

1.1 A bill for an act

1.2 relating to energy; removing moratorium on construction of nuclear power plant;
1.3 modifying considerations for implementing energy standard; modifying provision
1.4 related to software developed by the state; making technical changes related to
1.5 utility report filings, hydrogen energy projects, weatherization programs, public
1.6 utility commission assessments, and utility metering for supportive housing;
1.7 removing obsolete and redundant language; amending Minnesota Statutes
1.8 2008, sections 16E.15, subdivision 2; 216B.1691, subdivision 2b; 216B.241,
1.9 subdivision 2; 216B.243, subdivision 3b; 216B.812, subdivision 2; 216C.264;
1.10 216E.18, subdivision 3; 326B.106, subdivision 12; proposing coding for new law
1.11 in Minnesota Statutes, chapter 216B; repealing Minnesota Statutes 2008, sections
1.12 216C.19, subdivisions 2, 3, 13, 14, 15, 16, 18, 19, 20; 216C.262; Minnesota
1.13 Statutes 2009 Supplement, section 216C.19, subdivision 17.

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

1.15 Section 1. Minnesota Statutes 2008, section 16E.15, subdivision 2, is amended to read:

1.16 Subd. 2. **Software sale fund.** (a) Except as provided in ~~paragraphs~~ paragraph (b)
1.17 ~~and (c)~~, proceeds of the sale or licensing of software products or services by the chief
1.18 information officer must be credited to the enterprise technology revolving fund. If a state
1.19 agency other than the Office of Enterprise Technology has contributed to the development
1.20 of software sold or licensed under this section, the chief information officer may reimburse
1.21 the agency by discounting computer services provided to that agency.

1.22 (b) Proceeds of the sale or licensing of software products or services developed by
1.23 the Pollution Control Agency, or custom developed by a vendor for the agency, must be
1.24 credited to the environmental fund.

1.25 ~~(c) Proceeds of the sale or licensing of software products or services developed by~~
1.26 ~~the Department of Education, or custom developed by a vendor for the agency, to support~~
1.27 ~~the achieved savings assessment program, must be appropriated to the commissioner of~~
1.28 ~~education and credited to the weatherization program to support weatherization activities.~~

2.1 Sec. 2. Minnesota Statutes 2008, section 216B.1691, subdivision 2b, is amended to
2.2 read:

2.3 Subd. 2b. **Modification or delay of standard.** (a) The commission shall modify or
2.4 delay the implementation of a standard obligation, in whole or in part, if the commission
2.5 determines it is in the public interest to do so. The commission, when requested to modify
2.6 or delay implementation of a standard, must consider:

2.7 (1) the impact of implementing the standard on its customers' utility costs, including
2.8 the economic and competitive pressure on the utility's customers;

2.9 (2) the effects of implementing the standard on the reliability of the electric system;

2.10 (3) technical advances or technical concerns;

2.11 (4) delays in acquiring sites or routes due to rejection or delays of necessary siting or
2.12 other permitting approvals;

2.13 (5) the availability of suitable sites for the location of eligible energy technology
2.14 facilities, considering local land use restrictions;

2.15 (6) delays, cancellations, or nondelivery of necessary equipment for construction or
2.16 commercial operation of an eligible energy technology facility;

2.17 ~~(6)~~ (7) transmission constraints preventing delivery of service; and

2.18 ~~(7)~~ (8) other statutory obligations imposed on the commission or a utility.

2.19 The commission may modify or delay implementation of a standard obligation under
2.20 clauses (1) to (3) only if it finds implementation would cause significant rate impact,
2.21 requires significant measures to address reliability, or raises significant technical issues.

2.22 The commission may modify or delay implementation of a standard obligation under
2.23 clauses (4) to (6) only if it finds that the circumstances described in those clauses were due
2.24 to circumstances beyond an electric utility's control and make compliance not feasible.

2.25 (b) When considering whether to delay or modify implementation of a standard
2.26 obligation, the commission must give due consideration to a preference for electric
2.27 generation through use of eligible energy technology and to the achievement of the
2.28 standards set by this section.

