

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 4269

(SENATE AUTHORS: SENJEM)

DATE	D-PG	OFFICIAL STATUS
03/24/2022	5611	Introduction and first reading
		Referred to Energy and Utilities Finance and Policy
04/04/2022	6331a	Comm report: To pass as amended and re-refer to Finance

- 1.1 A bill for an act
- 1.2 relating to energy; making policy and technical changes; requiring a report;
- 1.3 appropriating money; amending Minnesota Statutes 2020, sections 116C.779,
- 1.4 subdivision 1; 116J.55, subdivisions 1, 5; 216B.096, subdivision 11; 216B.24, by
- 1.5 adding a subdivision; 216B.243, subdivision 3b; 216B.50, subdivision 1; 216C.435,
- 1.6 subdivision 8; 216C.436, subdivision 2, by adding a subdivision; 237.55; Minnesota
- 1.7 Statutes 2021 Supplement, sections 116C.7792; 216C.376, subdivision 5; Laws
- 1.8 2020, chapter 118, section 5, subdivision 1; Laws 2021, First Special Session
- 1.9 chapter 4, article 2, section 3, subdivision 1; proposing coding for new law in
- 1.10 Minnesota Statutes, chapters 216B; 216H; 465; repealing Laws 2005, chapter 97,
- 1.11 article 10, section 3, as amended; Laws 2021, First Special Session chapter 4,
- 1.12 article 2, section 3, subdivision 3.
- 1.13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.14 Section 1. Minnesota Statutes 2020, section 116C.779, subdivision 1, is amended to read:
- 1.15 Subdivision 1. **Renewable development account.** (a) The renewable development
- 1.16 account is established as a separate account in the special revenue fund in the state treasury.
- 1.17 Appropriations and transfers to the account shall be credited to the account. Earnings, such
- 1.18 as interest, dividends, and any other earnings arising from assets of the account, shall be
- 1.19 credited to the account. Funds remaining in the account at the end of a fiscal year are not
- 1.20 canceled to the general fund but remain in the account until expended. The account shall
- 1.21 be administered by the commissioner of management and budget as provided under this
- 1.22 section.
- 1.23 (b) On July 1, 2017, the public utility that owns the Prairie Island nuclear generating
- 1.24 plant must transfer all funds in the renewable development account previously established
- 1.25 under this subdivision and managed by the public utility to the renewable development
- 1.26 account established in paragraph (a). Funds awarded to grantees in previous grant cycles

2.1 that have not yet been expended and unencumbered funds required to be paid in calendar
2.2 year 2017 under paragraphs (f) and (g), and sections 116C.7792 and 216C.41, are not subject
2.3 to transfer under this paragraph.

2.4 (c) Except as provided in subdivision 1a, beginning January 15, 2018, and continuing
2.5 each January 15 thereafter, the public utility that owns the Prairie Island nuclear generating
2.6 plant must transfer to the renewable development account \$500,000 each year for each dry
2.7 cask containing spent fuel that is located at the Prairie Island power plant for each year the
2.8 plant is in operation, and \$7,500,000 each year the plant is not in operation if ordered by
2.9 the commission pursuant to paragraph (i). The fund transfer must be made if nuclear waste
2.10 is stored in a dry cask at the independent spent-fuel storage facility at Prairie Island for any
2.11 part of a year.

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

2.20 (e) Each year, the public utility shall withhold from the funds transferred to the renewable
2.21 development account under paragraphs (c) and (d) the amount necessary to pay its obligations
2.22 under paragraphs (f) ~~and~~, (g), and (m), and sections 116C.7792 and 216C.41, for that calendar
2.23 year.

2.24 (f) If the commission approves a new or amended power purchase agreement, the
2.25 termination of a power purchase agreement, or the purchase and closure of a facility under
2.26 section 216B.2424, subdivision 9, with an entity that uses poultry litter to generate electricity,
2.27 the public utility subject to this section shall enter into a contract with the city in which the
2.28 poultry litter plant is located to provide grants to the city for the purposes of economic
2.29 development on the following schedule: \$4,000,000 in fiscal year 2018; \$6,500,000 each
2.30 fiscal year in 2019 and 2020; and \$3,000,000 in fiscal year 2021. The grants shall be paid
2.31 by the public utility from funds withheld from the transfer to the renewable development
2.32 account, as provided in paragraphs (b) and (e).

2.33 (g) If the commission approves a new or amended power purchase agreement, or the
2.34 termination of a power purchase agreement under section 216B.2424, subdivision 9, with

3.1 an entity owned or controlled, directly or indirectly, by two municipal utilities located north
3.2 of Constitutional Route No. 8, that was previously used to meet the biomass mandate in
3.3 section 216B.2424, the public utility that owns a nuclear generating plant shall enter into a
3.4 grant contract with such entity to provide \$6,800,000 per year for five years, commencing
3.5 30 days after the commission approves the new or amended power purchase agreement, or
3.6 the termination of the power purchase agreement, and on each June 1 thereafter through
3.7 2021, to assist the transition required by the new, amended, or terminated power purchase
3.8 agreement. The grant shall be paid by the public utility from funds withheld from the transfer
3.9 to the renewable development account as provided in paragraphs (b) and (e).

3.10 (h) The collective amount paid under the grant contracts awarded under paragraphs (f)
3.11 and (g) is limited to the amount deposited into the renewable development account, and its
3.12 predecessor, the renewable development account, established under this section, that was
3.13 not required to be deposited into the account under Laws 1994, chapter 641, article 1, section
3.14 10.

3.15 (i) After discontinuation of operation of the Prairie Island nuclear plant or the Monticello
3.16 nuclear plant and each year spent nuclear fuel is stored in dry cask at the discontinued
3.17 facility, the commission shall require the public utility to pay \$7,500,000 for the discontinued
3.18 Prairie Island facility and \$5,250,000 for the discontinued Monticello facility for any year
3.19 in which the commission finds, by the preponderance of the evidence, that the public utility
3.20 did not make a good faith effort to remove the spent nuclear fuel stored at the facility to a
3.21 permanent or interim storage site out of the state. This determination shall be made at least
3.22 every two years.

3.23 (j) Funds in the account may be expended only for any of the following purposes:

3.24 (1) to stimulate research and development of renewable electric energy technologies;

3.25 (2) to encourage grid modernization, including, but not limited to, projects that implement
3.26 electricity storage, load control, and smart meter technology; and

3.27 (3) to stimulate other innovative energy projects that reduce demand and increase system
3.28 efficiency and flexibility.

3.29 Expenditures from the fund must benefit Minnesota ratepayers receiving electric service
3.30 from the utility that owns a nuclear-powered electric generating plant in this state or the
3.31 Prairie Island Indian community or its members.

3.32 The utility that owns a nuclear generating plant is eligible to apply for grants under this
3.33 subdivision.

4.1 (k) For the purposes of paragraph (j), the following terms have the meanings given:

4.2 (1) "renewable" has the meaning given in section 216B.2422, subdivision 1, paragraph
4.3 (c), clauses (1), (2), (4), and (5); and

4.4 (2) "grid modernization" means:

4.5 (i) enhancing the reliability of the electrical grid;

4.6 (ii) improving the security of the electrical grid against cyberthreats and physical threats;
4.7 and

4.8 (iii) increasing energy conservation opportunities by facilitating communication between
4.9 the utility and its customers through the use of two-way meters, control technologies, energy
4.10 storage and microgrids, technologies to enable demand response, and other innovative
4.11 technologies.

4.12 (l) A renewable development account advisory group that includes, among others,
4.13 representatives of the public utility and its ratepayers, and includes at least one representative
4.14 of the Prairie Island Indian community appointed by that community's tribal council, shall
4.15 develop recommendations on account expenditures. Except as otherwise provided herein,
4.16 members of the advisory group shall be chosen by the public utility. The public utility may
4.17 design a request for proposal in conjunction with the advisory group. The advisory group
4.18 must design a request for proposal and evaluate projects submitted in response to a request
4.19 for proposals. The advisory group must utilize an independent third-party expert to evaluate
4.20 proposals submitted in response to a request for proposal, including all proposals made by
4.21 the public utility. A request for proposal for research and development under paragraph (j),
4.22 clause (1), may be limited to or include a request to higher education institutions located in
4.23 Minnesota for multiple projects authorized under paragraph (j), clause (1). The request for
4.24 multiple projects may include a provision that exempts the projects from the third-party
4.25 expert review and instead provides for project evaluation and selection by a merit peer
4.26 review grant system. In the process of determining request for proposal scope and subject
4.27 and in evaluating responses to request for proposals, the advisory group must strongly
4.28 consider, where reasonable, potential benefit to Minnesota citizens and businesses and the
4.29 utility's ratepayers.

