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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **375**

January 29, 2007

Authored by Ruud, Wagenius, Knuth, Ozment and Hilty

The bill was read for the first time and referred to the Committee on Environment and Natural Resources

1.1 A bill for an act
1.2 relating to the environment; enacting Global Warming Mitigation Act; setting
1.3 goals and requiring plan to reduce greenhouse gas emissions; requiring Public
1.4 Utilities Commission to consider greenhouse gas emissions in generation
1.5 resource acquisitions; appropriating money; proposing coding for new law as
1.6 Minnesota Statutes, chapter 216H.

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

1.8 Section 1. **[216H.001] FINDINGS; CITATION.**

1.9 (a) The legislature finds that the state has a vital interest in preventing or mitigating
1.10 harms associated with global warming and in reducing Minnesota's greenhouse gas
1.11 emissions. The legislature recognizes that substantial reductions in the emissions of
1.12 greenhouse gases are needed to avoid dangerous climate changes in the future. The
1.13 legislature finds that taking steps to reduce Minnesota's greenhouse gas emissions today
1.14 and planning for long-term reductions will reduce the need for more disruptive emission
1.15 reductions later, and that to achieve the purposes of this act, all emissions associated with
1.16 electricity within the state, even if generated elsewhere, must be subject to the state's
1.17 emission reductions goals. The legislature further finds that Minnesota's economy will
1.18 benefit by showing leadership in the transition away from climate-damaging technologies
1.19 and toward renewable power, biofuels, and energy efficiency. The legislature recognizes
1.20 that achieving these ends will involve close cooperation with other states and may require
1.21 the state to enter into binding agreements with other units of government.

1.22 (b) This chapter may be referred to as the Global Warming Mitigation Act of 2007.

1.23 Sec. 2. **[216H.01] DEFINITIONS.**

2.1 Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this
2.2 section have the meanings given them.

2.3 Subd. 2. **Allowance.** "Allowance" means an authorization from a state regulatory
2.4 agency to emit up to one ton of carbon dioxide equivalent during a specified year.

2.5 Subd. 3. **Cap and trade system.** "Cap and trade system" means a regulatory system
2.6 that imposes a limit on the aggregate air pollutant emissions of a group of sources, requires
2.7 those subject to the cap to own an allowance for each ton of the air pollutant emitted, and
2.8 allows for market-based trading of those allowances.

2.9 Subd. 4. **Carbon dioxide equivalent.** "Carbon dioxide equivalent" means the
2.10 amount of carbon dioxide by weight that would produce the same global warming impact
2.11 as a given weight of another greenhouse gas, based on the best available science, including
2.12 from the Intergovernmental Panel on Climate Change.

2.13 Subd. 5. **Greenhouse gas emissions source.** "Greenhouse gas emissions source"
2.14 means any anthropogenic physical unit or process that releases greenhouse gases into
2.15 the atmosphere.

2.16 Subd. 6. **Greenhouse gases.** "Greenhouse gases" include carbon dioxide, methane,
2.17 nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride or any other
2.18 chemical that is determined by the Pollution Control Agency to contribute comparably to
2.19 global climate change and that is emitted by anthropogenic sources.

2.20 Subd. 7. **New large energy facility.** "New large energy facility" means a large
2.21 energy facility as defined in section 216B.2421 that is not in operation as of January
2.22 1, 2007.

2.23 Subd. 8. **Person.** "Person" has the meaning given in section 216E.01.

2.24 Subd. 9. **Statewide greenhouse gas emissions.** "Statewide greenhouse gas
2.25 emissions" means the total annual emissions of greenhouse gases in the state, and all
2.26 emissions of greenhouse gases from the generation of electricity consumed in Minnesota,
2.27 whether the electricity is generated in state or imported. Emissions associated with
2.28 transmission and distribution line losses are included in this definition. Statewide
2.29 emissions are expressed in tons of carbon dioxide equivalent.

2.30 Subd. 10. **Statewide power sector carbon dioxide emissions.** "Statewide power
2.31 sector carbon dioxide emissions" means the total annual emissions of carbon dioxide gases
2.32 resulting from the generation of electricity consumed in Minnesota, whether the electricity
2.33 is generated in state or imported. Emissions associated with transmission and distribution
2.34 line losses are included in this definition. Carbon dioxide that is injected in geological
2.35 formations so as to prevent releases into the atmosphere in compliance with applicable
2.36 laws are not counted as contributing to statewide power sector carbon dioxide emissions.

