

**Senate Counsel, Research,  
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DIRECTOR

**Senate**

State of Minnesota

**S.F. No. 1179 - Onamia ISD Geothermal Appropriation**

**Author:** Senator Betsy L. Wergin

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *mlb*

**Date:** March 31, 2005

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The bill appropriates \$600,000 from the general fund for the Onamia Independent School District geothermal heating and ventilation system, with up to \$300,000 appropriated from the energy and conservation account.

MG:dv

Senator Wergin introduced--

S.F. No. 1179: Referred to the Committee on Finance.

1 A bill for an act

2 relating to education; appropriating money for the  
3 geothermal system for a cooperative joint community  
4 learning center and health and wellness center in  
5 Onamia.

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

7 Section 1. [APPROPRIATIONS; ONAMIA.]

8 (a) \$600,000 is appropriated in fiscal year 2006 from the  
9 general fund to Independent School District No. 480, Onamia, for  
10 permanent financing for a geothermal heating and ventilation  
11 system including acquisition of the well field site for the  
12 cooperative joint community learning center and health and  
13 wellness center.

14 (b) Up to \$300,000 is appropriated in fiscal year 2006 from  
15 the energy and conservation account in the general fund under  
16 Minnesota Statutes, section 216B.241, subdivision 2a, to the  
17 commissioner of commerce for a grant to Independent School  
18 District No. 480, Onamia, for partial repayment of a loan to the  
19 city of Onamia for a geothermal heating and ventilation system,  
20 including acquisition of the well field site, for a cooperative  
21 joint community learning center and health and wellness center.  
22 The city and school district shall offer the design and the  
23 facilities as a demonstration site for energy conservation and  
24 efficiency.



**State Bonding Request  
Onamia Geo-Thermal System**

**Onamia Community Learning Center**

**And**

**Onamia Health and Fitness Center**



**SF # 1179**

**Superintendent  
John A. Varner**

**Onamia Public Schools**

**Senate Committee on Jobs, Energy, and Community Development**

**March 31, 2005**

**State Bonding Request**  
**Onamia Geo-Thermal System**  
for  
**The Onamia Community Learning Center**  
and  
**The Onamia Community Health and Wellness Center**

**District Information and Demographics**

Onamia Public Schools, ISD #480, serves a resident population of 5,379 in East Central Minnesota encompassing 188,000 acres on the shores of Lake Mille Lacs. The per capita income in 1999 was \$15,887.00 with a median household income \$31,461.00. 1,290 of our 2,111 households at or below the federal poverty level. We have an 19.3 % minority population. (please see attached map)

We have a total school population of 850 students, 51% of whom are eligible for the free and reduced lunch program, with a 23% minority population. The district provides a free and public education for its pre-K through 12 population, the Mille Lacs Academy for adolescent sexual offenders, and the Guy Kokesh Alternative Learning Center.

**The Community Learning Center**

The Onamia School Board determined that community outreach was critical to the mission of the school district in order to adequately serve the educational needs of its residents and overcoming poverty. It was determined that an off-site facility which would house the Alternative Learning Center, the Early Childhood and Family Education program, and the Community Education program would be the most effective way of meeting those educational needs. Lack of space in the K-12 facility coupled with the easy access of a downtown site fueled the need for another facility. Accessibility for senior citizens was another important concern.

**The Community Health and Wellness Center**

Once the school district began to plan its CLC, the City of Onamia sought to partner with us in order to build a health and fitness facility on the same site downtown. Through the generous help of the Onamia Lions Club, the city believed it could provide a building which would not only serve as a health and fitness facility but could also host the community theater, business fairs, and community social events. The city planned to put up the building and then turn its operation over to the school district.

**Collaboration and Cooperation**

As planning progressed, the city agreed to provide the water and sewer utilities for both buildings. The school district provided the land for both facilities as well as access and parking. Further, the school and city agreed to locate the outdoor ice skating rink at the same site. Both entities came together to form an oversight committee of school board members and city council members. (please see attached site plan)

## Paying Regional Dividends

The two facilities will pay dividends far beyond the district boundaries. Until their construction, there was no adequate public training or meeting facilities in the area. We anticipate both buildings will be used to host regional MNDOT, DNR, and other state government public hearings and/or meetings. The regional hospital plans on utilizing our classrooms, computers, and technology for employee training, and local businesses have expressed an interest in employee training also. We plan on having county and state services utilize the facilities as a satellite center to serve the area population. We will house the Mille Lacs Area Community Development Corporation office, and we plan to use our community education program to host and hold small business development classes, seminars, and informational meetings. Further, it is our intention to expand our strong commitment to providing community college classes by making the facility available to Central Lakes College of Brainerd. The centers will provide the means for many to pull themselves out of poverty through achieving a high school diploma and learning important job skills and training.

## The Geo-Thermal Heating and Cooling Plan

In 1992, Onamia Public Schools was one of the first districts in the state to incorporate a geo-thermal well system and heat pumps into a school facility. This in turn led to two area businesses also incorporating geo-thermal systems into their facilities because the school district demonstrated that such a system was viable for larger buildings. The energy savings for school district residents over the past 12 years has been remarkable.

As the district already enjoyed a successful geo-thermal system, we felt that the two new centers should also incorporate such a heating and cooling system. The cost benefit for local taxpayers over the life of the the buildings would be enormous. Our engineering firm calculated a "payback" of just under ten years for such a system, so we decided to go forward with the planning.

## Paying for the Geo-Thermal System

The district had high hopes that the governor's proposal for the 2004 Bonding Bill, entitled **Cooperative Local Facilities Grants**, would be a great way to provide funding for the geo-thermal system. Our cooperative plan with the city fit perfectly with Admin Minnesota's selection parameters under the governor's proposal, including intergovernmental collaboration, cost savings, service improvements, measures of success, compatibility with local plans, and leveraging resources. (see attached copy of Admin Minnesota's brochure)

Unfortunately, neither the governor's proposal or, for that matter, any of the 2004 Bonding Bill was approved by the legislature. As we were committed to a construction schedule and had already secured nearly \$1.2m through a lease levy authority, we made the conscious decision to continue as too much was at stake for the community and the collaboration to stop. We reasoned that there must be another grant program "out there" which would reward both the strong collaborative effort and the ecological benefits of the geo-thermal program. Until we found such a program, the school district would pay for the geo-thermal system out of its capital outlay fund, even though it would take every dollar we had to get it done. Further, the city bonded for an additional \$120,000.00 as a stop-gap measure to finish the project. (see attached letter to Rep.Sondra Erickson, dated December 6, 2004, for specifics)

We applied everywhere we could think of for assistance. We tried the Minnesota Department of Commerce for an energy grant or energy investment loan and were turned down as we did not fit the parameters of that program. We applied to our local energy cooperative as well as Great Rivers Energy and Excel Energy in order to exchange "clean energy credits" for funding, but were turned down. We looked to the USDA Rural Development Program and did not meet the parameters there either.

### Why This Geo-thermal System should be Appropriated by the Legislature

The two centers are the result of a strong collaboration between the city and the school district to improve the lives of residents not only in town and in the district, but for citizens of the entire region. We are an economically disadvantaged area with a population which needs help to raise itself up from poverty.

The geo-thermal system is an environmentally friendly, cost-efficient way of heating and cooling the building. It will save thousands of tax payer dollars over the 50 plus year life span of the two facilities.

All other known avenues of funding have been explored without success. The school district has no capital outlay or reserve in case of an emergency facilities repair. The district has been frugal and efficient in its overall spending. The two facilities were built for the greatest impact for the fewest dollars expended.