4.30 (m) The cost of acquiring the services of the independent third-party expert described
4.31 in paragraph (l) and any other costs incurred in administering the advisory group and its
4.32 actions as required by this section, not to exceed \$150,000, shall be paid from funds withheld
4.33 by the public utility under paragraph (e).

5.1 ~~(m)~~ (n) The advisory group shall submit funding recommendations to the public utility,
5.2 which has full and sole authority to determine which expenditures shall be submitted by
5.3 ~~the advisory group~~ to the legislature commission. The commission may approve proposed
5.4 expenditures, may disapprove proposed expenditures that it finds not to be in compliance
5.5 with this subdivision or otherwise not in the public interest, and may, if agreed to by the
5.6 public utility, modify proposed expenditures. The commission shall, by order, submit its
5.7 funding recommendations to the legislature as provided under paragraph ~~(m)~~ (o).

5.8 ~~(n)~~ (o) The commission shall present its recommended appropriations from the account
5.9 to the senate and house of representatives committees with jurisdiction over energy policy
5.10 and finance annually by February 15. Expenditures from the account must be appropriated
5.11 by law. In enacting appropriations from the account, the legislature:

5.12 (1) may approve or disapprove, but may not modify, the amount of an appropriation for
5.13 a project recommended by the commission; and

5.14 (2) may not appropriate money for a project the commission has not recommended
5.15 funding.

5.16 ~~(o)~~ (p) A request for proposal for renewable energy generation projects must, when
5.17 feasible and reasonable, give preference to projects that are most cost-effective for a particular
5.18 energy source.

5.19 ~~(p)~~ (q) ~~The advisory group~~ public utility must annually, by February 15, report to the
5.20 chairs and ranking minority members of the legislative committees with jurisdiction over
5.21 energy policy on projects funded by the account for the prior year and all previous years.
5.22 The report must, to the extent possible and reasonable, itemize the actual and projected
5.23 financial benefit to the public utility's ratepayers of each project.

5.24 ~~(q)~~ (r) By February 1, 2018, and each February 1 thereafter, the commissioner of
5.25 management and budget shall submit a written report regarding the availability of funds in
5.26 and obligations of the account to the chairs and ranking minority members of the senate
5.27 and house committees with jurisdiction over energy policy and finance, the public utility,
5.28 and the advisory group.

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

6.1 ~~(s)~~ (t) Final reports, any mid-project status reports, and renewable development account
 6.2 financial reports must be posted online on a public website designated by the commissioner
 6.3 of commerce.

6.4 ~~(t)~~ (u) All final reports must acknowledge that the project was made possible in whole
 6.5 or part by the Minnesota renewable development account, noting that the account is financed
 6.6 by the public utility's ratepayers.

6.7 ~~(u)~~ (v) Of the amount in the renewable development account, priority must be given to
 6.8 making the payments required under section 216C.417.

6.9 Sec. 2. Minnesota Statutes 2021 Supplement, section 116C.7792, is amended to read:

6.10 **116C.7792 SOLAR ENERGY PRODUCTION INCENTIVE PROGRAM.**

6.11 (a) The utility subject to section 116C.779 shall operate a program to provide solar
 6.12 energy production incentives for solar energy systems of no more than a total aggregate
 6.13 nameplate capacity of 40 kilowatts alternating current per premise. The owner of a solar
 6.14 energy system installed before June 1, 2018, is eligible to receive a production incentive
 6.15 under this section for any additional solar energy systems constructed at the same customer
 6.16 location, provided that the aggregate capacity of all systems at the customer location does
 6.17 not exceed 40 kilowatts.

6.18 (b) The program is funded by money withheld from transfer to the renewable development
 6.19 account under section 116C.779, subdivision 1, paragraphs (b) and (e). Program funds must
 6.20 be placed in a separate account for the purpose of the solar energy production incentive
 6.21 program operated by the utility and not for any other program or purpose.

6.22 (c) Funds allocated to the solar energy production incentive program in 2019 and 2020
 6.23 remain available to the solar energy production incentive program.

6.24 (d) The following amounts are allocated to the solar energy production incentive program:

6.25 (1) \$10,000,000 in 2021;

6.26 (2) \$10,000,000 in 2022;

6.27 (3) ~~\$5,000,000~~ \$10,000,000 in 2023; ~~and~~

6.28 (4) ~~\$5,000,000~~ \$10,000,000 in 2024; ~~and~~

6.29 (5) \$10,000,000 in 2025.

7.1 (e) Funds allocated to the solar energy production incentive program that have not been
 7.2 committed to a specific project at the end of a program year remain available to the solar
 7.3 energy production incentive program.

7.4 (f) Any unspent amount remaining on January 1, ~~2025~~ 2026, must be transferred to the
 7.5 renewable development account.

7.6 (g) A solar energy system receiving a production incentive under this section must be
 7.7 sized to less than 120 percent of the customer's on-site annual energy consumption when
 7.8 combined with other distributed generation resources and subscriptions provided under
 7.9 section 216B.1641 associated with the premise. The production incentive must be paid for
 7.10 ten years commencing with the commissioning of the system.

7.11 (h) The utility must file a plan to operate the program with the commissioner of
 7.12 commerce. The utility may not operate the program until it is approved by the commissioner.
 7.13 A change to the program to include projects up to a nameplate capacity of 40 kilowatts or
 7.14 less does not require the utility to file a plan with the commissioner. Any plan approved by
 7.15 the commissioner of commerce must not provide an increased incentive scale over prior
 7.16 years unless the commissioner demonstrates that changes in the market for solar energy
 7.17 facilities require an increase.

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

7.19 Sec. 3. Minnesota Statutes 2020, section 116J.55, subdivision 1, is amended to read:

7.20 Subdivision 1. **Definitions.** For the purposes of this section, "eligible community" means
 7.21 a county, municipality, or tribal government located in Minnesota in which an electric
 7.22 generating plant owned by a public utility, as defined in section 216B.02, that is powered
 7.23 by coal, nuclear energy, or natural gas:

7.24 (1) is currently operating and (i) is scheduled to cease operations or, (ii) whose cessation
 7.25 of operations has been proposed in an integrated resource plan filed with the commission
 7.26 under section 216B.2422,; or (iii) whose current operating license expires within 15 years
 7.27 of the effective date of this section; or

7.28 (2) ceased operations or was removed from the local property tax base no earlier than
 7.29 five years before the date an application is made for a grant under this section.

7.30 Sec. 4. Minnesota Statutes 2020, section 116J.55, subdivision 5, is amended to read:

7.31 Subd. 5. **Grant awards; limitations.** ~~(a) The commissioner must award grants under~~
 7.32 ~~this section to eligible communities through a competitive grant process.~~

8.1 ~~(b)~~ (a) A grant awarded to an eligible community under this section must not exceed
 8.2 \$500,000 in any calendar year. The commissioner may accept grant applications on an
 8.3 ongoing or rolling basis.

8.4 ~~(e)~~ (b) Grants funded with revenues from the renewable development account established
 8.5 in section 116C.779 must be awarded to an eligible community located within the retail
 8.6 electric service territory of the public utility that is subject to section 116C.779 or to an
 8.7 eligible community in which an electric generating plant owned by that public utility is
 8.8 located.

8.9 Sec. 5. Minnesota Statutes 2020, section 216B.096, subdivision 11, is amended to read:

8.10 Subd. 11. **Reporting.** Annually on ~~November 1~~ October 15, a utility must electronically
 8.11 file with the commission a report, in a format specified by the commission, specifying the
 8.12 number of utility heating service customers whose service is disconnected or remains
 8.13 disconnected for nonpayment as of September 15 and October 1 ~~and October 15~~. If customers
 8.14 remain disconnected on October ~~15~~ 1, a utility must file a report each week between
 8.15 ~~November 1~~ October 15 and the end of the cold weather period specifying:

8.16 (1) the number of utility heating service customers that are or remain disconnected from
 8.17 service for nonpayment; and

8.18 (2) the number of utility heating service customers that are reconnected to service each
 8.19 week. The utility may discontinue weekly reporting if the number of utility heating service
 8.20 customers that are or remain disconnected reaches zero before the end of the cold weather
 8.21 period.

