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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **2262**

March 20, 2007

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The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

A bill for an act

relating to state government; creating a new Department of Energy; transferring existing duties from the Department of Commerce; amending Minnesota Statutes 2006, sections 15.01; 15.06, subdivision 1; 15A.0815, subdivision 2; 43A.08, subdivision 1a; 116C.779; 123B.65, subdivisions 1, 5; 216A.085; 216A.095; 216B.241, subdivision 1; 216C.01, subdivisions 2, 3; proposing coding for new law as Minnesota Statutes, chapter 216H.

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

**ARTICLE 1**

**CREATION OF DEPARTMENT; TRANSFER OF DUTIES**

**Section 1. [216H.01] DEPARTMENT OF ENERGY.**

The Department of Energy is created, under the direction of a commissioner.

**Sec. 2. TRANSFER OF DUTIES.**

The following duties are transferred from the commissioner and Department of Commerce to the commissioner of the Department of Energy:

(1) the powers and duties pertaining to renewable energy production incentives under section 116C.779;

(2) to review costs in guaranteed savings contracts for school districts under section 123B.65;

(3) to supervise the energy issues intervention office under section 216A.085;

(4) to work jointly with the Public Utilities Commission under section 216A.095;

(5) to administer the conservation improvement program under section 216B.241;

and

2.1 (6) to promote energy conservation and renewable energy development, develop  
 2.2 and disseminate energy information, and administer the energy assistance program under  
 2.3 sections 216C.01 to 216C.41.

2.4 The energy planning and advocacy staff, the state energy office staff, and the fuel  
 2.5 assistance staff of the Department of Commerce are transferred to the Department of  
 2.6 Energy. The budgets of the Departments of Commerce and Energy shall be adjusted to  
 2.7 reflect the transfer.

2.8 Section 15.039 applies to these transfers.

2.9 **Sec. 3. REVISOR'S INSTRUCTION.**

2.10 (a) The revisor of statutes shall change the word "commerce," when it refers to the  
 2.11 Department of Commerce or the commissioner of commerce, to "energy," or "Department  
 2.12 of Energy" where it appears in sections 116C.779; 123B.65; 216A.01 to 216A.085;  
 2.13 216A.095; 216B.02 to 216B.812; 216C.01 to 216C.41; and 216E.03 to 216E.18.

2.14 (b) The revisor of statutes shall change the word "commerce," when it refers to the  
 2.15 Department of Commerce or the commissioner of commerce, to "energy," or "Department  
 2.16 of Energy" where it appears in Minnesota Rules, including, but not limited to, parts  
 2.17 7606.0020; 7607.0140; 7607.0160; 7610.0100; 7610.0800; 7610.1300; 7615.0100;  
 2.18 7615.0340; 7615.0350; 7620.0100; 7620.0140; 7620.0210; 7620.0220; 7620.0400;  
 2.19 7620.0530; 7630.0100; 7635.0100; 7635.0170; 7635.0240; 7635.0410; 7635.0500;  
 2.20 7635.0530; 7655.0100; 7670.0260; 7672.0300; 7672.0400; 7674.0400; 7676.0300;  
 2.21 7678.0500; 7685.0120; 7825.0400; 7825.1900; 7825.1900; 7825.2390; 7825.2400;  
 2.22 7825.3800; 7829.0100; 7840.1500; 7840.1700; 7840.1800; 7840.2000; 7843.0400;  
 2.23 7848.0100; 7848.1700; 7848.1800; and 7848.1900.

2.24 (c) The revisor of statutes shall renumber the sections in column A to the sections  
 2.25 in column B.

	<u>Column A</u>	<u>Column B</u>
2.26	<u>216C.01</u>	<u>216H.02</u>
2.27	<u>216C.02</u>	<u>216H.03</u>
2.28	<u>216C.05</u>	<u>216H.05</u>
2.29	<u>216C.051</u>	<u>216H.051</u>
2.30	<u>216C.052</u>	<u>216H.052</u>
2.31	<u>216C.053</u>	<u>216H.053</u>
2.32	<u>216C.06</u>	<u>216H.06</u>
2.33	<u>216C.07</u>	<u>216H.07</u>
2.34	<u>216C.08</u>	<u>216H.08</u>
2.35	<u>216C.09</u>	<u>216H.09</u>
2.36	<u>216C.10</u>	<u>216H.10</u>
2.37		