### Summary of Geo-thermal Costs

Well field drilling and installation	\$176,000.00
Heat pumps and ventilation system, learning center	220,000.00
Heat pumps and ventilation system, health & wellness center	124,000.00
Well field site acquisition	78,000.00
Electrical, design, commissioning of systems	<u>6,000.00</u>
Total	\$604,000.00

We respectfully request that the Minnesota Legislature include our request for \$600,000.00 for appropriation to help pay for the geo-thermal heating and cooling costs associated with this collaborative effort.

**State Appropriation Request:** \$15,000,000

**Agency Project Priority:**

(Governor's Request)

**Project Location:** Statewide Grants

**Project Description:**

Eligible for a Cooperative Local Facility Grant, local units of government would need to demonstrate a significant level of increased cooperation or consolidation as measured by one or more of the following criteria:

• Fundamental change in the organization of how services are delivered;  
• Substantial operating cost savings;  
• Positive return on investment over the life of the facility; and  
• Improved quality, access, transparency or level of service for citizens.

Cities and counties would be eligible to apply for grants. An application by a city, county, or group of cities or counties could include cooperation with other types of local governments such as townships or school districts.

This grant program of \$15 million in state general obligation bonds would leverage a minimum of \$22.5 million in local matching funds. The program would require a 60% non-state share to receive a 40% state match, with a \$2 million maximum state grant for any particular project.

Local units of government would submit proposals to the Department of Administration, which would administer the program. The commissioner of Administration would make the selection of grantees in consultation with the commissioner of Finance and the commissioners of other state departments, as appropriate.

**Impact on Agency Operating Budgets**

This request does not include funding for any new or additional state operating costs. Administrative costs associated with the program are expected to be incidental and would be paid from the agency's existing operating resources.

**Previous Appropriations for this Project**

None. This is a request for a new grant program.

**Project Contact Person:**

Jerry Lovrien, Assistant Commissioner  
658 Cedar Street, Room 300  
St. Paul, MN 55155  
Phone: 651-215-1093  
Fax: 651-296-3698  
E-mail: jerry.lovrien@state.mn.us

**Governor's Recommendation:**

The Governor recommends general obligation bonding of \$15 million for this project. Also included are budget planning estimates of \$15 million in 2006 and \$15 million in 2008.

**COOPERATIVE LOCAL FACILITIES GRANTS Selection Parameters**

**Selection Parameters:**

**Commitment** – Resolutions from all participating units certifying:

- Required match
- Commitment to the project
- Commitment to execute any necessary joint powers or other intergovernmental agreements required for implementation.

**Cost savings** – Documentation that project will result in substantial operating costs saving. Include such things as:

- Information on current costs for each participating unit
- Information on project cost savings, including:
  - Personnel/staffing expense savings
  - Equipment expenditure savings
  - Building maintenance costs reductions
  - Positive return on investment over the life of the facility

3. **Service improvements** – Documentation that project will result in substantial operating costs saving. Include such things as:

- Customer access – less distance/time spent getting service; longer, more flexible hours; multiple services at one site; multiple access methods
- Responsiveness – service delivered more quickly following identification of need (e.g. snow plowing; fire; ambulance; permits/licenses)
- Reduced cost to customers

4. **Measures of success** – Suggested measures to track savings and service improvements sufficient for documenting results and transferring organizational and service delivery innovations to other local governmental units.

5. **Organizational change** – Documentation of how project will foster service delivery cooperation/consolidation among departments and/or units of government.

6. **Compatibility with local plans** – Documentation that proposed project is part of a comprehensive, all hazard mitigation or other applicable local government plan, or of proposed steps and timeline to incorporate it into such plans.

7. **Leveraging resources** – Documentation of other sources of funding that could be applied to this project and demonstration of how this grant would be used to leverage additional resources at the planning, construction and/or operational phase.

## PROJECT AT A GLANCE

The Cooperative Local Facility Grant Program would be established to encourage, enable, and support local units of government to develop innovative methods to deliver public services better, faster and more cost-effectively through increased cooperation and consolidation.

\$15 million in state grants would help fund construction or renovation of shared facilities and bondable infrastructure.

## EXAMPLES OF POSSIBLE PROJECTS:

The following multi-jurisdictional, multi-departmental projects are examples only and are in no way meant to define or limit the types of projects eligible for Cooperative Local Facilities Grants. Grants may be awarded in phases and may cover predesign/design and build phases. All projects must be bondable as per Minnesota Constitution Article XI, Section 5 (a) and Minnesota Statutes Section 16A.695.

- Emergency services/operations center
- Highway maintenance facilities
- Customer service/licensing one-stop centers
- Criminal justice centers/jails



# COOPERATIVE LOCAL FACILITIES GRANTS Project Narrative



# Office of the Superintendent Onamia Public Schools

35-465 125<sup>th</sup> Avenue, Onamia, MN 56359

320 532 4174, ext. 301

[jvarner@onamia.k12.mn.us](mailto:jvarner@onamia.k12.mn.us)

December 6, 2004

Senator Betsy Wergin  
125 State Office Building  
100 MLK Jr Blvd.  
St. Paul, MN 55155-1206

Dear Senator Wergin:

This is a request for funding help in reference to a cooperative venture between the City of Onamia, the Onamia Lions Club, and the School District of Onamia to create a joint community learning and health and wellness centers. We are quite proud of our new centers, and we hope that the State of Minnesota will help us specifically with the construction of a geo-thermal well field heating and cooling system which will serve both centers through the State bonding bill or special legislation.

We believe this inter-governmental cooperation is somewhat unique in the state and is absolutely a first in Mille Lacs County. In order to build the two facilities, both the school district and the city made cooperative agreements to get the project done. The school district acquired property adjacent to the proposed facilities. The city donated infrastructure improvements including sewer and water. The school district sold the city land for \$1.00 on which to build the health and wellness center, and the city sold the school district land on which to complete the well field system. Additionally, an inter-governmental oversight board has been established to coordinate the wants and needs of both entities for these centers. Further, the city served as the fiscal host for the Onamia Lions Club in order to help provide funding for the health and wellness center. The city also coordinated the design and construction of the health and wellness center to its completion.

The school district believes the use of a geo-thermal well system to heat and cool both buildings has the greatest benefit for the local taxpayer over the life of the two buildings. While construction costs for such a system are somewhat higher than conventional systems, the efficiency of such a system has a conservation "pay back" of less than ten years in energy costs when compared to conventional HVAC systems. As the school district has direct experience in utilizing a geo-thermal system for the past 12 years at its elementary school and has realized direct yearly operational savings because of this system, the school district believes any new construction should also include the use of geo-thermal well fields in order to reduce both operational costs and demonstrate responsible use of natural resources.

The school district financed the \$1.1m construction of the learning center through the lease levy process. This center is approximately 10,000 square feet and houses the district's alternative learning center, early childhood family education, and community education. The city used donations from the Onamia Lions Club and its capital outlay fund to build the health and wellness center for \$415,000.00. This center is approximately 10,000 square feet and will house a large exercise equipment room, a large group exercise room, and indoor recreation space.

Temporary financing for the geo-thermal system has been accomplished using the school district's unreserved capital outlay accounts and the city's bonding authority. In the case of the city, the school district agreed to make repayments on the sale of bonds beginning in 2005. Both the school district and the city were hopeful that the 2004 bonding bill would include help for the geo-thermal system under the governor's joint-government cooperation funding. As the bonding bill did not pass, we are once again asking for help to pay for the geo-thermal system. Alternatively, special legislation which promotes both inter-governmental cooperative efforts and the use of environmentally sound energy systems would be greatly appreciated.

#### Geo-Thermal Cost breakdown

Well field drilling and installation	\$176,000.00
Heat pumps and ventilation system, learning center	220,000.00
Heat pumps and ventilation system, health & wellness center	124,000.00
Well field site acquisition	78,000.00
Electrical, design, commissioning of systems	<u>6,000.00</u>
Total	\$604,000.00

We are extremely pleased with the facilities and are excited about the positive impact they will have on the lives of school district and city residents in a rural setting in central Minnesota. We will be able to provide important services which have been heretofore unavailable in this community.