8.22 The data reported under this subdivision are presumed to be accurate upon submission
 8.23 and must be made available through the commission's electronic filing system.

8.24 Sec. 6. Minnesota Statutes 2020, section 216B.24, is amended by adding a subdivision to
 8.25 read:

8.26 Subd. 1a. **Wind or solar electric generating facilities.** Any person proposing
 8.27 construction of a major utility facility that is a wind or solar electric generating facility
 8.28 designed for or capable of operation at a capacity of 50 megawatts or more must, in addition
 8.29 to any approvals required under this chapter, obtain approval from the governing board of
 8.30 and pursuant to the land use ordinance of the county in which the proposed wind or solar
 8.31 electric generating facility will be located.

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

9.1 Sec. 7. Minnesota Statutes 2020, section 216B.243, subdivision 3b, is amended to read:

9.2 Subd. 3b. ~~Nuclear power plant; new construction prohibited; relicensing~~ Additional
9.3 storage of spent nuclear fuel. (a) ~~The commission may not issue a certificate of need for~~
9.4 ~~the construction of a new nuclear-powered electric generating plant.~~

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

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

9.9 Sec. 8. [216B.491] DEFINITIONS.

9.10 Subdivision 1. Scope. For the purposes of sections 216B.491 to 216B.499, the terms
9.11 defined in this subdivision have the meanings given.

9.12 Subd. 2. Ancillary agreement. "Ancillary agreement" means any bond, insurance policy,
9.13 letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, liquidity
9.14 or credit support arrangement, or other financial arrangement entered into in connection
9.15 with extraordinary event bonds that is designed to promote the credit quality and
9.16 marketability of extraordinary event bonds or to mitigate the risk of an increase in interest
9.17 rates.

9.18 Subd. 3. Assignee. "Assignee" means any person to which an interest in extraordinary
9.19 event property is sold, assigned, transferred, or conveyed, other than as security, and any
9.20 successor to or subsequent assignee of the person.

9.21 Subd. 4. Bondholder. "Bondholder" means any holder or owner of extraordinary event
9.22 bonds.

9.23 Subd. 5. Customer. "Customer" means a person who takes natural gas service from a
9.24 natural gas utility for consumption of natural gas in Minnesota.

9.25 Subd. 6. Extraordinary event. (a) "Extraordinary event" means an event arising from
9.26 unforeseen circumstances and of sufficient magnitude, as determined by the commission:

9.27 (1) to impose significant costs on customers; and

9.28 (2) for which the issuance of extraordinary event bonds in response to the event meets
9.29 the conditions of section 216B.492, subdivision 2, as determined by the commission.

10.1 (b) Extraordinary event includes but is not limited to a storm event or other natural
 10.2 disaster, an act of God, war, terrorism, sabotage or vandalism, a cybersecurity attack, or a
 10.3 temporary significant increase in the wholesale price of natural gas.

10.4 Subd. 7. **Extraordinary event activity.** "Extraordinary event activity" means an activity
 10.5 undertaken by or on behalf of a utility to restore or maintain the utility's ability to provide
 10.6 natural gas service following one or more extraordinary events, including but not limited
 10.7 to activities related to mobilization, staging, construction, reconstruction, replacement, or
 10.8 repair of natural gas transmission, distribution, storage, or general facilities.

10.9 Subd. 8. **Extraordinary event bonds.** "Extraordinary event bonds" means low-cost
 10.10 corporate securities, including but not limited to senior secured bonds, debentures, notes,
 10.11 certificates of participation, certificates of beneficial interest, certificates of ownership, or
 10.12 other evidences of indebtedness or ownership that have a scheduled maturity of no longer
 10.13 than 30 years and a final legal maturity date that is not later than 32 years from the issue
 10.14 date, that are rated AA or Aa2 or better by a major independent credit rating agency at the
 10.15 time of issuance, and that are issued by a utility or an assignee under a financing order.

10.16 Subd. 9. **Extraordinary event charge.** "Extraordinary event charge" means a
 10.17 nonbypassable charge that:

10.18 (1) is imposed on all customer bills by a utility that is the subject of a financing order
 10.19 or the utility's successors or assignees;

10.20 (2) is separate from the utility's base rates; and

10.21 (3) provides a source of revenue solely to repay, finance, or refinance extraordinary
 10.22 event costs.

10.23 Subd. 10. **Extraordinary event costs.** "Extraordinary event costs":

10.24 (1) means all incremental costs of extraordinary event activities that are approved by
 10.25 the commission in a financing order issued under section 216B.492 as being:

10.26 (i) necessary to enable the utility to restore or maintain natural gas service to customers
 10.27 after the utility experiences an extraordinary event; and

10.28 (ii) prudent and reasonable;

10.29 (2) includes costs to repurchase equity or retire any indebtedness relating to extraordinary
 10.30 event activities;

11.1 (3) shall be net of applicable insurance proceeds, tax benefits, and any other amounts
 11.2 intended to reimburse the utility for extraordinary event activities, including government
 11.3 grants or aid of any kind;

11.4 (4) do not include any monetary penalty, fine, or forfeiture assessed against a utility by
 11.5 a government agency or court under a federal or state environmental statute, rule, or
 11.6 regulation; and

11.7 (5) must be adjusted to reflect:

11.8 (i) the difference, as determined by the commission, between extraordinary event costs
 11.9 that the utility expects to incur and actual, reasonable, and prudent costs incurred; or

11.10 (ii) a more fair or reasonable allocation of extraordinary event costs to customers over
 11.11 time, as expressed in a commission order.

11.12 **Subd. 11. Extraordinary event property.** "Extraordinary event property" means:

11.13 (1) all rights and interests of a utility or the utility's successor or assignee under a
 11.14 financing order for the right to impose, bill, collect, receive, and obtain periodic adjustments
 11.15 to extraordinary event charges authorized under a financing order issued by the commission;
 11.16 and

11.17 (2) all revenue, collections, claims, rights to payments, payments, money, or proceeds
 11.18 arising from the rights and interests specified in clause (1), regardless of whether any are
 11.19 commingled with other revenue, collections, rights to payment, payments, money, or
 11.20 proceeds.

11.21 **Subd. 12. Extraordinary event revenue.** "Extraordinary event revenue" means revenue,
 11.22 receipts, collections, payments, money, claims, or other proceeds arising from extraordinary
 11.23 event property.

11.24 **Subd. 13. Financing costs.** "Financing costs" means:

11.25 (1) principal, interest, and redemption premiums that are payable on extraordinary event
 11.26 bonds;

11.27 (2) payments required under an ancillary agreement and amounts required to fund or
 11.28 replenish a reserve account or other accounts established under the terms of any indenture,
 11.29 ancillary agreement, or other financing document pertaining to the bonds;

11.30 (3) other demonstrable costs related to issuing, supporting, repaying, refunding, and
 11.31 servicing the bonds, including but not limited to servicing fees, accounting and auditing
 11.32 fees, trustee fees, legal fees, consulting fees, financial adviser fees, administrative fees,

12.1 placement and underwriting fees, capitalized interest, rating agency fees, stock exchange
 12.2 listing and compliance fees, security registration fees, filing fees, information technology
 12.3 programming costs, and any other demonstrable costs necessary to otherwise ensure and
 12.4 guarantee the timely payment of the bonds or other amounts or charges payable in connection
 12.5 with the bonds;

12.6 (4) taxes and license fees imposed on the revenue generated from collecting an
 12.7 extraordinary event charge;

12.8 (5) state and local taxes, including franchise, sales and use, and other taxes or similar
 12.9 charges, including but not limited to regulatory assessment fees, whether paid, payable, or
 12.10 accrued; and

12.11 (6) costs incurred by the commission to hire and compensate additional temporary staff
 12.12 needed to perform the commission's responsibilities under this section and, in accordance
 12.13 with section 216B.494, to engage specialized counsel and expert consultants experienced
 12.14 in securitized utility ratepayer-backed bond financing similar to extraordinary event bonds.

12.15 Subd. 14. **Financing order.** "Financing order" means an order issued by the commission
 12.16 under section 216B.492 that authorizes an applicant to:

12.17 (1) issue extraordinary event bonds in one or more series;

12.18 (2) impose, charge, and collect extraordinary event charges; and

12.19 (3) create extraordinary event property.

12.20 Subd. 15. **Financing party.** "Financing party" means a holder of extraordinary event
 12.21 bonds and a trustee, a collateral agent, a party under an ancillary agreement, or any other
 12.22 person acting for the benefit of extraordinary event bondholders.