2.29 (c) An electric utility requesting a modification or delay in the implementation of a
2.30 standard must file a plan to comply with its standard obligation in the same proceeding
2.31 that it is requesting the delay.

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

2.33 Sec. 3. **[216B.1695] NUCLEAR POWER PLANT; COST RECOVERY.**

3.1 (a) The commission may not allow any of the following costs attributable to the
3.2 construction of a nuclear generating plant begun after July 1, 2010, to be recovered from
3.3 Minnesota ratepayers until the plant begins operating at a monthly load capacity factor of
3.4 at least 85 percent:

3.5 (1) planning, design, safety, environmental, or engineering studies undertaken prior
3.6 to construction; or

3.7 (2) the costs of obtaining regulatory approval, including permits, licenses and any
3.8 other approval required prior to construction from federal, state and local authorities.

3.9 (b) The commission may not allow any of the following costs attributable to the
3.10 construction of a nuclear generating plant begun after July 1, 2010, to be recovered from
3.11 Minnesota ratepayers:

3.12 (1) any construction costs exceeding the projected construction cost of the generating
3.13 plant and any ancillary facility constructed by the utility to temporarily or permanently
3.14 store nuclear waste generated by the plant, as identified in the utility's certificate of need
3.15 application submitted under section 216B.243;

3.16 (2) the costs of insuring the plant against accidents that exceed the cost of insurance
3.17 for a fossil fuel plant of equivalent capacity; or

3.18 (3) contributions from the plant to provide and maintain local fire protection and
3.19 emergency services to the plant in case of an accident.

3.20 (c) Except for regulatory costs of state agencies, no revenues from taxes or
3.21 fees imposed by the state of Minnesota may be used to pay for any portion of the
3.22 preconstruction, construction, maintenance, or operating costs of a nuclear generating
3.23 plant, or to assume any financial risk associated with an accidental release of radioactivity
3.24 from the generating plant or an ancillary facility constructed by the utility that owns the
3.25 generating plant to temporarily or permanently store nuclear waste generated by the plant.

3.26 Sec. 4. Minnesota Statutes 2008, section 216B.241, subdivision 2, is amended to read:

3.27 Subd. 2. **Programs.** (a) The commissioner may require public utilities to make
3.28 investments and expenditures in energy conservation improvements, explicitly setting
3.29 forth the interest rates, prices, and terms under which the improvements must be offered to
3.30 the customers. The required programs must cover no more than a three-year period. Public
3.31 utilities shall file conservation improvement plans by June 1, on a schedule determined by
3.32 order of the commissioner, but at least every three years. Plans received by a public utility
3.33 by June 1 must be approved or approved as modified by the commissioner by December
3.34 1 of that same year. The commissioner shall evaluate the program on the basis of
3.35 cost-effectiveness and the reliability of technologies employed. The commissioner's order

4.1 must provide to the extent practicable for a free choice, by consumers participating in the
4.2 program, of the device, method, material, or project constituting the energy conservation
4.3 improvement and for a free choice of the seller, installer, or contractor of the energy
4.4 conservation improvement, provided that the device, method, material, or project seller,
4.5 installer, or contractor is duly licensed, certified, approved, or qualified, including under
4.6 the residential conservation services program, where applicable.

4.7 (b) The commissioner may require a utility to make an energy conservation
4.8 improvement investment or expenditure whenever the commissioner finds that the
4.9 improvement will result in energy savings at a total cost to the utility less than the cost
4.10 to the utility to produce or purchase an equivalent amount of new supply of energy. The
4.11 commissioner shall nevertheless ensure that every public utility operate one or more
4.12 programs under periodic review by the department.

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

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

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

4.34 (f) The commissioner may order a public utility to include, with the filing of the
4.35 utility's ~~proposed conservation improvement plan under paragraph (a)~~ annual status
4.36 report, the results of an independent audit of all or a selection of the utility's conservation

5.1 improvement programs and expenditures performed by the department or an auditor
5.2 with experience in the provision of energy conservation and energy efficiency services
5.3 approved by the commissioner and chosen by the utility. The audit must specify the
5.4 energy savings or increased efficiency in the use of energy within the service territory of
5.5 the utility that is the result of the spending and investments. The audit must evaluate the
5.6 cost-effectiveness of the utility's conservation programs.