If you have any questions or need further information, please do not hesitate to contact me. Again, thank you for your help in this very important matter.

Sincerely,



John A. Varner  
Superintendent of Schools

# Office of the Superintendent

## Onamia Public Schools

35465 125<sup>th</sup> Avenue, Onamia, MN 56359

320-532-4174, ext. 301

jvarner@onamia.k12.mn.us

July 22, 2004

Senator Betsy Wergin  
125 State Office Building  
100 MLK Jr Blvd.  
St. Paul, MN 55155-1206

Dear Senator Wergin:

I am writing to you in regard to our Community Learning Center and Community Recreation Center facilities now under construction in Onamia. Work is progressing well, and I hope if you are in the area you will drive by to see the progress. The complex is by our bus garage where 125<sup>th</sup> Ave meets Highway 27 (Main Street). There is strong community interest in the project, and we are looking forward to a completion date just before Christmas of this year.

The City of Onamia and the School District of Onamia are "shoulder-to-shoulder" with this project, demonstrating a local government cooperation that has not really existed here in the past. Both the school board and the city council are committed to the facilities, yet we are still falling short of funding for the overall project.

The shortfall is in the geothermal heating and cooling system. You may recall that the two buildings will share a common well field through a manifold system in order to keep energy costs low during the expected fifty year lives of the two buildings. I believe we are doing the responsible thing for the taxpayers of our community and district with the installation of this system. However, there is temptation among several council and board members to revert back to conventional heating and cooling in order to cut costs. While the short-term construction savings would help the bottom line, running conventional gas furnaces and electric air conditioners would be financially irresponsible over the lifetimes of these facilities. We find ourselves about \$500,000.00 short in the completion of the project, or about the approximate cost of the complete geothermal system.

I have exhausted every lead I have found for energy grants, credits, "clean air" credits, and State Department of Commerce programs. I have even offered grant writers and industry insiders commissions for finding funding streams and opportunities, all to no avail. What I do not understand is the lack of availability of financial help for such a great project. Two local government entities in a poor, rural setting are trying to work together to meet the needs of children and adults alike with this project, yet I can't find any help.

The City of Onamia has committed over \$450,000.00 to help fund this project and is furnishing the sewer and water infrastructure for both facilities. The School District of Onamia has sold \$1.1 million in lease levy notes to fund the project and is wiping out its capital outlay funds to create a great learning facility for all ages in downtown Onamia.

If you can help the school district and the city with our efforts, it would be greatly appreciated. I understand the governor's bonding bill was not acted upon during the regular session, and if there is a way to include our geothermal needs in any bonding bill upcoming, that would be wonderful. If you have any ideas for getting us assistance which could happen during any special session coming up, that would also be a real help to us. Alternatively, we would be grateful for assistance during the next legislative session in 2005 if possible.

Sondra, we are working hard up here and have been a fiscally responsible school district when others have not. We need your help to complete this project. Please let me know if you need further information in order to assist us. I have sent a similar letter to Representative Erickson.

Sincerely,



John A. Varner

Cc: Dean Benson, School Board Chair, Larry Milton, Mayor



**Senate Counsel, Research,  
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**Senate**

**State of Minnesota**

**S.F. No. 1921 - Geothermal Energy Incentive**

**Author:** Senator Gary W. Kubly

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *MB*

**Date:** March 31, 2005

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**Section 1** requires each public utility to offer a minimum one-time incentive to each of its customers in the amount of \$200 per ton\* of geothermal heating and cooling equipment purchased after June 30, 2005. This section also requires each public utility inform its customers four times per year of the incentive as well as the energy savings and emissions reductions related to geothermal energy.

**Section 2** exempts geothermal heating and cooling equipment from general sales and use taxes.

\*Note: a ton is a measure of heating/cooling capacity roughly equivalent to 12,000BTU.

MG:dv

**Senators Kubly and Marty introduced--**

**S.F. No. 1921:** Referred to the Committee on Jobs, Energy and Community Development.

1                                   A bill for an act

2           relating to utilities; establishing geothermal energy  
3           incentives; amending Minnesota Statutes 2004, section  
4           297A.67, by adding a subdivision; proposing coding for  
5           new law in Minnesota Statutes, chapter 216B.

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

7           Section 1. [216B.2426] [GEOTHERMAL INCENTIVE.]

8           Subdivision 1. [CREDIT.] Each public utility, as defined  
9           in section 216B.02, shall offer each of its customers a minimum  
10           onetime credit of \$200 per ton for geothermal heating and  
11           cooling equipment purchased after June 30, 2005. For purposes  
12           of this section, "ton" is a term used by the heating and cooling  
13           industry referring to the cooling power of a ton of ice.

14           Subd. 2. [QUARTERLY NOTICE.] Each public utility shall  
15           inform its customers four times per year (1) that geothermal  
16           energy can substantially reduce their heating bills and carbon  
17           dioxide emissions and (2) that the incentive to purchase  
18           geothermal heating and cooling equipment is available under this  
19           section and a sales tax credit is available under section  
20           297A.67, subdivision 32, when geothermal equipment is purchased.

21           [EFFECTIVE DATE.] This section is effective for sales,  
22           purchases, and installations occurring on and after July 1, 2005.

23           Sec. 2. Minnesota Statutes 2002, section 297A.67, is  
24           amended by adding a subdivision to read:

25           Subd. 32. [GEOTHERMAL EQUIPMENT.] The loop field

1 collection system, the heat pump, and charges for installation  
2 of geothermal heating and cooling systems are exempt.  
3 [EFFECTIVE DATE.] This section is effective for sales,  
4 purchases, and installations occurring on and after July 1, 2005.

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**Senate**

**State of Minnesota**

**S.F. No. 2028 - Soy-Diesel Generators**

**Author:** Senator Gary W. Kubly

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *MG*

**Date:** March 31, 2005

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The bill appropriates \$150,000 from the renewable energy development account to the Public Utilities Commission to be disbursed as grants over a three-year period to Minnesota resident-owners of wind energy conversion facilities of one megawatt or less of nameplate capacity to finance soy-diesel fueled generators to provide back-up power. The bill defines soy-diesel as a renewable, biodegradable, mono alkyl ester combustibile liquid fuel derived from agricultural plant oils meeting ASTM specifications.

MG:dv



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**Senate**  

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**State of Minnesota**

**S.F. No. 1687 - Renewable Energy Standard**

**Author:** Senator Ellen R. Anderson

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *MB*

**Date:** March 18, 2005

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The bill reduces the renewable energy objective in Minnesota Statutes from ten percent in 2015 to five percent in 2010, and establishes a renewable energy standard thereafter such that by 2013 each electric utility must generate ten percent of the utility's total retail electric sales from an eligible energy technology, increasing to 15 percent in 2015 and 20 percent in 2020. The bill deletes language that required Xcel Energy to meet the renewable energy objective and adds language giving the Public Utilities Commission authority to enforce compliance with the renewable energy standard contained in the bill. The bill also makes conforming changes to include the standard in the renewable energy tradable credit program and the reporting requirements to show compliance with the standards.

MSG:cs

**Senators Anderson, Kubly, Metzen, Rosen and Frederickson introduced--**  
**S.F. No. 1687: Referred to the Committee on Jobs, Energy and Community Development.**

1 A bill for an act

2 relating to energy; requiring utilities to meet  
3 certain renewable energy standards; amending Minnesota  
4 Statutes 2004, section 216B.1691.

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

6 Section 1. Minnesota Statutes 2004, section 216B.1691, is  
7 amended to read:

8 216B.1691 [RENEWABLE ENERGY STANDARDS AND OBJECTIVES.]