12.23 Subd. 16. **Natural gas facility.** "Natural gas facility" means natural gas pipelines,
 12.24 including distribution lines, underground storage areas, liquefied natural gas facilities,
 12.25 propane storage tanks, and other facilities the commission determines are used and useful
 12.26 to provide natural gas service to retail and transportation customers in Minnesota.

12.27 Subd. 17. **Nonbypassable.** "Nonbypassable" means that the payment of an extraordinary
 12.28 event charge required to repay bonds and related costs may not be avoided by any retail
 12.29 customer located within a utility service area.

12.30 Subd. 18. **Pretax costs.** "Pretax costs" means costs incurred by a utility and approved
 12.31 by the commission, including but not limited to:

13.1 (1) unrecovered capitalized costs of replaced natural gas facilities damaged or destroyed
 13.2 by a storm event;

13.3 (2) costs to decommission and restore the site of a natural gas facility damaged or
 13.4 destroyed by an extraordinary event;

13.5 (3) other applicable capital and operating costs, accrued carrying charges, deferred
 13.6 expenses, reductions for applicable insurance, and salvage proceeds; and

13.7 (4) costs to retire any existing indebtedness, fees, costs, and expenses to modify existing
 13.8 debt agreements, or for waivers or consents related to existing debt agreements.

13.9 Subd. 19. **Storm event.** "Storm event" means a tornado, derecho, ice or snow storm,
 13.10 flood, earthquake, or other significant weather or natural disaster that causes substantial
 13.11 damage to a utility's infrastructure.

13.12 Subd. 20. **Successor.** "Successor" means a legal entity that succeeds by operation of law
 13.13 to the rights and obligations of another legal entity as a result of bankruptcy, reorganization,
 13.14 restructuring, other insolvency proceeding, merger, acquisition, consolidation, or sale or
 13.15 transfer of assets.

13.16 Subd. 21. **Utility.** "Utility" means a public utility, as defined in section 216B.02,
 13.17 subdivision 4, that provides natural gas service to Minnesota customers. Utility includes
 13.18 the utility's successors or assignees.

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

13.20 Sec. 9. **[216B.492] FINANCING ORDER.**

13.21 Subdivision 1. **Application.** (a) A utility may file an application with the commission
 13.22 for the issuance of a financing order to enable the utility to recover extraordinary event costs
 13.23 through the issuance of extraordinary event bonds under this section.

13.24 (b) The application must include the following information, as applicable:

13.25 (1) a description of each natural gas facility to be repaired or replaced;

13.26 (2) the undepreciated value remaining in the natural gas facility whose repair or
 13.27 replacement is proposed to be financed through the issuance of bonds under sections
 13.28 216B.491 to 216B.499, and the method used to calculate the amount;

13.29 (3) the estimated amount of costs imposed on customers resulting from an extraordinary
 13.30 event that involves no physical damage to natural gas facilities;

14.1 (4) the estimated savings or estimated mitigation of rate impacts to utility customers if
14.2 the financing order is issued as requested in the application, calculated by comparing the
14.3 costs to customers that are expected to result from implementing the financing order and
14.4 the estimated costs associated with implementing traditional utility financing mechanisms
14.5 with respect to the same undepreciated balance, expressed in net present value terms;

14.6 (5) a description of (i) the nonbypassable extraordinary event charge utility customers
14.7 would be required to pay in order to fully recover financing costs, and (ii) the method and
14.8 assumptions used to calculate the amount;

14.9 (6) a proposed methodology to allocate the revenue requirement for the extraordinary
14.10 event charge among the utility's customer classes;

14.11 (7) a description of a proposed adjustment mechanism to be implemented when necessary
14.12 to correct any overcollection or undercollection of extraordinary event charges, in order to
14.13 complete payment of scheduled principal and interest on extraordinary event bonds and
14.14 other financing costs in a timely fashion;

14.15 (8) a memorandum with supporting exhibits, from a securities firm that is experienced
14.16 in the marketing of bonds and that is approved by the commissioner of management and
14.17 budget, indicating the proposed issuance satisfies the current published AA or Aa2 or higher
14.18 rating or equivalent rating criteria of at least one nationally recognized securities rating
14.19 organization for issuances similar to the proposed extraordinary event bonds;

14.20 (9) an estimate of the timing of the issuance and the term of the extraordinary event
14.21 bonds, or series of bonds, provided that the scheduled final maturity for each bond issuance
14.22 does not exceed 30 years;

14.23 (10) identification of plans to sell, assign, transfer, or convey, other than as a security,
14.24 interest in extraordinary event property, including identification of an assignee, and
14.25 demonstration that the assignee is a financing entity wholly owned, directly or indirectly,
14.26 by the utility;

14.27 (11) identification of ancillary agreements that may be necessary or appropriate;

14.28 (12) one or more alternative financing scenarios in addition to the preferred scenario
14.29 contained in the application;

14.30 (13) the extent of damage to the utility's infrastructure caused by an extraordinary event
14.31 and the estimated costs to repair or replace the damaged infrastructure;

14.32 (14) a schedule of the proposed repairs to and replacement of damaged infrastructure;

15.1 (15) a description of the steps taken to provide customers interim natural gas service
 15.2 while the damaged infrastructure is being repaired or replaced; and

15.3 (16) a description of the impacts on the utility's current workforce resulting from
 15.4 implementing an infrastructure repair or replacement plan following an extraordinary event.

15.5 Subd. 2. **Findings.** After providing notice and holding a public hearing on an application
 15.6 filed under subdivision 1, the commission may issue a financing order if the commission
 15.7 finds that:

15.8 (1) the extraordinary event costs described in the application are reasonable;

15.9 (2) the proposed issuance of extraordinary event bonds and the imposition and collection
 15.10 of extraordinary event charges:

15.11 (i) are just and reasonable;

15.12 (ii) are consistent with the public interest;

15.13 (iii) constitute a prudent and reasonable mechanism to finance the extraordinary event
 15.14 costs; and

15.15 (iv) provide tangible and quantifiable benefits to customers that exceed the benefits that
 15.16 would have been achieved absent the issuance of extraordinary event bonds; and

15.17 (3) the proposed structuring, marketing, and pricing of the extraordinary event bonds:

15.18 (i) significantly lower overall costs to customers or significantly mitigate rate impacts
 15.19 to customers relative to traditional methods of financing; and

15.20 (ii) achieve significant customer savings or significant mitigation of rate impacts to
 15.21 customers, as determined by the commission in a financing order, consistent with market
 15.22 conditions at the time of sale and the terms of the financing order.

15.23 Subd. 3. **Contents.** (a) A financing order issued under this section must:

15.24 (1) determine the maximum amount of extraordinary event costs that may be financed
 15.25 from proceeds of extraordinary event bonds issued pursuant to the financing order;

15.26 (2) describe the proposed customer billing mechanism for extraordinary event charges
 15.27 and include a finding that the mechanism is just and reasonable;

15.28 (3) describe the financing costs that may be recovered through extraordinary event
 15.29 charges and the period over which the costs may be recovered, which must end no earlier
 15.30 than the date of final legal maturity of the extraordinary event bonds;

16.1 (4) describe the extraordinary event property that is created and that may be used to pay,
16.2 and secure the payment of, the extraordinary event bonds and financing costs authorized in
16.3 the financing order;

16.4 (5) authorize the utility to finance extraordinary event costs through the issuance of one
16.5 or more series of extraordinary event bonds. A utility is not required to secure a separate
16.6 financing order for each issuance of extraordinary event bonds or for each scheduled phase
16.7 of the replacement of natural gas facilities approved in the financing order;

16.8 (6) include a formula-based mechanism that must be used to make expeditious periodic
16.9 adjustments to the extraordinary event charge authorized by the financing order that are
16.10 necessary to correct for any overcollection or undercollection, or to otherwise guarantee
16.11 the timely payment of extraordinary event bonds, financing costs, and other required amounts
16.12 and charges payable in connection with extraordinary event bonds;

16.13 (7) specify the degree of flexibility afforded to the utility in establishing the terms and
16.14 conditions of the extraordinary event bonds, including but not limited to repayment schedules,
16.15 expected interest rates, and other financing costs;

16.16 (8) specify that the extraordinary event bonds must be issued as soon as feasible following
16.17 issuance of the financing order;