3.1 Sec. 3. **[216H.02] GREENHOUSE GAS EMISSIONS-REDUCTION TARGET.**

3.2 It is the state's goal to reduce statewide greenhouse gas emissions to a level at least
3.3 15 percent below 2005 emission levels by 2015, to a level at least 30 percent below 2005
3.4 emission levels by 2025, and to a level at least 80 percent below 2005 emission levels
3.5 by 2050.

3.6 Sec. 4. **[216H.03] GREENHOUSE GAS REPORTING SYSTEM.**

3.7 Subdivision 1. Rules to establish or join system. By January 1, 2008, the
3.8 commissioner of the Pollution Control Agency shall adopt rules that either establish a new
3.9 system for the reporting of statewide greenhouse gas emissions or join an existing system
3.10 that will meet the requirements of this chapter.

3.11 Subd. 2. Emissions and sources covered. (a) The rules adopted by the
3.12 commissioner shall require the reporting and verification of statewide greenhouse gas
3.13 emissions from greenhouse gas emission sources, including:

3.14 (1) any source for which a permit to emit any air pollutant is required from the
3.15 Pollution Control Agency;

3.16 (2) any source associated with the generation, transmission, and distribution of
3.17 electricity consumed in the state, including electricity imported from out of state;

3.18 (3) any source that emits greenhouse gases with a carbon dioxide equivalent of 500
3.19 or more; and

3.20 (4) any other source of greenhouse gas emissions determined by the commissioner
3.21 to contribute significantly to statewide greenhouse gas emissions.

3.22 (b) For purposes of reporting emissions under paragraph (a), clause (3), that are
3.23 associated with the use of consumer or other products, the commissioner may impose the
3.24 reporting requirements on those selling the products. The commissioner may exclude
3.25 from the reporting requirements sources and persons listed in paragraph (a), clauses (1)
3.26 to (3), if the commissioner finds that the sources make an insignificant contribution to
3.27 statewide greenhouse gas emissions based on the likely quantity of emissions from such
3.28 sources, their relative contribution to global warming, the regulatory burden on the source
3.29 or person, and the ability of the Pollution Control Agency to reliably estimate those
3.30 emissions by other means. The commissioner shall estimate the emissions of categories
3.31 of sources excluded under the previous sentence or determined to be not individually
3.32 significant under paragraph (a), clause (4).

3.33 Subd. 3. Additional requirements. Rules adopted by the commissioner must
3.34 identify persons required to report, must set forth regular reporting schedules, and may
3.35 require third-party verification of emissions from sources where emissions are difficult to

4.1 verify. The rules must allow persons to volunteer to report their greenhouse gas emissions
4.2 even if not required.

4.3 Subd. 4. **Enforcement.** Sections 115.071 and 115.075 apply to rules adopted
4.4 under this section.

4.5 Sec. 5. **[216H.04] GREENHOUSE GAS EMISSIONS-REDUCTION PLAN;**
4.6 **FUND.**

4.7 Subdivision 1. **Plan for achieving reductions.** (a) By January 1, 2008, the
4.8 commissioners of the Pollution Control Agency and the Department of Commerce shall
4.9 provide a recommended plan to the legislature on how best to achieve the statewide
4.10 greenhouse gas emissions-reduction goals under section 216H.02. The recommended plan
4.11 must also identify how best to reduce statewide greenhouse gas emissions to a level at
4.12 least 45 percent below 2005 levels by 2025. The plan must:

4.13 (1) estimate statewide greenhouse gas emissions for 2005 and subsequent years;

4.14 (2) estimate the statewide greenhouse gas emissions reductions anticipated from
4.15 implementation of existing state policies;

4.16 (3) include a cap and trade system regulating, at a minimum, statewide power sector
4.17 carbon dioxide emissions;

4.18 (4) recommend additional policies to achieve the remaining emissions reductions
4.19 needed to reach the statewide greenhouse gas emissions-reduction goals;

4.20 (5) recommend ways to best use and administer the money in the fossil fuel use
4.21 reduction fund established in subdivision 4 to reduce statewide consumption of fossil fuels
4.22 and reach statewide greenhouse gas emissions-reduction goals; and

4.23 (6) include provisions that will ensure greenhouse gas emissions levels are
4.24 consistently recorded, that existing policies are evaluated, and that at least every five years
4.25 any policy changes needed to achieve the statewide greenhouse gas emissions-reduction
4.26 goals are developed and recommended for legislative action.