9 Subdivision 1. [DEFINITIONS.] (a) Unless otherwise  
10 specified in law, "eligible energy technology" means an energy  
11 technology that:

12 (1) generates electricity from the following renewable  
13 energy sources: solar; wind; hydroelectric with a capacity of  
14 less than 60 megawatts; hydrogen, provided that after January 1,  
15 2010, the hydrogen must be generated from the resources listed  
16 in this clause; or biomass, which includes an energy recovery  
17 facility used to capture the heat value of mixed municipal solid  
18 waste or refuse-derived fuel from mixed municipal solid waste as  
19 a primary fuel; and

20 (2) was not mandated by Laws 1994, chapter 641, or by  
21 commission order issued pursuant to that chapter prior to August  
22 1, 2001.

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

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

6 Subd. 2. [ELIGIBLE ENERGY OBJECTIVES.] (a) Each electric  
7 utility shall make a good faith effort to generate or procure  
8 sufficient electricity generated by an eligible energy  
9 technology to provide its retail consumers, or the retail  
10 customers of a distribution utility to which the electric  
11 utility provides wholesale electric service, so that:

12 (1) commencing in 2005, at least one percent of the  
13 electric utility's total retail electric sales is generated by  
14 eligible energy technologies;

15 (2) the amount provided under clause (1) is increased by  
16 one percent of the utility's total retail electric sales each  
17 year until ~~2015~~ 2010; and

18 (3) ~~ten~~ five percent of the electric energy provided to  
19 retail customers in Minnesota by 2010 is generated by eligible  
20 energy technologies.

21 (b) Of the eligible energy technology generation required  
22 under paragraph (a), clauses (1) and (2), not less than 0.5  
23 percent of the energy must be generated by biomass energy  
24 technologies, including an energy recovery facility used to  
25 capture the heat value of mixed municipal solid waste or  
26 refuse-derived fuel from mixed municipal solid waste as a  
27 primary fuel, by 2005. By 2010, one percent of the eligible  
28 technology generation required under paragraph (a), clauses (1)  
29 and (2), shall be generated by biomass energy technologies. An  
30 energy recovery facility used to capture the heat value of mixed  
31 municipal solid waste or refuse-derived fuel from mixed  
32 municipal solid waste, with a power sales agreement in effect as  
33 of May 29, 2003, that terminates after December 31, 2010, does  
34 not qualify as an eligible energy technology unless the  
35 agreement provides for rate adjustment in the event the facility  
36 qualifies as a renewable energy source.

1        Subd. 2a. [ELIGIBLE ENERGY STANDARD.] Each electric  
 2 utility shall generate or procure sufficient electricity  
 3 generated by an eligible energy technology to provide its retail  
 4 customers, or the retail customers of a distribution utility to  
 5 which the electric utility provides wholesale electric service,  
 6 so that at least the following percentages of the electric  
 7 utility's total retail electric sales is generated by eligible  
 8 energy technologies by the end of the year indicated:

- 9        (1)        2013        ten percent
- 10       (2)        2015        15 percent
- 11       (3)        2020        20 percent

12       To be counted toward satisfying the standard, energy must  
 13 be generated by a facility originally placed in service after  
 14 January 1, 1975. The commission may delay or modify the  
 15 standard for an electric utility if it finds that compliance  
 16 with a standard will jeopardize the reliability of the electric  
 17 system in a way not consistent with the public interest when  
 18 weighing the benefits of renewable energy. The standard is both  
 19 an individual electric utility standard and a statewide standard  
 20 so that by the end of 2020 at least 20 percent of the electric  
 21 energy provided to retail customers in Minnesota is generated by  
 22 eligible energy technologies.

23       ~~(e)~~ Subd. 2b. [COMMISSION ORDER.] By June 1, 2004, and as  
 24 needed thereafter, the commission shall issue an order detailing  
 25 the criteria and standards by which it will measure an electric  
 26 utility's efforts to meet the renewable energy objectives and  
 27 standards of this section to determine whether the utility is  
 28 making the required good faith effort and is meeting the  
 29 standards. In this order, the commission shall include criteria  
 30 and standards that protect against undesirable impacts on the  
 31 reliability of the utility's system and economic impacts on the  
 32 utility's ratepayers and that consider technical feasibility.

33       ~~(d)-In-its-order-under-paragraph-(e), the commission shall~~  
 34 ~~provide-for-a-weighted-scale-of-how-energy-produced-by-various~~  
 35 ~~eligible-energy-technologies-shall-count-toward-a-utility's~~  
 36 ~~objective.--In-establishing-this-scale, the commission shall~~

~~1 consider-the-attributes-of-various-technologies-and-fuels,-and  
2 shall-establish-a-system-that-grants-multiple-credits-toward-the  
3 objectives-for-those-technologies-and-fuels-the-commission  
4 determines-is-in-the-public-interest-to-encourage.~~

5 Subd. 3. [UTILITY PLANS FILED WITH COMMISSION.] (a) Each  
6 electric utility shall report on its plans, activities, and  
7 progress with regard to these objectives and standards in its  
8 filings under section 216B.2422 or in a separate report  
9 submitted to the commission every two years, whichever is more  
10 frequent, demonstrating to the commission ~~that the utility-is~~  
11 ~~making-the-required-good-faith~~ utility's effort to comply with  
12 this section. In its resource plan or a separate report, each  
13 electric utility shall provide a description of:

14 (1) the status of the utility's renewable energy mix  
15 relative to the ~~good-faith~~ objective and standards;

16 (2) efforts taken to meet the objective and standards;

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

19 (4) potential solutions to the obstacles.

20 (b) The commissioner shall compile the information provided  
21 to the commission under paragraph (a), and report to the chairs  
22 of the house of representatives and senate committees with  
23 jurisdiction over energy and environment policy issues as to the  
24 progress of utilities in the state in increasing the amount of  
25 renewable energy provided to retail customers, with any  
26 recommendations for regulatory or legislative action, by January  
27 15 of each odd-numbered year.

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

35 (b) In lieu of generating or procuring energy directly to  
36 satisfy the renewable energy objective and standard of this

1 section, an electric utility may purchase sufficient renewable  
2 energy credits, issued pursuant to this subdivision, to meet its  
3 objective and standard.

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

9 Subd. 5. [TECHNOLOGY BASED ON FUEL COMBUSTION.] (a)  
10 Electricity produced by fuel combustion may only count toward a  
11 utility's objectives or standards if the generation facility:

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

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

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

24 Subd. 6. [ELECTRIC UTILITY THAT OWNS NUCLEAR GENERATION  
25 FACILITY.] (a) An electric utility that owns a nuclear  
26 generation facility, as part of its good faith effort under this  
27 subdivision and subdivision 2, shall deploy an additional 300  
28 megawatts of nameplate capacity of wind energy conversion  
29 systems by 2010, beyond the amount of wind energy capacity to  
30 which the utility is required by law or commission order as of  
31 May 1, 2003. At least 100 megawatts of this capacity are to be  
32 wind energy conversion systems of two megawatts or less, which  
33 shall not be eligible for the production incentive under section  
34 216C.41. To the greatest extent technically feasible and  
35 economic, these 300 megawatts of wind energy capacity are to be  
36 distributed geographically throughout the state. The utility

1 may opt to own, construct, and operate up to 100 megawatts of  
2 this wind energy capacity, except that the utility may not own,  
3 construct, or operate any of the facilities that are under two  
4 megawatts of nameplate capacity. The deployment of the wind  
5 energy capacity under this subdivision must be consistent with  
6 the outcome of the engineering study required under Laws 2003,  
7 First Special Session chapter 11, article 2, section 21.

