriation from the  
6.34 energy fund account recommended by the council must compile and submit all information

7.1 for funded projects or programs, including proposed measurable outcomes required by the  
7.2 council.

7.3 (b) A recipient's future eligibility to receive funds from the energy fund account is  
7.4 contingent upon the recipient satisfying all applicable requirements under this section, as  
7.5 well as any additional requirements contained in applicable law. If the Office of the  
7.6 Legislative Auditor, in the course of an audit or investigation, publicly reports that a recipient  
7.7 of funds from the energy fund account has not complied with the laws, rules, or regulations  
7.8 under this section or other laws applicable to the recipient, the recipient is not eligible for  
7.9 future funding from the energy fund account until the recipient demonstrates compliance  
7.10 to the legislative auditor.

7.11 (c) A recipient of a direct appropriation from the energy fund account pursuant to a  
7.12 recommendation by the council may not receive funds from another direct appropriation  
7.13 from the council until four years after completion of the project funded by the prior direct  
7.14 appropriation.

7.15 Subd. 6. **Accomplishment plans.** As a condition of accepting funds appropriated from  
7.16 the energy fund account on the council's recommendation, a recipient must agree to submit  
7.17 an accomplishment plan and periodic accomplishment reports to the council in the form  
7.18 determined by the council. The accomplishment plan must identify the project manager  
7.19 responsible for expending the appropriation and the final product. The accomplishment plan  
7.20 must account for the use of the appropriation, identify outcomes of the expenditure, and  
7.21 include an evaluation of results.

7.22 Subd. 7. **Expenditures.** (a) The council's recommendations regarding expenditures from  
7.23 the energy fund account may include but are not limited to research and development  
7.24 projects, demonstration projects, and statewide programs and financial incentives.

7.25 (b) If general fund money is transferred to the energy fund account, the council may  
7.26 recommend the expenditure of, and the legislature may appropriate, funds from the account  
7.27 up to the amount of general fund money present in the account for purposes that do not  
7.28 exclusively benefit ratepayers receiving electric service from the utility that owns a nuclear  
7.29 powered generating plant in this state.

7.30 Subd. 8. **Administration.** The council shall develop administrative procedures for the  
7.31 submission and review of proposals seeking funding from the council.

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