3.1	<u>216C.11</u>	<u>216H.11</u>
3.2	<u>216C.12</u>	<u>216H.12</u>
3.3	<u>216C.13</u>	<u>216H.13</u>
3.4	<u>216C.14</u>	<u>216H.14</u>
3.5	<u>216C.15</u>	<u>216H.15</u>
3.6	<u>216C.16</u>	<u>216H.16</u>
3.7	<u>216C.17</u>	<u>216H.17</u>
3.8	<u>216C.18</u>	<u>216H.18</u>
3.9	<u>216C.19</u>	<u>216H.19</u>
3.10	<u>216C.20</u>	<u>216H.20</u>
3.11	<u>216C.25</u>	<u>216H.25</u>
3.12	<u>216C.26</u>	<u>216H.26</u>
3.13	<u>216C.261</u>	<u>216H.261</u>
3.14	<u>216C.262</u>	<u>216H.262</u>
3.15	<u>216C.263</u>	<u>216H.263</u>
3.16	<u>216C.264</u>	<u>216H.264</u>
3.17	<u>216C.265</u>	<u>216H.265</u>
3.18	<u>216C.266</u>	<u>216H.266</u>
3.19	<u>216C.27</u>	<u>216H.27</u>
3.20	<u>216C.29</u>	<u>216H.29</u>
3.21	<u>216C.30</u>	<u>216H.30</u>
3.22	<u>216C.31</u>	<u>216H.31</u>
3.23	<u>216C.315</u>	<u>216H.315</u>
3.24	<u>216C.32</u>	<u>216H.32</u>
3.25	<u>216C.33</u>	<u>216H.33</u>
3.26	<u>216C.34</u>	<u>216H.34</u>
3.27	<u>216C.35</u>	<u>216H.35</u>
3.28	<u>216C.37</u>	<u>216H.37</u>
3.29	<u>216C.373</u>	<u>216H.373</u>
3.30	<u>216C.38</u>	<u>216H.38</u>
3.31	<u>216C.381</u>	<u>216H.381</u>
3.32	<u>216C.41</u>	<u>216H.41</u>

3.33  
3.34

**ARTICLE 2**  
**CONFORMING AMENDMENTS**

3.35 Section 1. Minnesota Statutes 2006, section 15.01, is amended to read:

3.36 **15.01 DEPARTMENTS OF THE STATE.**

3.37 The following agencies are designated as the departments of the state government:  
3.38 the Department of Administration; the Department of Agriculture; the Department of  
3.39 Commerce; the Department of Corrections; the Department of Education; the Department  
3.40 of Employment and Economic Development; the Department of Energy; the Department

4.1 of Finance; the Department of Health; the Department of Human Rights; the Department  
 4.2 of Labor and Industry; the Department of Military Affairs; the Department of Natural  
 4.3 Resources; the Department of Employee Relations; the Department of Public Safety;  
 4.4 the Department of Human Services; the Department of Revenue; the Department of  
 4.5 Transportation; the Department of Veterans Affairs; and their successor departments.

4.6 Sec. 2. Minnesota Statutes 2006, section 15.06, subdivision 1, is amended to read:

4.7 Subdivision 1. **Applicability.** This section applies to the following departments  
 4.8 or agencies: the Departments of Administration, Agriculture, Commerce, Corrections,  
 4.9 Education, Employee Relations, Employment and Economic Development, Energy,  
 4.10 Finance, Health, Human Rights, Labor and Industry, Natural Resources, Public Safety,  
 4.11 Human Services, Revenue, Transportation, and Veterans Affairs; the Housing Finance and  
 4.12 Pollution Control Agencies; the Office of Commissioner of Iron Range Resources and  
 4.13 Rehabilitation; the Bureau of Mediation Services; and their successor departments and  
 4.14 agencies. The heads of the foregoing departments or agencies are "commissioners."

4.15 Sec. 3. Minnesota Statutes 2006, section 15A.0815, subdivision 2, is amended to read:

4.16 Subd. 2. **Group I salary limits.** The salaries for positions in this subdivision may  
 4.17 not exceed 95 percent of the salary of the governor:

4.18 Commissioner of administration;  
 4.19 Commissioner of agriculture;  
 4.20 Commissioner of education;  
 4.21 Commissioner of commerce;  
 4.22 Commissioner of corrections;  
 4.23 Commissioner of employee relations;  
 4.24 Commissioner of energy;  
 4.25 Commissioner of finance;  
 4.26 Commissioner of health;  
 4.27 Executive director, Minnesota Office of Higher Education;  
 4.28 Commissioner, Housing Finance Agency;  
 4.29 Commissioner of human rights;  
 4.30 Commissioner of human services;  
 4.31 Commissioner of labor and industry;  
 4.32 Commissioner of natural resources;  
 4.33 Director of Office of Strategic and Long-Range Planning;  
 4.34 Commissioner, Pollution Control Agency;

- 5.1 Commissioner of public safety;
- 5.2 Commissioner of revenue;
- 5.3 Commissioner of employment and economic development;
- 5.4 Commissioner of transportation; and
- 5.5 Commissioner of veterans affairs.

5.6 Sec. 4. Minnesota Statutes 2006, section 43A.08, subdivision 1a, is amended to read:

5.7 Subd. 1a. **Additional unclassified positions.** Appointing authorities for the  
 5.8 following agencies may designate additional unclassified positions according to this  
 5.9 subdivision: the Departments of Administration; Agriculture; Commerce; Corrections;  
 5.10 Education; Employee Relations; Employment and Economic Development; Energy;  
 5.11 Explore Minnesota Tourism; Finance; Health; Human Rights; Labor and Industry; Natural  
 5.12 Resources; Public Safety; Human Services; Revenue; Transportation; and Veterans  
 5.13 Affairs; the Housing Finance and Pollution Control Agencies; the State Lottery; the  
 5.14 State Board of Investment; the Office of Administrative Hearings; the Offices of the  
 5.15 Attorney General, Secretary of State, and State Auditor; the Minnesota State Colleges  
 5.16 and Universities; the Minnesota Office of Higher Education; the Perpich Center for Arts  
 5.17 Education; and the Minnesota Zoological Board.