16.18 (9) require the utility, at the same time as extraordinary event charges are initially
16.19 collected and independent of the schedule to close and decommission any natural gas facility
16.20 replaced as the result of an extraordinary event, to remove the natural gas facility from the
16.21 utility's rate base and commensurately reduce the utility's base rates;

16.22 (10) specify a future ratemaking process to reconcile any difference between the projected
16.23 pretax costs included in the amount financed by extraordinary event bonds and the final
16.24 actual pretax costs incurred by the utility to retire or replace the natural gas facility;

16.25 (11) specify information regarding bond issuance and repayments, financing costs,
16.26 energy transaction charges, extraordinary event property, and related matters that the natural
16.27 gas utility is required to provide to the commission on a schedule determined by the
16.28 commission;

16.29 (12) allow and may require the creation of a utility's extraordinary event property to be
16.30 conditioned on, and occur simultaneously with, the sale or other transfer of the extraordinary
16.31 event property to an assignee and the pledge of the extraordinary event property to secure
16.32 the extraordinary event bonds;

17.1 (13) ensure that the structuring, marketing, and pricing of extraordinary event bonds
 17.2 result in reasonable securitization bond charges and significant customer savings or rate
 17.3 impact mitigation, consistent with market conditions and the terms of the financing order;
 17.4 and

17.5 (14) specify that a utility financing the replacement of one or more natural gas facilities
 17.6 after the natural gas facilities subject to the finance order are removed from the utility's rate
 17.7 base is prohibited from:

17.8 (i) operating the natural gas facilities; or

17.9 (ii) selling the natural gas facilities to another entity to be operated as natural gas facilities.

17.10 (b) A financing order issued under this section may:

17.11 (1) include conditions different from those requested in the application that the
 17.12 commission determines are necessary to:

17.13 (i) promote the public interest; and

17.14 (ii) maximize the financial benefits or minimize the financial risks of the transaction to
 17.15 customers and to directly impacted Minnesota workers and communities; and

17.16 (2) specify the selection of one or more underwriters of the extraordinary event bonds.

17.17 Subd. 4. **Duration; irrevocability; subsequent order.** (a) A financing order remains
 17.18 in effect until the extraordinary event bonds issued under the financing order and all financing
 17.19 costs related to the bonds have been paid in full.

17.20 (b) A financing order remains in effect and unabated notwithstanding the bankruptcy,
 17.21 reorganization, or insolvency of the utility to which the financing order applies or any
 17.22 affiliate, successor, or assignee of the utility to which the financing order applies.

17.23 (c) Subject to judicial review under section 216B.52, a financing order is irrevocable
 17.24 and is not reviewable by a future commission. The commission may not reduce, impair,
 17.25 postpone, or terminate extraordinary event charges approved in a financing order, or impair
 17.26 extraordinary event property or the collection or recovery of extraordinary event revenue.

17.27 (d) Notwithstanding paragraph (c), the commission may, on the commission's own
 17.28 motion or at the request of a utility or any other person, commence a proceeding and issue
 17.29 a subsequent financing order that provides for refinancing, retiring, or refunding extraordinary
 17.30 event bonds issued under the original financing order if:

17.31 (1) the commission makes all of the findings specified in subdivision 2 with respect to
 17.32 the subsequent financing order; and

18.1 (2) the modification contained in the subsequent financing order does not in any way
18.2 impair the covenants and terms of the extraordinary event bonds being refinanced, retired,
18.3 or refunded.

18.4 Subd. 5. Effect on commission jurisdiction. (a) Except as provided in paragraph (b),
18.5 the commission, in exercising the powers and carrying out the duties under this section, is
18.6 prohibited from:

18.7 (1) considering extraordinary event bonds issued under this section to be debt of the
18.8 utility other than for income tax purposes, unless it is necessary to consider the extraordinary
18.9 event bonds to be debt in order to achieve consistency with prevailing utility debt rating
18.10 methodologies;

18.11 (2) considering the extraordinary event charges paid under the financing order to be
18.12 revenue of the utility;

18.13 (3) considering the extraordinary event or financing costs specified in the financing
18.14 order to be the regulated costs or assets of the utility; or

18.15 (4) determining that any prudent action taken by a utility that is consistent with the
18.16 financing order is unjust or unreasonable.

18.17 (b) Nothing in this subdivision:

18.18 (1) affects the authority of the commission to apply or modify any billing mechanism
18.19 designed to recover extraordinary event charges;

18.20 (2) prevents or precludes the commission from (i) investigating a utility's compliance
18.21 with the terms and conditions of a financing order, and (ii) requiring compliance with the
18.22 financing order; or

18.23 (3) prevents or precludes the commission from imposing regulatory sanctions against a
18.24 utility for failure to comply with the terms and conditions of a financing order or the
18.25 requirements of this section.

18.26 (c) The commission is prohibited from refusing to allow a utility to recover any costs
18.27 associated with the replacement of natural gas facilities solely because the utility has elected
18.28 to finance the natural gas facility replacement through a financing mechanism other than
18.29 extraordinary event bonds.

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

19.1 Sec. 10. **[216B.493] POSTORDER COMMISSION DUTIES.**

19.2 Subdivision 1. **Financing cost review.** Within 120 days after the date extraordinary
19.3 event bonds are issued, a utility subject to a financing order must file with the commission
19.4 the actual initial and ongoing financing costs, the final structure and pricing of the
19.5 extraordinary event bonds, and the actual extraordinary event charge. The commission must
19.6 review the prudence of the natural gas utility's actions to determine whether the actual
19.7 financing costs were the lowest that could reasonably be achieved given the terms of the
19.8 financing order and market conditions prevailing at the time of the bond's issuance.

19.9 Subd. 2. **Enforcement.** If the commission determines that a utility's actions under this
19.10 section are not prudent or are inconsistent with the financing order, the commission may
19.11 apply any remedies available, provided that any remedy applied may not directly or indirectly
19.12 impair the security for the extraordinary event bonds.

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

19.14 Sec. 11. **[216B.494] USE OF OUTSIDE EXPERTS.**

19.15 (a) In carrying out the duties under this section, the commission may:

19.16 (1) contract with outside consultants and counsel experienced in securitized utility
19.17 customer-backed bond financing similar to extraordinary event bonds; and

19.18 (2) hire and compensate additional temporary staff as needed.

19.19 Expenses incurred by the commission under this paragraph must be treated as financing
19.20 costs and included in the extraordinary event charge. The costs incurred under clause (1)
19.21 are not an obligation of the state and are assigned solely to the transaction.

19.22 (b) A utility presented with a written request from the commission for reimbursement
19.23 of the commission's expenses incurred under paragraph (a), accompanied by a detailed
19.24 account of those expenses, must remit full payment of the expenses to the commission
19.25 within 30 days of receiving the request.

19.26 (c) If a utility's application for a financing order is denied or withdrawn for any reason
19.27 and extraordinary event bonds are not issued, the commission's costs to retain expert
19.28 consultants under this section must be paid by the applicant utility and are deemed to be
19.29 prudent deferred expenses eligible for recovery in the utility's future rates.

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

20.1 Sec. 12. [216B.495] EXTRAORDINARY EVENT CHARGE; BILLING
20.2 TREATMENT.

20.3 (a) A utility that obtains a financing order and causes extraordinary event bonds to be
20.4 issued must:

20.5 (1) include on each customer's monthly natural gas bill:

20.6 (i) a statement that a portion of the charges represents extraordinary event charges
20.7 approved in a financing order;

20.8 (ii) the amount and rate of the extraordinary event charge as a separate line item titled
20.9 "extraordinary event charge"; and

20.10 (iii) if extraordinary event property has been transferred to an assignee, a statement that
20.11 the assignee is the owner of the rights to extraordinary event charges and that the utility or
20.12 other entity, if applicable, is acting as a collection agent or servicer for the assignee; and

20.13 (2) file annually with the commission:

20.14 (i) a calculation of the impact of financing the retirement or replacement of natural gas
20.15 facilities on customer rates, itemized by customer class; and

20.16 (ii) evidence demonstrating that extraordinary event revenues are applied solely to the
20.17 repayment of extraordinary event bonds and other financing costs.

20.18 (b) Extraordinary event charges are nonbypassable and must be paid by all existing and
20.19 future customers receiving service from the utility or the utility's successors or assignees
20.20 under commission-approved rate schedules or special contracts.