8 ~~(b) The renewable energy objective set forth in subdivision~~  
9 ~~2 shall be a requirement for the public utility that owns the~~  
10 ~~Prairie Island nuclear generation plant. The objective is a~~  
11 ~~requirement subject to resource planning and least cost planning~~  
12 ~~requirements in section 216B.2422, unless implementation of the~~  
13 ~~objective can reasonably be shown to jeopardize the reliability~~  
14 ~~of the electric system. The least cost planning analysis must~~  
15 ~~include the costs of ancillary services and other necessary~~  
16 ~~generation and transmission upgrades.~~

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

25 Subd. 7. [COMPLIANCE.] The commission, on its own motion  
26 or upon petition, may investigate whether an electric utility is  
27 in compliance with its standard obligation under subdivision 2a  
28 and if it finds noncompliance may order the electric utility to  
29 construct facilities or purchase credits to achieve compliance.  
30 If an electric utility fails to comply with an order under this  
31 subdivision, the commission may impose a financial penalty on  
32 the electric utility in an amount up to the electric utility's  
33 estimated cost of compliance.

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**State of Minnesota**

**S.F. No. 1385 - Biodiesel Home Heating Fuel Study**

**Author:** Senator Julie A. Rosen

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *MG*

**Date:** March 31, 2005

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The bill instructs the Reliability Administrator in the Department of Commerce to perform a comprehensive technical and economic analysis of the benefits of using biodiesel fuels as home heating fuel, and report the results to the appropriate legislative committees by March 15, 2007.

MG:dv

Senators Rosen, Anderson, Frederickson, Dibble and Kubly introduced--  
S.F. No. 1385: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to agriculturally derived fuels; authorizing  
3 a study by the reliability administrator in the  
4 Department of Commerce to determine technical and  
5 economic aspects of using biodiesel fuel as a home  
6 heating fuel; requiring a report to the legislature.

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

8 Section 1. [STUDY; BIODIESEL FUEL FOR HOME HEATING.]

9 (a) From the money available to the commissioner of  
10 commerce for purposes of studies and technical assistance by the  
11 reliability administrator under Minnesota Statutes, section  
12 216C.052, and in conformity with the goals and directives of  
13 Minnesota Statutes, section 16B.325, the reliability  
14 administrator shall perform a comprehensive technical and  
15 economic analysis of the benefits to be derived from using  
16 biodiesel fuel as defined in Minnesota Statutes, section 239.77,  
17 subdivision 1, or biodiesel fuel blends, as a home heating  
18 fuel. The analysis must consider blends ranging from B2 to B100.

19 (b) Not later than March 15, 2007, the reliability  
20 administrator shall report the results of the study and analysis  
21 to the appropriate standing committees of the Minnesota senate  
22 and house of representatives.

Senators Dibble, Anderson and Kubly introduced--

S.F. No. 1673: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to taxation; providing a subtraction from  
3 taxable income for costs incurred for certain  
4 purchases of wind-generated electricity; amending  
5 Minnesota Statutes 2004, section 290.01, subdivision  
6 19b.

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

8 Section 1. Minnesota Statutes 2004, section 290.01,  
9 subdivision 19b, is amended to read:

10 Subd. 19b. [SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.] For  
11 individuals, estates, and trusts, there shall be subtracted from  
12 federal taxable income:

13 (1) interest income on obligations of any authority,  
14 commission, or instrumentality of the United States to the  
15 extent includable in taxable income for federal income tax  
16 purposes but exempt from state income tax under the laws of the  
17 United States;

18 (2) if included in federal taxable income, the amount of  
19 any overpayment of income tax to Minnesota or to any other  
20 state, for any previous taxable year, whether the amount is  
21 received as a refund or as a credit to another taxable year's  
22 income tax liability;

23 (3) the amount paid to others, less the amount used to  
24 claim the credit allowed under section 290.0674, not to exceed  
25 \$1,625 for each qualifying child in grades kindergarten to 6 and  
26 \$2,500 for each qualifying child in grades 7 to 12, for tuition,

1 textbooks, and transportation of each qualifying child in  
2 attending an elementary or secondary school situated in  
3 Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin,  
4 wherein a resident of this state may legally fulfill the state's  
5 compulsory attendance laws, which is not operated for profit,  
6 and which adheres to the provisions of the Civil Rights Act of  
7 1964 and chapter 363A. For the purposes of this clause,  
8 "tuition" includes fees or tuition as defined in section  
9 290.0674, subdivision 1, clause (1). As used in this clause,  
10 "textbooks" includes books and other instructional materials and  
11 equipment purchased or leased for use in elementary and  
12 secondary schools in teaching only those subjects legally and  
13 commonly taught in public elementary and secondary schools in  
14 this state. Equipment expenses qualifying for deduction  
15 includes expenses as defined and limited in section 290.0674,  
16 subdivision 1, clause (3). "Textbooks" does not include  
17 instructional books and materials used in the teaching of  
18 religious tenets, doctrines, or worship, the purpose of which is  
19 to instill such tenets, doctrines, or worship, nor does it  
20 include books or materials for, or transportation to,  
21 extracurricular activities including sporting events, musical or  
22 dramatic events, speech activities, driver's education, or  
23 similar programs. For purposes of the subtraction provided by  
24 this clause, "qualifying child" has the meaning given in section  
25 32(c)(3) of the Internal Revenue Code;  
26 (4) income as provided under section 290.0802;  
27 (5) to the extent included in federal adjusted gross  
28 income, income realized on disposition of property exempt from  
29 tax under section 290.491;  
30 (6) to the extent included in federal taxable income,  
31 postservice benefits for youth community service under section  
32 124D.42 for volunteer service under United States Code, title  
33 42, sections 12601 to 12604;  
34 (7) to the extent not deducted in determining federal  
35 taxable income by an individual who does not itemize deductions  
36 for federal income tax purposes for the taxable year, an amount

1 equal to 50 percent of the excess of charitable contributions  
2 allowable as a deduction for the taxable year under section  
3 170(a) of the Internal Revenue Code over \$500;

4 (8) for taxable years beginning before January 1, 2008, the  
5 amount of the federal small ethanol producer credit allowed  
6 under section 40(a)(3) of the Internal Revenue Code which is  
7 included in gross income under section 87 of the Internal  
8 Revenue Code;

9 (9) for individuals who are allowed a federal foreign tax  
10 credit for taxes that do not qualify for a credit under section  
11 290.06, subdivision 22, an amount equal to the carryover of  
12 subnational foreign taxes for the taxable year, but not to  
13 exceed the total subnational foreign taxes reported in claiming  
14 the foreign tax credit. For purposes of this clause, "federal  
15 foreign tax credit" means the credit allowed under section 27 of  
16 the Internal Revenue Code, and "carryover of subnational foreign  
17 taxes" equals the carryover allowed under section 904(c) of the  
18 Internal Revenue Code minus national level foreign taxes to the  
19 extent they exceed the federal foreign tax credit;

20 (10) in each of the five tax years immediately following  
21 the tax year in which an addition is required under subdivision  
22 19a, clause (7), an amount equal to one-fifth of the delayed  
23 depreciation. For purposes of this clause, "delayed  
24 depreciation" means the amount of the addition made by the  
25 taxpayer under subdivision 19a, clause (7), minus the positive  
26 value of any net operating loss under section 172 of the  
27 Internal Revenue Code generated for the tax year of the  
28 addition. The resulting delayed depreciation cannot be less  
29 than zero; and

30 (11) job opportunity building zone income as provided under  
31 section 469.316; and

32 (12) the amount paid by the taxpayer to a utility as an  
33 additional rate amount determined under section 216B.169,  
34 subdivision 2, for the purchase of renewable and high-efficiency  
35 energy for the primary residence of the taxpayer.

36 [EFFECTIVE DATE.] This section is effective for taxable

1 years beginning after December 31, 2005.