5.7 Sec. 5. Minnesota Statutes 2008, section 216B.243, subdivision 3b, is amended to read:

5.8 Subd. 3b. **Nuclear power plant; new construction ~~prohibited~~; relicensing.**

5.9 (a) The commission may ~~not~~ issue a certificate of need for the construction of a ~~new~~
5.10 nuclear-powered electric generating plant provided that the certificate of need application
5.11 contains a separate estimate of preconstruction and construction costs that does not include
5.12 any of the costs identified in section 216B.1695, paragraphs (a) and (b).

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

5.16 Sec. 6. Minnesota Statutes 2008, section 216B.812, subdivision 2, is amended to read:

5.17 Subd. 2. **Pilot projects.** (a) In consultation with appropriate representatives from
5.18 state agencies, local governments, universities, businesses, and other interested parties, the
5.19 Department of Commerce shall ~~report back to the legislature by November 1, 2005, and~~
5.20 ~~every two years thereafter, with~~ develop a slate of proposed pilot projects that contribute
5.21 to realizing Minnesota's hydrogen economy goal as set forth in section 216B.8109. The
5.22 Department of Commerce must consider the following nonexclusive list of priorities in
5.23 developing the proposed slate of pilot projects:

5.24 (1) deploy "bridge" technologies such as hybrid-electric, off-road, and fleet vehicles
5.25 running on hydrogen or fuels blended with hydrogen;

5.26 (2) lead to cost-competitive, on-site renewable hydrogen production technologies;

5.27 (3) demonstrate nonvehicle applications for hydrogen;

5.28 (4) improve the cost and efficiency of hydrogen from renewable energy sources; and

5.29 (5) improve the cost and efficiency of hydrogen production using direct solar energy
5.30 without electricity generation as an intermediate step.

5.31 (b) For deployment projects that do not involve a demonstration component,
5.32 individual system components of the technology should, if feasible, meet commercial
5.33 performance standards and systems modeling must be completed to predict commercial

6.1 performance, risk, and synergies. In addition, the proposed pilots should meet as many of
6.2 the following criteria as possible:

- 6.3 (1) advance energy security;
- 6.4 (2) capitalize on the state's native resources;
- 6.5 (3) result in economically competitive infrastructure being put in place;
- 6.6 (4) be located where it will link well with existing and related projects and be
6.7 accessible to the public, now or in the future;
- 6.8 (5) demonstrate multiple, integrated aspects of renewable hydrogen infrastructure;
- 6.9 (6) include an explicit public education and awareness component;
- 6.10 (7) be scalable to respond to changing circumstances and market demands;
- 6.11 (8) draw on firms and expertise within the state where possible;
- 6.12 (9) include an assessment of its economic, environmental, and social impact; and
- 6.13 (10) serve other needs beyond hydrogen development.

6.14 Sec. 7. Minnesota Statutes 2008, section 216C.264, is amended to read:

6.15 **216C.264 COORDINATING RESIDENTIAL WEATHERIZATION**
6.16 **PROGRAMS.**

6.17 Subdivision 1. **Agency designation.** The department is the state agency to apply
6.18 for, receive, and disburse money made available to the state by federal law for the purpose
6.19 of weatherizing the residences of low-income persons. The commissioner must coordinate
6.20 available federal money with state money appropriated for this purpose.

6.21 Subd. 2. **Grants.** The commissioner must make grants of federal and state money
6.22 to community action agencies and other public or private nonprofit agencies for the
6.23 purpose of weatherizing the residences of low-income persons. ~~Grant applications must~~
6.24 ~~be submitted in accordance with rules promulgated by the commissioner.~~

6.25 Subd. 3. **Benefits of weatherization.** In the case of any grant made to an owner of a
6.26 rental dwelling unit for weatherization, the commissioner must require that (1) the benefits
6.27 of weatherization assistance in connection with the dwelling unit accrue primarily to the
6.28 low-income family that resides in the unit; (2) the rents on the dwelling unit will not be
6.29 raised because of any increase in value due solely to the weatherization assistance; and (3)
6.30 no undue or excessive enhancement will occur to the value of the dwelling unit.