20.21 (c) A utility's failure to comply with this section does not invalidate, impair, or affect
20.22 any financing order, extraordinary event property, extraordinary event charge, or
20.23 extraordinary event bonds, but does subject the utility to penalties under applicable
20.24 commission rules.

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

20.26 Sec. 13. [216B.496] EXTRAORDINARY EVENT PROPERTY.

20.27 Subdivision 1. **General.** (a) Extraordinary event property is an existing present property
20.28 right or interest in a property right, even though the imposition and collection of extraordinary
20.29 event charges depend on the utility collecting extraordinary event charges and on future
20.30 natural gas consumption. The property right or interest exists regardless of whether the

21.1 revenues or proceeds arising from the extraordinary event property have been billed, have
21.2 accrued, or have been collected.

21.3 (b) Extraordinary event property exists until all extraordinary event bonds issued under
21.4 a financing order are paid in full and all financing costs and other costs of the extraordinary
21.5 event bonds have been recovered in full.

21.6 (c) All or any portion of extraordinary event property described in a financing order
21.7 issued to a utility may be transferred, sold, conveyed, or assigned to a successor or assignee
21.8 that is wholly owned, directly or indirectly, by the utility and is created for the limited
21.9 purpose of acquiring, owning, or administering extraordinary event property or issuing
21.10 extraordinary event bonds authorized by the financing order. All or any portion of
21.11 extraordinary event property may be pledged to secure extraordinary event bonds issued
21.12 under a financing order, amounts payable to financing parties and to counterparties under
21.13 any ancillary agreements, and other financing costs. Each transfer, sale, conveyance,
21.14 assignment, or pledge by a utility or an affiliate of extraordinary event property is a
21.15 transaction in the ordinary course of business.

21.16 (d) If a utility defaults on any required payment of charges arising from extraordinary
21.17 event property described in a financing order, a court, upon petition by an interested party
21.18 and without limiting any other remedies available to the petitioner, must order the
21.19 sequestration and payment of the revenues arising from the extraordinary event property to
21.20 the financing parties.

21.21 (e) The interest of a transferee, purchaser, acquirer, assignee, or pledgee in extraordinary
21.22 event property specified in a financing order issued to a utility, and in the revenue and
21.23 collections arising from the property, is not subject to setoff, counterclaim, surcharge, or
21.24 defense by the utility or any other person, or in connection with the reorganization,
21.25 bankruptcy, or other insolvency of the utility or any other entity.

21.26 (f) A successor to a utility, whether resulting from a reorganization, bankruptcy, or other
21.27 insolvency proceeding; merger or acquisition; sale; other business combination; transfer by
21.28 operation of law; utility restructuring; or otherwise, must perform and satisfy all obligations
21.29 of, and has the same duties and rights under, a financing order as the utility to which the
21.30 financing order applies. A successor to a utility must perform the duties and exercise the
21.31 rights in the same manner and to the same extent as the utility, including collecting and
21.32 paying to any person entitled to receive revenues, collections, payments, or proceeds of
21.33 extraordinary event property.

22.1 Subd. 2. Security interests in extraordinary event property. (a) The creation,
22.2 perfection, and enforcement of any security interest in extraordinary event property to secure
22.3 the repayment of the principal and interest on extraordinary event bonds, amounts payable
22.4 under any ancillary agreement, and other financing costs are governed solely by this section.

22.5 (b) A security interest in extraordinary event property is created, valid, and binding
22.6 when:

22.7 (1) the financing order that describes the extraordinary event property is issued;

22.8 (2) a security agreement is executed and delivered; and

22.9 (3) value is received for the extraordinary event bonds.

22.10 (c) Once a security interest in extraordinary event property is created, the security interest
22.11 attaches without any physical delivery of collateral or any other act. The lien of the security
22.12 interest is valid, binding, and perfected against all parties having claims of any kind in tort,
22.13 contract, or otherwise against the person granting the security interest, regardless of whether
22.14 the parties have notice of the lien, upon the filing of a financing statement with the secretary
22.15 of state.

22.16 (d) The description or indication of extraordinary event property in a transfer or security
22.17 agreement and a financing statement is sufficient only if the description or indication refers
22.18 to this section and the financing order creating the extraordinary event property.

22.19 (e) A security interest in extraordinary event property is a continuously perfected security
22.20 interest and has priority over any other lien, created by operation of law or otherwise, which
22.21 may subsequently attach to the extraordinary event property unless the holder of the security
22.22 interest has agreed otherwise in writing.

22.23 (f) The priority of a security interest in extraordinary event property is not affected by
22.24 the commingling of extraordinary event property or extraordinary event revenue with other
22.25 money. An assignee, bondholder, or financing party has a perfected security interest in the
22.26 amount of all extraordinary event property or extraordinary event revenue that is pledged
22.27 to pay extraordinary event bonds, even if the extraordinary event property or extraordinary
22.28 event revenue is deposited in a cash or deposit account of the utility in which the
22.29 extraordinary event revenue is commingled with other money. Any other security interest
22.30 that applies to the other money does not apply to the extraordinary event revenue.

22.31 (g) Neither a subsequent commission order amending a financing order under section
22.32 216B.492, subdivision 4, nor application of an adjustment mechanism authorized by a

23.1 financing order under section 216B.492, subdivision 3, affects the validity, perfection, or
23.2 priority of a security interest in or transfer of extraordinary event property.

23.3 (h) A valid and enforceable security interest in extraordinary event property is perfected
23.4 only when the security interest has attached and when a financing order has been filed with
23.5 the secretary of state in accordance with procedures established by the secretary of state.
23.6 The financing order must name the pledgor of the extraordinary event property as debtor
23.7 and identify the property.

23.8 **Subd. 3. Sales of extraordinary event property.** (a) A sale, assignment, or transfer of
23.9 extraordinary event property is an absolute transfer and true sale of, and not a pledge of or
23.10 secured transaction relating to, the seller's right, title, and interest in, to, and under the
23.11 extraordinary event property if the documents governing the transaction expressly state that
23.12 the transaction is a sale or other absolute transfer. A transfer of an interest in extraordinary
23.13 event property may be created when:

23.14 (1) the financing order creating and describing the extraordinary event property is
23.15 effective;

23.16 (2) the documents evidencing the transfer of the extraordinary event property are executed
23.17 and delivered to the assignee; and

23.18 (3) value is received.

23.19 (b) A transfer of an interest in extraordinary event property must be filed with the
23.20 secretary of state against all third persons and perfected under sections 336.3-301 to
23.21 336.3-312, including any judicial lien or other lien creditors or any claims of the seller or
23.22 creditors of the seller, other than creditors holding a prior security interest, ownership
23.23 interest, or assignment in the extraordinary event property previously perfected under this
23.24 subdivision or subdivision 2.

23.25 (c) The characterization of a sale, assignment, or transfer as an absolute transfer and
23.26 true sale, and the corresponding characterization of the property interest of the assignee, is
23.27 not affected or impaired by:

23.28 (1) commingling of extraordinary event revenue with other money;

23.29 (2) the retention by the seller of:

23.30 (i) a partial or residual interest, including an equity interest, in the extraordinary event
23.31 property, whether direct or indirect, or whether subordinate or otherwise; or

24.1 (ii) the right to recover costs associated with taxes, franchise fees, or license fees imposed
 24.2 on the collection of extraordinary event revenue;

24.3 (3) any recourse that the purchaser may have against the seller;

24.4 (4) any indemnification rights, obligations, or repurchase rights made or provided by
 24.5 the seller;

24.6 (5) an obligation of the seller to collect extraordinary event revenues on behalf of an
 24.7 assignee;

24.8 (6) the treatment of the sale, assignment, or transfer for tax, financial reporting, or other
 24.9 purposes;

24.10 (7) any subsequent financing order amending a financing order under section 216B.492,
 24.11 subdivision 4, paragraph (d); or

24.12 (8) any application of an adjustment mechanism under section 216B.492, subdivision
 24.13 3, paragraph (a), clause (6).

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

24.15 Sec. 14. **[216B.497] EXTRAORDINARY EVENT BONDS.**

24.16 (a) Banks, trust companies, savings and loan associations, insurance companies, executors,
 24.17 administrators, guardians, trustees, and other fiduciaries may legally invest any money
 24.18 within the individual's or entity's control in extraordinary event bonds.