1 Senator ..... moves to amend S.F. No. 1673 as follows:

2 Page 3, line 35, delete "for the primary residence of the  
3 taxpayer"

4 Page 4, after line 1, insert:

5 "Sec. 2. Minnesota Statutes 2004, section 290.01,  
6 subdivision 19d, is amended to read:

7 Subd. 19d. [CORPORATIONS; MODIFICATIONS DECREASING FEDERAL  
8 TAXABLE INCOME.] For corporations, there shall be subtracted  
9 from federal taxable income after the increases provided in  
10 subdivision 19c:

11 (1) the amount of foreign dividend gross-up added to gross  
12 income for federal income tax purposes under section 78 of the  
13 Internal Revenue Code;

14 (2) the amount of salary expense not allowed for federal  
15 income tax purposes due to claiming the federal jobs credit  
16 under section 51 of the Internal Revenue Code;

17 (3) any dividend (not including any distribution in  
18 liquidation) paid within the taxable year by a national or state  
19 bank to the United States, or to any instrumentality of the  
20 United States exempt from federal income taxes, on the preferred  
21 stock of the bank owned by the United States or the  
22 instrumentality;

23 (4) amounts disallowed for intangible drilling costs due to  
24 differences between this chapter and the Internal Revenue Code  
25 in taxable years beginning before January 1, 1987, as follows:

26 (i) to the extent the disallowed costs are represented by  
27 physical property, an amount equal to the allowance for  
28 depreciation under Minnesota Statutes 1986, section 290.09,  
29 subdivision 7, subject to the modifications contained in  
30 subdivision 19e; and

31 (ii) to the extent the disallowed costs are not represented  
32 by physical property, an amount equal to the allowance for cost  
33 depletion under Minnesota Statutes 1986, section 290.09,  
34 subdivision 8;

35 (5) the deduction for capital losses pursuant to sections  
36 1211 and 1212 of the Internal Revenue Code, except that:

1 (i) for capital losses incurred in taxable years beginning  
2 after December 31, 1986, capital loss carrybacks shall not be  
3 allowed;

4 (ii) for capital losses incurred in taxable years beginning  
5 after December 31, 1986, a capital loss carryover to each of the  
6 15 taxable years succeeding the loss year shall be allowed;

7 (iii) for capital losses incurred in taxable years  
8 beginning before January 1, 1987, a capital loss carryback to  
9 each of the three taxable years preceding the loss year, subject  
10 to the provisions of Minnesota Statutes 1986, section 290.16,  
11 shall be allowed; and

12 (iv) for capital losses incurred in taxable years beginning  
13 before January 1, 1987, a capital loss carryover to each of the  
14 five taxable years succeeding the loss year to the extent such  
15 loss was not used in a prior taxable year and subject to the  
16 provisions of Minnesota Statutes 1986, section 290.16, shall be  
17 allowed;

18 (6) an amount for interest and expenses relating to income  
19 not taxable for federal income tax purposes, if (i) the income  
20 is taxable under this chapter and (ii) the interest and expenses  
21 were disallowed as deductions under the provisions of section  
22 171(a)(2), 265 or 291 of the Internal Revenue Code in computing  
23 federal taxable income;

24 (7) in the case of mines, oil and gas wells, other natural  
25 deposits, and timber for which percentage depletion was  
26 disallowed pursuant to subdivision 19c, clause (11), a  
27 reasonable allowance for depletion based on actual cost. In the  
28 case of leases the deduction must be apportioned between the  
29 lessor and lessee in accordance with rules prescribed by the  
30 commissioner. In the case of property held in trust, the  
31 allowable deduction must be apportioned between the income  
32 beneficiaries and the trustee in accordance with the pertinent  
33 provisions of the trust, or if there is no provision in the  
34 instrument, on the basis of the trust's income allocable to  
35 each;

36 (8) for certified pollution control facilities placed in

1 service in a taxable year beginning before December 31, 1986,  
2 and for which amortization deductions were elected under section  
3 169 of the Internal Revenue Code of 1954, as amended through  
4 December 31, 1985, an amount equal to the allowance for  
5 depreciation under Minnesota Statutes 1986, section 290.09,  
6 subdivision 7;

7 (9) amounts included in federal taxable income that are due  
8 to refunds of income, excise, or franchise taxes based on net  
9 income or related minimum taxes paid by the corporation to  
10 Minnesota, another state, a political subdivision of another  
11 state, the District of Columbia, or a foreign country or  
12 possession of the United States to the extent that the taxes  
13 were added to federal taxable income under section 290.01,  
14 subdivision 19c, clause (1), in a prior taxable year;

15 (10) 80 percent of royalties, fees, or other like income  
16 accrued or received from a foreign operating corporation or a  
17 foreign corporation which is part of the same unitary business  
18 as the receiving corporation;

19 (11) income or gains from the business of mining as defined  
20 in section 290.05, subdivision 1, clause (a), that are not  
21 subject to Minnesota franchise tax;

22 (12) the amount of handicap access expenditures in the  
23 taxable year which are not allowed to be deducted or capitalized  
24 under section 44(d)(7) of the Internal Revenue Code;

25 (13) the amount of qualified research expenses not allowed  
26 for federal income tax purposes under section 280C(c) of the  
27 Internal Revenue Code, but only to the extent that the amount  
28 exceeds the amount of the credit allowed under section 290.068;

29 (14) the amount of salary expenses not allowed for federal  
30 income tax purposes due to claiming the Indian employment credit  
31 under section 45A(a) of the Internal Revenue Code;

32 (15) the amount of any refund of environmental taxes paid  
33 under section 59A of the Internal Revenue Code;

34 (16) for taxable years beginning before January 1, 2008,  
35 the amount of the federal small ethanol producer credit allowed  
36 under section 40(a)(3) of the Internal Revenue Code which is

1 included in gross income under section 87 of the Internal  
2 Revenue Code;

3 (17) for a corporation whose foreign sales corporation, as  
4 defined in section 922 of the Internal Revenue Code, constituted  
5 a foreign operating corporation during any taxable year ending  
6 before January 1, 1995, and a return was filed by August 15,  
7 1996, claiming the deduction under section 290.21, subdivision  
8 4, for income received from the foreign operating corporation,  
9 an amount equal to 1.23 multiplied by the amount of income  
10 excluded under section 114 of the Internal Revenue Code,  
11 provided the income is not income of a foreign operating  
12 company;

13 (18) any decrease in subpart F income, as defined in  
14 section 952(a) of the Internal Revenue Code, for the taxable  
15 year when subpart F income is calculated without regard to the  
16 provisions of section 614 of Public Law 107-147; and

17 (19) in each of the five tax years immediately following  
18 the tax year in which an addition is required under subdivision  
19 19c, clause (16), an amount equal to one-fifth of the delayed  
20 depreciation. For purposes of this clause, "delayed  
21 depreciation" means the amount of the addition made by the  
22 taxpayer under subdivision 19c, clause (16). The resulting  
23 delayed depreciation cannot be less than zero; and

24 (20) the amount paid by the taxpayer to a utility as an  
25 additional rate amount determined under section 216B.169,  
26 subdivision 2, for the purchase of renewable and high-efficiency  
27 energy.

28 [EFFECTIVE DATE.] This section is effective for taxable  
29 years beginning after December 31, 2005."

30 Amend the title accordingly

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**S.F. No. 1846 - Energy Savings Contracts and Forward  
Pricing**

**Author:** Senator Steve Kelley

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *MB*

**Date:** March 31, 2005

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**Section 1** of the bill defines “forward pricing mechanism” as a contract or financial instrument that obligates a state agency to buy or sell a specified quantity of energy at a future date at a set price, and authorizes the Commissioner of Administration to use such mechanisms for budget risk reduction under certain conditions and only after the development of written policies governing their use.

**Section 2** changes utility cost savings contracts to utility cost savings programs; provides for annual inflation adjustments in determining operation and maintenance cost savings; allows engineering report costs to be included in implementation costs; extends the length of lease purchase agreements to 15 years from the date of final installation; and changes a reporting requirement from 2005 to 2007.