4.27 (b) In formulating the plan, the commissioner shall consider the broadest possible
4.28 set of mechanisms to reduce emissions, including, but not limited to, expanding the
4.29 electric sector cap and trade system established under subdivision 3 to include emissions
4.30 sources other than electricity generation and greenhouse gases other than carbon dioxide;
4.31 scheduling reductions of the emissions cap; imposing greenhouse gas taxes, fines, and
4.32 other penalties; adopting emissions-reduction performance standards for sources of
4.33 greenhouse gases; establishing financial or other incentives to promote activities that will
4.34 reduce greenhouse gases; and enhancing existing policies that have the effect of lowering
4.35 greenhouse gas emissions.

5.1 Subd. 2. **Planning process.** In formulating the greenhouse gas emissions-reduction
5.2 plan, the commissioners of the Pollution Control Agency and the Department of
5.3 Commerce shall consult with other state agencies, as needed. The commissioners shall
5.4 ensure that the planning process affords opportunities for public input.

5.5 Subd. 3. **Cap and trade system.** (a) The cap and trade system required by
5.6 subdivision 1, paragraph (a), clause (3), must be implemented no later than January 2009.

5.7 (b) The commissioner of the Pollution Control Agency shall work jointly with
5.8 the commissioner of commerce to consult with other states that have established or are
5.9 establishing a cap and trade system regulating carbon dioxide emissions associated with
5.10 electricity generation and to the maximum extent practicable take steps necessary to enter
5.11 into a carbon dioxide allowance trading relationship with those states.

5.12 (c) The cap and trade system required under this section must, at a minimum,
5.13 include all statewide power sector carbon dioxide emissions and may, at the discretion of
5.14 the commissioner of the Pollution Control Agency, include other greenhouse gases and
5.15 greenhouse gas emissions sources other than the generation of electricity.

5.16 (d) The commissioner of the Pollution Control Agency shall adopt rules necessary to
5.17 effectuate and implement a cap and trade system. The rules must, at a minimum:

5.18 (1) impose a cap on the level of statewide power sector carbon dioxide emissions
5.19 that is no higher than 2005 statewide power sector carbon dioxide emissions;

5.20 (2) include a system for issuing allowances for each ton of statewide power sector
5.21 carbon dioxide emissions allowed under the cap and recognizing for compliance purposes
5.22 allowances issued by other authorities with which Minnesota has established an allowance
5.23 trading relationship. The commissioner shall not issue allowances for any emissions for
5.24 which allowances recognized for compliance purposes in Minnesota would be issued by
5.25 another regulatory authority, such as for emissions associated with generation in another
5.26 state where a cap and trade system is in place;

5.27 (3) establish whether and under what circumstances a party subject to the cap
5.28 may receive credit for sponsoring projects that reduce greenhouse gas emissions that
5.29 would otherwise be emitted from sources not subject to the carbon dioxide cap. The
5.30 commissioner shall ensure that any of these projects for which credit is allowed under the
5.31 rules represent reductions that are permanent, quantifiable, verifiable, enforceable, and
5.32 would not have otherwise occurred. The rules may not allow a party subject to the cap
5.33 to rely on these projects to cover more than five percent of its reported emissions for the
5.34 compliance period;

5.35 (4) exclude from the carbon dioxide cap established under clause (1) those carbon
5.36 dioxide emissions associated with electricity that is generated in Minnesota and exported

6.1 out of state if the commissioner finds that the emissions will be subject to an emission's
 6.2 cap in the jurisdiction receiving the electricity and inclusion under Minnesota's cap would
 6.3 result in an undue regulatory burden;

6.4 (5) provide that allowances issued by the commissioner are sold by auction, and
 6.5 the auction proceeds deposited into the fossil fuel use reduction fund established under
 6.6 subdivision 4;

6.7 (6) maximize compliance flexibility;

6.8 (7) ensure that emissions reductions achieved are real, permanent, quantifiable,
 6.9 verifiable, and enforceable;

6.10 (8) encourage early action to reduce statewide carbon dioxide emissions;

6.11 (9) strive to give appropriate credit to entities that have voluntarily reduced their
 6.12 carbon dioxide emissions prior to implementation of the rules;

6.13 (10) minimize the likelihood that emissions reductions made in the state cause
 6.14 emissions increases outside the state; and

6.15 (11) encourage the development of technologies and industries likely to thrive in a
 6.16 carbon-constrained future.