24.19 (b) Extraordinary event bonds issued under a financing order are not debt of or a pledge
 24.20 of the faith and credit or taxing power of the state, any agency of the state, or any political
 24.21 subdivision. Holders of extraordinary event bonds may not have taxes levied by the state
 24.22 or a political subdivision in order to pay the principal or interest on extraordinary event
 24.23 bonds. The issuance of extraordinary event bonds does not directly, indirectly, or contingently
 24.24 obligate the state or a political subdivision to levy any tax or make any appropriation to pay
 24.25 principal or interest on the extraordinary event bonds.

24.26 (c) The state pledges to and agrees with holders of extraordinary event bonds, any
 24.27 assignee, and any financing parties that the state will not:

24.28 (1) take or permit any action that impairs the value of extraordinary event property; or

24.29 (2) reduce, alter, or impair extraordinary event charges that are imposed, collected, and
 24.30 remitted for the benefit of holders of extraordinary event bonds, any assignee, and any
 24.31 financing parties until any principal, interest, and redemption premium payable on

25.1 extraordinary event bonds, all financing costs, and all amounts to be paid to an assignee or
 25.2 financing party under an ancillary agreement are paid in full.

25.3 (d) A person who issues extraordinary event bonds may include the pledge specified in
 25.4 paragraph (c) in the extraordinary event bonds, ancillary agreements, and documentation
 25.5 related to the issuance and marketing of the extraordinary event bonds.

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

25.7 Sec. 15. **[216B.498] ASSIGNEE OF FINANCING PARTY NOT SUBJECT TO**
 25.8 **COMMISSION REGULATION.**

25.9 An assignee or financing party that is not already regulated by the commission does not
 25.10 become subject to commission regulation solely as a result of engaging in any transaction
 25.11 authorized by or described in sections 216B.491 to 216B.499.

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

25.13 Sec. 16. **[216B.499] EFFECT ON OTHER LAWS.**

25.14 (a) If any provision of sections 216B.491 to 216B.499 conflicts with any other law
 25.15 regarding the attachment, assignment, perfection, effect of perfection, or priority of any
 25.16 security interest in or transfer of extraordinary event property, sections 216B.491 to 216B.499
 25.17 govern.

25.18 (b) Nothing in this section precludes a utility for which the commission has initially
 25.19 issued a financing order from applying to the commission for:

25.20 (1) a subsequent financing order amending the financing order under section 216B.492,
 25.21 subdivision 4, paragraph (d); or

25.22 (2) approval to issue extraordinary event bonds to refund all or a portion of an outstanding
 25.23 series of extraordinary event bonds.

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

25.25 Sec. 17. Minnesota Statutes 2020, section 216B.50, subdivision 1, is amended to read:

25.26 Subdivision 1. **Commission approval required.** No public utility shall sell, acquire,
 25.27 lease, or rent any plant as an operating unit or system in this state for a total consideration
 25.28 in excess of ~~\$100,000~~ \$1,000,000, or merge or consolidate with another public utility or
 25.29 transmission company operating in this state, without first being authorized so to do by the
 25.30 commission. Upon the filing of an application for the approval and consent of the

26.1 commission, the commission shall investigate, with or without public hearing. The
 26.2 commission shall hold a public hearing, upon such notice as the commission may require.
 26.3 If the commission finds that the proposed action is consistent with the public interest, it
 26.4 shall give its consent and approval by order in writing. In reaching its determination, the
 26.5 commission shall take into consideration the reasonable value of the property, plant, or
 26.6 securities to be acquired or disposed of, or merged and consolidated.

26.7 This section does not apply to the purchase of property to replace or add to the plant of
 26.8 the public utility by construction.

26.9 Sec. 18. Minnesota Statutes 2021 Supplement, section 216C.376, subdivision 5, is amended
 26.10 to read:

26.11 Subd. 5. **Program funding.** (a) In 2022, the public utility subject to section 116C.779
 26.12 must withhold \$8,000,000 from the transfer made under section 116C.779, subdivision 1,
 26.13 paragraph (e), to pay for assistance provided by the program under this section. In 2024,
 26.14 the amount that must be withheld is \$8,000,000. The money withheld under this paragraph
 26.15 must be used to pay for financial assistance awarded under this section and the costs to
 26.16 administer this section. Any money that remains unexpended ~~on June 30, 2027,~~ five years
 26.17 after the money is withheld cancels to the renewable development account.

26.18 (b) The renewable energy credits associated with the electricity generated by a solar
 26.19 energy system installed under this section are the property of the public utility that is subject
 26.20 to this section for the life of the system, regardless of the duration of the financial assistance
 26.21 provided by the public utility under this section.

26.22 Sec. 19. Minnesota Statutes 2020, section 216C.435, subdivision 8, is amended to read:

26.23 Subd. 8. **Qualifying commercial real property.** "Qualifying commercial real property"
 26.24 means a multifamily residential dwelling, ~~or~~ a commercial or industrial building, or farmland
 26.25 that the implementing entity has determined, after review of an energy audit ~~or~~ renewable
 26.26 energy system feasibility study, or agronomic assessment, can ~~be benefited by~~ benefit from
 26.27 the installation of cost-effective energy improvements or land and water improvements, as
 26.28 defined in section 216C.436, subdivision 1b. Qualifying commercial real property includes
 26.29 new construction.

27.1 Sec. 20. Minnesota Statutes 2020, section 216C.436, is amended by adding a subdivision
27.2 to read:

27.3 Subd. 1b. **Definition.** For the purposes of this section, "land and water improvements"
27.4 means:

27.5 (1) any improvement to qualifying farmland, as defined in section 273.13, subdivision
27.6 23, that is permanent in nature, results in improved agricultural productivity or resiliency,
27.7 and reduces environmental impact; or

27.8 (2) water conservation measures, which includes permanently affixed equipment,
27.9 appliances, or improvements that reduce a property's water consumption or that enable the
27.10 property to manage water more efficiently.

27.11 Sec. 21. Minnesota Statutes 2020, section 216C.436, subdivision 2, is amended to read:

27.12 **Subd. 2. Program requirements.** A commercial PACE loan program must:

27.13 (1) impose requirements and conditions on financing arrangements to ensure timely
27.14 repayment;

27.15 (2) require an energy audit or renewable energy system feasibility study to be conducted
27.16 on the qualifying commercial real property and reviewed by the implementing entity prior
27.17 to approval of the financing;

27.18 (3) require the inspection of all installations and a performance verification of at least
27.19 ten percent of the cost-effective energy improvements or land and water improvements
27.20 financed by the program;

27.21 (4) not prohibit the financing of all cost-effective energy improvements or land and
27.22 water improvements not otherwise prohibited by this section;

27.23 (5) require that all cost-effective energy improvements or land and water improvements
27.24 be made to a qualifying commercial real property prior to, or in conjunction with, an
27.25 applicant's repayment of financing for cost-effective energy improvements for that property;

27.26 (6) have cost-effective energy improvements or land and water improvements financed
27.27 by the program performed by a licensed contractor as required by chapter 326B or other
27.28 law or ordinance;

27.29 (7) require disclosures to borrowers by the implementing entity of the risks involved in
27.30 borrowing, including the risk of foreclosure if a tax delinquency results from a default;

27.31 (8) provide financing only to those who demonstrate an ability to repay;

28.1 (9) not provide financing for a qualifying commercial real property in which the owner
 28.2 is not current on mortgage or real property tax payments;

28.3 (10) require a petition to the implementing entity by all owners of the qualifying
 28.4 commercial real property requesting collections of repayments as a special assessment under
 28.5 section 429.101;

28.6 (11) provide that payments and assessments are not accelerated due to a default and that
 28.7 a tax delinquency exists only for assessments not paid when due; ~~and~~

28.8 (12) require that liability for special assessments related to the financing runs with the
 28.9 qualifying commercial real property; and

28.10 (13) prior to financing any improvements to or imposing any assessment upon qualifying
 28.11 commercial real property, require notice to and written consent from the mortgage lender
 28.12 of any mortgage encumbering or otherwise secured by the qualifying commercial real
 28.13 property.

28.14 Sec. 22. **[216H.022] CARBON CAPTURE AND SEQUESTRATION; STATE**
 28.15 **POLICY.**

28.16 It is the policy of the state to support the development and deployment of carbon capture
 28.17 and sequestration technologies in Minnesota as a method of reducing greenhouse gas
 28.18 emissions in order to achieve the state greenhouse gas emission-reduction goals established
 28.19 under section 216H.02, subdivision 1.