MG:dv

Senator Kelley introduced--

S.F. No. 1846: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to state government; establishing an energy  
3 savings program; authorizing the Department of  
4 Administration to use energy forward pricing  
5 mechanisms for budget risk reduction; amending  
6 Minnesota Statutes 2004, section 16C.144; proposing  
7 coding for new law in Minnesota Statutes, chapter 16C.

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

9 Section 1. [16C.143] [ENERGY FORWARD PRICING MECHANISMS.]

10 Subdivision 1. [DEFINITIONS.] The following definitions  
11 apply in this section:

12 (1) "energy" means natural gas, heating oil, propane, and  
13 any other energy source except electricity used in state  
14 facilities; and

15 (2) "forward pricing mechanism" means a contract or  
16 financial instrument that obligates a state agency to buy or  
17 sell a specified quantity of energy at a future date at a set  
18 price.

19 Subd. 2. [AUTHORITY.] Notwithstanding any other law to the  
20 contrary, the Department of Administration may use forward  
21 pricing mechanisms for budget risk reduction.

22 Subd. 3. [CONDITIONS.] Forward pricing mechanism  
23 transactions must be made only under the following conditions:

24 (1) the quantity of energy affected by the forward pricing  
25 mechanism must not exceed the estimated energy use for the state  
26 agency for the same period; and

1 (2) a separate account must be established for each state  
2 agency using a forward pricing mechanism.

3 Subd. 4. [WRITTEN POLICIES AND PROCEDURES.] Before  
4 exercising the authority under this section, the Department of  
5 Administration must develop written policies and procedures  
6 governing the use of forward pricing mechanisms.

7 Sec. 2. Minnesota Statutes 2004, section 16C.144, is  
8 amended to read:

9 16C.144 [GUARANTEED SAVINGS CONTRACTS.]

10 Subdivision 1. [DEFINITIONS.] The following definitions  
11 apply to this section.

12 (a) "Utility" means electricity, natural gas, or other  
13 energy resource, water, and wastewater.

14 (b) "Utility cost savings" means the difference between the  
15 ~~utility-costs-under-the-precontract-conditions-and~~ the utility  
16 ~~costs after the-changes-have-been-made-under-the-contract.--Such~~  
17 ~~savings-shall-be-calculated-in-comparison-to-an-established~~  
18 ~~baseline-of-utility-costs~~ installation of the utility  
19 cost-savings measures pursuant to the guaranteed energy savings  
20 agreement and the baseline utility costs after baseline  
21 adjustments have been made.

22 (c) "Established baseline" means the precontract  
23 preagreement utilities, operations, and maintenance costs.

24 (d) "Baseline" means the preagreement utilities,  
25 operations, and maintenance costs.

26 (e) "Utility cost-savings measure" means a measure that  
27 produces utility cost savings and/or operation and maintenance  
28 cost savings.

29 ~~(e)~~ (f) "Operation and maintenance cost savings" means a  
30 measurable ~~decrease-in~~ difference between operation and  
31 maintenance costs after the installation of the utility  
32 cost-savings measures pursuant to the guaranteed energy savings  
33 agreement and the baseline operation and maintenance costs that  
34 ~~is-a-direct-result-of-the-implementation-of-one-or-more-utility~~  
35 ~~cost-savings-measures-but-does~~ after inflation adjustments have  
36 been made. Operation and maintenance costs savings shall not

1 include savings from in-house staff labor. ~~Such-savings-shall~~  
 2 ~~be-calculated-in-comparison-to-an-established-baseline-of~~  
 3 ~~operation-and-maintenance-costs.~~

4       ~~(f)~~ (g) "Guaranteed energy savings contract agreement"  
 5 means ~~a-contract~~ an agreement for the ~~evaluation,~~  
 6 ~~recommendation,~~ and installation of one or more utility  
 7 cost-savings measures that includes the qualified provider's  
 8 guarantee as required under subdivision 2. ~~The-contract-must~~  
 9 ~~provide-that-all-payments-are-to-be-made-over-time-but-not-to~~  
 10 ~~exceed-ten-years-from-the-date-of-final-installation,~~ and the  
 11 ~~savings-are-guaranteed-to-the-extent-necessary-to-make-payments~~  
 12 ~~for-the-utility-cost-savings-measures.~~

13       ~~(g)~~ (h) "Baseline adjustments" means adjusting  
 14 the established utility cost savings baselines ~~in-paragraphs-(b)~~  
 15 ~~and-(d)~~ annually for changes in the following variables:

- 16       (1) utility rates;
- 17       (2) number of days in the utility billing cycle;
- 18       (3) square footage of the facility;
- 19       (4) operational schedule of the facility;
- 20       (5) facility temperature set points;
- 21       (6) weather; and
- 22       (7) amount of equipment or lighting utilized in the  
 23 facility.

24       (i) "Inflation adjustment" means adjusting the operation  
 25 and maintenance cost-savings baseline annually for inflation.

26       ~~(h)~~ (j) "Lease purchase contract agreement" means a  
 27 contract an agreement obligating the state to make regular lease  
 28 payments to satisfy the lease costs of the utility cost-savings  
 29 measures until the final payment, after which time the utility  
 30 cost-savings measures become the sole property of the state of  
 31 Minnesota.

32       ~~(i)~~ (k) "Qualified provider" means a person or business  
 33 experienced in the design, implementation, and installation of  
 34 utility cost-savings measures.

35       ~~(j)~~ (l) "Engineering report" means a report prepared by a  
 36 professional engineer licensed by the state of Minnesota

1 summarizing estimates of all costs of installations,  
2 modifications, or remodeling, including costs of design,  
3 engineering, installation, maintenance, repairs, and estimates  
4 of the amounts by which utility and operation and maintenance  
5 costs will be reduced.

6 ~~(k)~~ (m) "Capital cost avoidance" means money expended by a  
7 state agency to pay for utility cost-savings measures with a  
8 guaranteed savings contract agreement so long as the measures  
9 that are being implemented to achieve the utility, operation,  
10 and maintenance cost savings are a significant portion of an  
11 overall project as determined by the commissioner.

12 ~~(l)~~ (n) "Guaranteed energy savings contracting program  
13 guidelines" means policies, procedures, and requirements of  
14 guaranteed savings contracts agreements established by the  
15 Department of Administration ~~upon-enacting-this-legislation.~~

16 Subd. 2. [GUARANTEED ENERGY SAVINGS CONTRACT AGREEMENT.]

17 The commissioner may enter into a guaranteed energy savings  
18 contract agreement with a qualified provider if:

19 (1) the qualified provider is selected through a  
20 competitive process in accordance with the guaranteed energy  
21 savings contracting program guidelines within the Department of  
22 Administration;

23 (2) the qualified provider agrees to submit an engineering  
24 report prior to the execution of the guaranteed energy savings  
25 contract agreement. The cost of the engineering report may be  
26 considered as part of the implementation costs if the  
27 commissioner enters into a guaranteed energy savings agreement  
28 with the provider;

29 (3) the term of the guaranteed energy savings agreement  
30 shall not exceed 15 years from the date of final installation;

31 (4) the commissioner finds that the amount it would spend  
32 on the utility cost-savings measures recommended in the  
33 engineering report will not exceed the amount to be saved in  
34 utility operation and maintenance costs over ten 15 years from  
35 the date of implementation of utility cost-savings measures;

36 ~~(4)~~ (5) the qualified provider provides a written guarantee

1 that the annual utility, operation, and maintenance cost savings  
2 during the term of the guaranteed energy savings agreement will  
3 meet or exceed the ~~costs-of-the-guaranteed-savings-contract~~  
4 annual payments due under a lease purchase agreement. The  
5 qualified provider shall reimburse the state for any shortfall  
6 of guaranteed utility, operation, and maintenance cost savings;  
7 and

8 ~~(5)~~ (6) the qualified provider gives a sufficient bond in  
9 accordance with section 574.26 to the commissioner for the  
10 faithful implementation and installation of the utility  
11 cost-savings measures.