6.17 (e) Sections 115.071 and 115.075 apply to rules adopted under this section.

6.18 Subd. 4. **Fossil fuel use reduction fund.** A fossil fuel use reduction fund is created
 6.19 in the state treasury. The fund consists of proceeds from allowance auctions under this
 6.20 section and interest accruing through investment of the fund. Money in the fund may be
 6.21 used for projects, incentives, or programs designed to reduce statewide consumption of
 6.22 fossil fuels and reach statewide greenhouse gas emissions-reduction goals.

6.23 **Sec. 6. [216H.05] NO NET INCREASE FROM NEW POWER PLANTS.**

6.24 Subdivision 1. **Increased emissions from new power plants prohibited.** Until
 6.25 the cap and trade system required under section 216H.04, subdivision 3, has been
 6.26 implemented, and except as allowed in subdivision 2, no person shall:

6.27 (1) construct within the state a new large energy facility that would contribute to
 6.28 statewide power sector carbon dioxide emissions; nor

6.29 (2) import or commit to import from outside the state power from a new large energy
 6.30 facility that would contribute to statewide power sector carbon dioxide emissions.

6.31 Subd. 2. **Exception for facilities that offset emissions.** (a) The prohibitions in
 6.32 subdivision 1 do not apply if the project proponent has demonstrated to the Public Utilities
 6.33 Commission's satisfaction that the new large energy facility will not cause a net increase
 6.34 in statewide power sector carbon dioxide emissions because the project proponent will

7.1 offset the emissions from the new large energy facility with a carbon dioxide reduction
 7.2 project identified in paragraph (b) and in compliance with paragraph (c).

7.3 (b) A project proponent may offset the new large energy facility's contribution
 7.4 to statewide power sector carbon dioxide emissions in one of, or a combination of, the
 7.5 following ways:

7.6 (1) by reducing carbon dioxide emissions from an existing facility in an amount
 7.7 equal to or greater than the proposed new contribution to statewide power sector carbon
 7.8 dioxide emissions; or

7.9 (2) by purchasing carbon dioxide allowances from a state or group of states that
 7.10 has a mandatory carbon dioxide cap and trade system in place that produces verifiable
 7.11 emissions reductions.

7.12 (c) The Public Utilities Commission shall not find that a carbon dioxide reduction
 7.13 project identified in paragraph (b) acceptably offsets a facility's emissions unless
 7.14 the emissions reductions used to offset the new large energy facility's emissions are
 7.15 permanent, quantifiable, verifiable, enforceable, and would not have otherwise occurred.

7.16 Subd. 3. **Enforcement.** Whenever the commission or department determines that
 7.17 any person is violating or about to violate this section, it shall refer the matter to the
 7.18 attorney general who shall take appropriate legal action, including seeking injunctive
 7.19 relief if necessary.

7.20 Sec. 7. **[216H.06] GREENHOUSE GAS EMISSIONS CONSIDERATION IN**
 7.21 **RESOURCE PLANNING.**

7.22 By January 1, 2008, the Public Utilities Commission shall establish an estimate of
 7.23 the likely range of costs of future carbon dioxide regulation on electricity generation.
 7.24 The estimate must be used in all electricity generation resource acquisition proceedings.
 7.25 The estimates, and annual updates, must be made following informal proceedings that
 7.26 allow interested parties to submit comments.

7.27 Sec. 8. **[216H.07] ENFORCEABILITY.**

7.28 In addition to any other remedies provided by law, the failure to carry out any
 7.29 requirement established by or pursuant to this chapter is a violation of an environmental
 7.30 standard and enforceable under chapter 116B.

7.31 Sec. 9. **APPROPRIATION.**

7.32 \$..... is appropriated from the general fund to the commissioner of the Pollution
 7.33 Control Agency for the biennium ending June 30, 2009, for the purposes of sections 1 to 8.