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

28.21 Sec. 23. Minnesota Statutes 2020, section 237.55, is amended to read:

28.22 **237.55 ANNUAL REPORT ON TELECOMMUNICATIONS ACCESS.**

28.23 The commissioner of commerce must prepare a report for presentation to the Public
 28.24 Utilities Commission by ~~January~~ March 31 of each year. Each report must review the
 28.25 accessibility of telecommunications services to persons who have communication disabilities,
 28.26 describe services provided, account for annual revenues and expenditures for each aspect
 28.27 of the fund to date, and include predicted program future operation.

28.28 Sec. 24. **[465.485] BAN ON NATURAL GAS AND PROPANE HOOKUPS;**
 28.29 **PROHIBITION.**

28.30 A political subdivision is prohibited from adopting an ordinance, resolution, code, policy,
 28.31 or permit requirement that prohibits or has the effect of preventing a utility from (1)

29.1 connecting or reconnecting natural gas or propane to any building, or (2) supplying natural
 29.2 gas or propane to any building or utility customer.

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

29.4 Sec. 25. Laws 2020, chapter 118, section 5, subdivision 1, is amended to read:

29.5 Subdivision 1. **Community energy transition grants.** (a) Notwithstanding Minnesota
 29.6 Statutes, section 116C.779, subdivision 1, paragraph (j), \$2,000,000 in fiscal year 2021 is
 29.7 appropriated from the renewable development account established in Minnesota Statutes,
 29.8 section 116C.779, subdivision 1, to the commissioner of employment and economic
 29.9 development for deposit in the community energy transition account established in Minnesota
 29.10 Statutes, section 116J.55, subdivision 3. This is a onetime appropriation and is available
 29.11 until June 30, ~~2022~~ 2025.

29.12 (b) If another bill is enacted during the 2020 regular legislative session that appropriates
 29.13 money from the renewable development account established in Minnesota Statutes, section
 29.14 116C.779, subdivision 1, for the same general purpose as provided under Minnesota Statutes,
 29.15 section 116J.55, the appropriation under this subdivision cancels to the renewable
 29.16 development account under Minnesota Statutes, section 116C.779, subdivision 1.

29.17 Sec. 26. Laws 2021, First Special Session chapter 4, article 2, section 3, subdivision 1, is
 29.18 amended to read:

29.19			4,825,000		1,800,000
29.20	Subdivision 1. Total Appropriation	\$	<u>4,325,000</u>	\$	<u>1,300,000</u>

29.21 The amounts that may be spent for each
 29.22 purpose are specified in the following
 29.23 subdivisions.

29.24 Sec. 27. **ADVANCED NUCLEAR STUDY.**

29.25 Subdivision 1. **Study required.** (a) The commissioner of commerce must conduct a
 29.26 study evaluating the potential costs, benefits, and impacts of advanced nuclear technology
 29.27 reactor power generation in Minnesota.

29.28 (b) At a minimum, the study must address the potential costs, benefits, and impacts of
 29.29 advanced nuclear technology reactor power generation on:

29.30 (1) Minnesota's greenhouse gas emissions reduction goals under the Next Generation
 29.31 Energy Act, Laws 2007, chapter 136;

30.1 (2) system costs for ratepayers;

30.2 (3) system reliability;

30.3 (4) the environment;

30.4 (5) local jobs; and

30.5 (6) local economic development.

30.6 (c) The study must also evaluate:

30.7 (1) current Minnesota statutes and administrative rules that would require modifications

30.8 in order to enable the construction and operation of advanced nuclear reactors; and

30.9 (2) the economic feasibility of replacing coal-fired boilers with advanced nuclear reactors,

30.10 while accounting for the avoided costs that result from the closure of coal-fired plants.

30.11 Subd. 2. **Report.** The commissioner of commerce must submit the results of the study

30.12 under subdivision 1 to the chairs and ranking minority members of the legislative committees

30.13 having jurisdiction over energy finance and policy no later than January 31, 2023.

30.14 **Sec. 28. DECOMMISSIONING AND DEMOLITION PLAN FOR COAL-FIRED**

30.15 **PLANT.**

30.16 As a part of the next resource plan filing under Minnesota Statutes, section 216B.2422,

30.17 subdivision 2, but no later than December 31, 2025, the public utility that owns an electric

30.18 generation facility that is powered by coal, scheduled for retirement in 2028, and located

30.19 within the St. Croix National Scenic Riverway must provide, to the extent known, the public

30.20 utility's plan and a detailed timeline to decommission and demolish the electric generation

30.21 facility and remediate pollution at the electric generation facility site. The public utility

30.22 must also provide a copy of the plan and timeline to the governing body of the municipality

30.23 where the electric generation facility is located on the same date the plan and timeline are

30.24 submitted to the Public Utilities Commission. If a resource plan is not filed or required

30.25 before December 31, 2025, the plan and timeline must be submitted to the Public Utilities

30.26 Commission and the municipality as a separate filing by December 31, 2025.

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

30.28 **Sec. 29. APPROPRIATIONS.**

30.29 Subdivision 1. **Advanced nuclear study.** \$150,000 in fiscal year 2023 is appropriated

30.30 from the general fund to the commissioner of commerce to conduct an advanced nuclear

30.31 study and develop a report. This is a onetime appropriation.

31.1 Subd. 2. **Solar for schools.** \$4,150,000 in fiscal year 2023 is appropriated from the
31.2 general fund to the commissioner of commerce to provide financial assistance to schools
31.3 to purchase and install solar energy generating systems under Minnesota Statutes, section
31.4 216C.375. This appropriation must be expended on schools located outside the electric
31.5 service territory of the public utility that is subject to Minnesota Statutes, section 116C.779.
31.6 This appropriation is available until June 30, 2028. The base amount for fiscal year 2024
31.7 is \$5,700,000. The base amount for fiscal year 2025 is \$0.

31.8 Subd. 3. **Granite Falls hydroelectric generating facility.** Notwithstanding Minnesota
31.9 Statutes, section 116C.779, subdivision 1, paragraph (j), \$2,290,000 is appropriated in fiscal
31.10 year 2023 from the renewable development account established under Minnesota Statutes,
31.11 section 116C.779, subdivision 1, to the commissioner of commerce for a grant to the city
31.12 of Granite Falls for repair and overage costs related to the city's existing hydroelectric
31.13 generating facility. This is a onetime appropriation. Any amount of the appropriation under
31.14 this paragraph that remains unexpended on June 30, 2024, must be returned to the renewable
31.15 development account.

31.16 Subd. 4. **Community energy transition grants.** \$3,500,000 in fiscal year 2023 is
31.17 appropriated from the renewable development account to the commissioner of employment
31.18 and economic development. This appropriation is available only for grants to eligible
31.19 communities located within the service territory of the public utility subject to Minnesota
31.20 Statutes, section 116C.779. This is a onetime appropriation and is available until expended.

31.21 Subd. 5. **National Sports Center solar array.** Notwithstanding Minnesota Statutes,
31.22 section 116C.779, subdivision 1, paragraph (j), \$3,500,000 in fiscal year 2023 is appropriated
31.23 from the renewable development account to the Minnesota Amateur Sports Commission to
31.24 install solar arrays. This appropriation may be used to install solar arrays on an ice rink and
31.25 a maintenance facility at the National Sports Center in Blaine. This is a onetime appropriation.

31.26 Sec. 30. **REPEALER.**

31.27 Laws 2005, chapter 97, article 10, section 3, as amended by Laws 2013, chapter 85,
31.28 article 7, section 9; and Laws 2021, First Special Session chapter 4, article 2, section 3,
31.29 subdivision 3, are repealed.

APPENDIX
Repealed Minnesota Session Laws: S4269-1

Laws 2005, chapter 97, article 10, section 3, as amended by Laws 2013, chapter 85, article 7, section 9

Sec. 9. Laws 2005, chapter 97, article 10, section 3, is amended to read:

Sec. 3. **SUNSET.**

Sections 1 and 2 shall expire on June 30, 2023.

Laws 2021, First Special Session chapter 4, article 2, section 3, subdivision 3

Sec. 3. **DEPARTMENT OF COMMERCE**

Subd. 3. Third-Party Evaluator

\$500,000 each year is for costs associated with any third-party expert evaluation of a proposal submitted in response to a request for proposal to the Renewable Development Advisory Group under Minnesota Statutes, section 116C.779, subdivision 1, paragraph (1). No portion of this appropriation may be expended or retained by the commissioner of commerce. Any money appropriated under this paragraph that is unexpended at the end of a fiscal year cancels to the renewable development account.