12 Subd. 3. [~~LEASE PURCHASE CONTRACT AGREEMENT~~.] The  
13 commissioner may enter into a lease purchase agreement with any  
14 party for the implementation of utility cost-savings measures in  
15 accordance with ~~an-engineering-report~~ the guaranteed energy  
16 savings agreement. The implementation costs of the utility  
17 cost-savings measures recommended in the engineering report  
18 shall not exceed the amount to be saved in utility and operation  
19 and maintenance costs over the term of the lease purchase  
20 agreement. The term of the lease purchase agreement shall not  
21 exceed ~~ten~~ 15 years from the date of final installation. The  
22 lease is assignable in accordance with terms approved by the  
23 commissioner of finance.

24 Subd. 4. [USE OF CAPITAL COST AVOIDANCE.] The affected  
25 state agency may contribute funds for capital cost avoidance for  
26 guaranteed energy savings contracts agreements. Use of capital  
27 cost avoidance is subject to the guaranteed energy savings  
28 contracting program guidelines within the Department of  
29 Administration.

30 Subd. 5. [REPORT.] By January 15 of 2005 and 2007, the  
31 commissioner of administration shall submit to the commissioner  
32 of finance and the chairs of the senate and house of  
33 representatives capital investment committees a list of projects  
34 in the agency that have been funded using guaranteed energy  
35 savings, as outlined in this section, during the preceding  
36 biennium. For each guaranteed energy savings contract agreement.

1 entered into, the commissioner of administration shall contract  
2 with an independent third party to evaluate the  
3 cost-effectiveness of each utility cost-savings measure  
4 implemented to ensure that such measures were the least-cost  
5 measures available. For the purposes of this section,  
6 "independent third party" means an entity not affiliated with  
7 the qualified provider, that is not involved in creating or  
8 providing conservation project services to that provider, and  
9 that has expertise (or access to expertise) in energy savings  
10 practices.

11 ~~Subd. 6. -- [CONTRACT LIMITS.] -- Contracts may not be entered~~  
12 ~~into after June 30, 2007.~~

1 Senator ..... moves to amend S.F. No. 1846 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [16C.143] [ENERGY FORWARD PRICING MECHANISMS.]

4 Subdivision 1. [DEFINITIONS.] The following definitions  
5 apply in this section:

6 (1) "energy" means natural gas, heating oil, propane, and  
7 any other energy source except electricity used in state  
8 facilities; and

9 (2) "forward pricing mechanism" means a contract or  
10 financial instrument that obligates a state agency to buy or  
11 sell a specified quantity of energy at a future date at a set  
12 price.

13 Subd. 2. [AUTHORITY.] Notwithstanding any other law to the  
14 contrary, the commissioner may use forward pricing mechanisms  
15 for budget risk reduction.

16 Subd. 3. [CONDITIONS.] Forward pricing mechanism  
17 transactions must be made only under the following conditions:

18 (1) the quantity of energy affected by the forward pricing  
19 mechanism must not exceed the estimated energy use for the state  
20 agency for the same period; and

21 (2) a separate account must be established for each state  
22 agency using a forward pricing mechanism.

23 Subd. 4. [WRITTEN POLICIES AND PROCEDURES.] Before  
24 exercising the authority under this section, the commissioner  
25 must develop written policies and procedures governing the use  
26 of forward pricing mechanisms.

27 Sec. 2. Minnesota Statutes 2004, section 16C.144, is  
28 amended to read:

29 16C.144 [GUARANTEED SAVINGS CONTRACTS PROGRAM.]

30 Subdivision 1. [DEFINITIONS.] The following definitions  
31 apply to this section.

32 (a) "Utility" means electricity, natural gas, or other  
33 energy resource, water, and wastewater.

34 (b) "Utility cost savings" means the difference between the  
35 ~~utility-costs-under-the-precontract-conditions-and~~ the utility  
36 ~~costs after the-changes-have-been-made-under-the-contract---~~Such

1 ~~savings shall be calculated in comparison to an established~~  
2 ~~baseline of utility costs~~ installation of the utility  
3 cost-savings measures pursuant to the guaranteed energy savings  
4 agreement and the baseline utility costs after baseline  
5 adjustments have been made.

6 (c) ~~"Established-baseline" means the precontract~~  
7 ~~preagreement utilities, operations, and maintenance costs.~~

8 ~~(d) "Baseline" means the~~ preagreement utilities,  
9 operations, and maintenance costs.

10 (d) "Utility cost-savings measure" means a measure that  
11 produces utility cost savings and/or operation and maintenance  
12 cost savings.

13 (e) "Operation and maintenance cost savings" means a  
14 measurable ~~decrease in~~ difference between operation and  
15 maintenance costs after the installation of the utility  
16 cost-savings measures pursuant to the guaranteed energy savings  
17 agreement and the baseline operation and maintenance costs that  
18 ~~is a direct result of the implementation of one or more utility~~  
19 ~~cost-savings measures but does~~ after inflation adjustments have  
20 been made. Operation and maintenance costs savings shall not  
21 include savings from in-house staff labor. Such savings shall  
22 ~~be calculated in comparison to an established baseline of~~  
23 ~~operation and maintenance costs.~~

24 (f) "Guaranteed energy savings contract agreement" means a  
25 ~~contract~~ an agreement for the evaluation, recommendation, and  
26 installation of one or more utility cost-savings measures that  
27 includes the qualified provider's guarantee as required under  
28 subdivision 2. The contract must provide that all payments are  
29 to be made over time but not to exceed ten years from the date  
30 of final installation, and the savings are guaranteed to the  
31 extent necessary to make payments for the utility cost-savings  
32 measures.

33 (g) "Baseline adjustments" means adjusting the established  
34 utility cost savings baselines in paragraphs (b) and  
35 ~~(d)~~ annually for changes in the following variables:

36 (1) utility rates;

1 (2) number of days in the utility billing cycle;  
2 (3) square footage of the facility;  
3 (4) operational schedule of the facility;  
4 (5) facility temperature set points;  
5 (6) weather; and  
6 (7) amount of equipment or lighting utilized in the  
7 facility.

8 (h) "Inflation adjustment" means adjusting the operation  
9 and maintenance cost-savings baseline annually for inflation.

10 ~~(h)~~ (i) "Lease purchase contract agreement" means a  
11 contract an agreement obligating the state to make regular lease  
12 payments to satisfy the lease costs of the utility cost-savings  
13 measures until the final payment, after which time the utility  
14 cost-savings measures become the sole property of the state of  
15 Minnesota.

16 ~~(i)~~ (j) "Qualified provider" means a person or business  
17 experienced in the design, implementation, and installation of  
18 utility cost-savings measures.

19 ~~(j)~~ (k) "Engineering report" means a report prepared by a  
20 professional engineer licensed by the state of Minnesota  
21 summarizing estimates of all costs of installations,  
22 modifications, or remodeling, including costs of design,  
23 engineering, installation, maintenance, repairs, and estimates  
24 of the amounts by which utility and operation and maintenance  
25 costs will be reduced.

26 ~~(k)~~ (l) "Capital cost avoidance" means money expended by a  
27 state agency to pay for utility cost-savings measures with a  
28 guaranteed savings contract agreement so long as the measures  
29 that are being implemented to achieve the utility, operation,  
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30 faithful implementation and installation of the utility  
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19 savings, as outlined in this section, during the preceding  
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30 practices.

31 ~~Subd.--6.--[CONTRACT-LIMITS.]-Contracts-may-not-be-entered~~  
32 ~~into-after-June-30,-2007-~~

33 Sec. 3. [EFFECTIVE DATE.]

34 Sections 1 and 2 are effective the day following final  
35 enactment."

36 Amend the title accordingly