6.31 ~~Subd. 4. **Rules.** The commissioner must promulgate rules that describe procedures~~
6.32 ~~for the administration of grants, data to be reported by grant recipients, and compliance~~
6.33 ~~with relevant federal regulations. The commissioner must require that a rental unit~~
6.34 ~~weatherized under this section be rented to a household meeting the income limits of~~
6.35 ~~the program for 24 of the 36 months after weatherization is complete. In applying this~~

7.1 ~~restriction to multiunit buildings weatherized under this section, the commissioner must~~
7.2 ~~require that occupancy continue to reflect the proportion of eligible households in the~~
7.3 ~~building at the time of weatherization.~~

7.4 Subd. 5. **Grant allocation.** The commissioner must distribute supplementary
7.5 state grants in a manner consistent with the goal of producing the maximum number of
7.6 weatherized units. Supplementary state grants are provided primarily for the payment of
7.7 additional labor costs for the federal weatherization program, and as an incentive for the
7.8 increased production of weatherized units.

7.9 Criteria for the allocation of state grants to local agencies include existing local
7.10 agency production levels, emergency needs, and the potential for maintaining or increasing
7.11 acceptable levels of production in the area.

7.12 An eligible local agency may receive advance funding for 90 days' production, but
7.13 thereafter must receive grants solely on the basis of program criteria.

7.14 Subd. 6. **Eligibility criteria.** To the extent allowed by federal regulations, the
7.15 commissioner must ensure that the same income eligibility criteria apply to both the
7.16 weatherization program and the energy assistance program.

7.17 Sec. 8. Minnesota Statutes 2008, section 216E.18, subdivision 3, is amended to read:

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

7.24 Each share shall be determined as follows: (1) the ratio that the annual retail
7.25 kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour
7.26 sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual
7.27 gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual
7.28 total gross revenues from retail kilowatt-hour sales in the state of all these utilities,
7.29 multiplied by 0.333, as determined by the commission. The assessment shall be credited
7.30 to the special revenue fund and shall be paid to the state treasury within 30 days after
7.31 receipt of the bill, which shall constitute notice of said assessment and demand of payment
7.32 thereof. The total amount which may be assessed to the several utilities under authority
7.33 of this subdivision shall not exceed the sum of the annual budget of the commission
7.34 for carrying out the purposes of this subdivision. The assessment for the ~~second~~ third
7.35 quarter of each fiscal year shall be adjusted to compensate for the amount by which actual

8.1 expenditures by the commission for the preceding fiscal year were more or less than the
8.2 estimated expenditures previously assessed.

8.3 Sec. 9. Minnesota Statutes 2008, section 326B.106, subdivision 12, is amended to read:

8.4 Subd. 12. **Separate metering for electric service.** The standards concerning heat
8.5 loss, illumination, and climate control adopted pursuant to subdivision 1, shall require
8.6 that electrical service to individual dwelling units in buildings containing two or more
8.7 units be separately metered, with individual metering readily accessible to the individual
8.8 occupants. The standards authorized by this subdivision shall only apply to buildings
8.9 constructed after the effective date of the amended standards. Buildings intended for
8.10 occupancy primarily by persons who are 62 years of age or older or disabled, supportive
8.11 housing, or ~~which~~ buildings that contain a majority of units not equipped with complete
8.12 kitchen facilities, shall be exempt from the provisions of this subdivision. For purposes
8.13 of this section, "supportive housing" means housing made available to individuals and
8.14 families with multiple barriers to obtaining and maintaining housing, including those who
8.15 are formerly homeless or at risk of homelessness and those who have a mental illness,
8.16 substance abuse disorder, debilitating disease, or a combination of these conditions.

8.17 Sec. 10. **REPEALER.**

8.18 Minnesota Statutes 2008, sections 216C.19, subdivisions 2, 3, 13, 14, 15, 16, 18,
8.19 19, and 20; and 216C.262, are repealed.

8.20 Minnesota Statutes 2009 Supplement, section 216C.19, subdivision 17, is repealed.