5.18 A position designated by an appointing authority according to this subdivision must  
 5.19 meet the following standards and criteria:

5.20 (1) the designation of the position would not be contrary to other law relating  
 5.21 specifically to that agency;

5.22 (2) the person occupying the position would report directly to the agency head or  
 5.23 deputy agency head and would be designated as part of the agency head's management  
 5.24 team;

5.25 (3) the duties of the position would involve significant discretion and substantial  
 5.26 involvement in the development, interpretation, and implementation of agency policy;

5.27 (4) the duties of the position would not require primarily personnel, accounting, or  
 5.28 other technical expertise where continuity in the position would be important;

5.29 (5) there would be a need for the person occupying the position to be accountable to,  
 5.30 loyal to, and compatible with, the governor and the agency head, the employing statutory  
 5.31 board or commission, or the employing constitutional officer;

5.32 (6) the position would be at the level of division or bureau director or assistant  
 5.33 to the agency head; and

5.34 (7) the commissioner has approved the designation as being consistent with the  
 5.35 standards and criteria in this subdivision.

6.1 Sec. 5. Minnesota Statutes 2006, section 116C.779, is amended to read:

6.2 **116C.779 FUNDING FOR RENEWABLE DEVELOPMENT.**

6.3 Subdivision 1. **Renewable development account.** (a) The public utility that owns  
6.4 the Prairie Island nuclear generating plant must transfer to a renewable development  
6.5 account \$16,000,000 annually each year the plant is in operation, and \$7,500,000 each  
6.6 year the plant is not in operation if ordered by the ~~commission~~ Public Utilities Commission  
6.7 pursuant to paragraph (c). The fund transfer must be made if nuclear waste is stored in a  
6.8 dry cask at the independent spent-fuel storage facility at Prairie Island for any part of a  
6.9 year. Funds in the account may be expended only for development of renewable energy  
6.10 sources. Preference must be given to development of renewable energy source projects  
6.11 located within the state.

6.12 (b) Expenditures from the account may only be made after approval by order of the  
6.13 Public Utilities Commission upon a petition by the public utility.

6.14 (c) After discontinuation of operation of the Prairie Island nuclear plant and each  
6.15 year spent nuclear fuel is stored in dry cask at the Prairie Island facility, the ~~commission~~  
6.16 Public Utilities Commission shall require the public utility to pay \$7,500,000 for any year  
6.17 in which the commission finds, by the preponderance of the evidence, that the public  
6.18 utility did not make a good faith effort to remove the spent nuclear fuel stored at Prairie  
6.19 Island to a permanent or interim storage site out of the state. This determination shall  
6.20 be made at least every two years.

6.21 Subd. 2. **Renewable energy production incentive.** (a) Until January 1, 2018,  
6.22 up to \$10,900,000 annually must be allocated from available funds in the account to  
6.23 fund renewable energy production incentives. \$9,400,000 of this annual amount is for  
6.24 incentives for up to 200 megawatts of electricity generated by wind energy conversion  
6.25 systems that are eligible for the incentives under section 216C.41. The balance of this  
6.26 amount, up to \$1,500,000 annually, may be used for production incentives for on-farm  
6.27 biogas recovery facilities that are eligible for the incentive under section 216C.41 or for  
6.28 production incentives for other renewables, to be provided in the same manner as under  
6.29 section 216C.41. Any portion of the \$10,900,000 not expended in any calendar year for  
6.30 the incentive is available for other spending purposes under this section. This subdivision  
6.31 does not create an obligation to contribute funds to the account.

6.32 (b) The Department of ~~Commerce~~ Energy shall determine eligibility of projects  
6.33 under section 216C.41 for the purposes of this subdivision. At least quarterly, the  
6.34 Department of ~~Commerce~~ Energy shall notify the public utility of the name and address of  
6.35 each eligible project owner and the amount due to each project under section 216C.41.

7.1 The public utility shall make payments within 15 working days after receipt of notification  
7.2 of payments due.

7.3 Sec. 6. Minnesota Statutes 2006, section 123B.65, subdivision 1, is amended to read:

7.4 Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

7.5 (a) "Energy conservation measure" means a training program or facility alteration  
7.6 designed to reduce energy consumption or operating costs and includes:

7.7 (1) insulation of the building structure and systems within the building;

7.8 (2) storm windows and doors, caulking or weatherstripping, multiglazed windows  
7.9 and doors, heat absorbing or heat reflective glazed and coated window and door  
7.10 systems, additional glazing, reductions in glass area, and other window and door system  
7.11 modifications that reduce energy consumption;

7.12 (3) automatic energy control systems;

7.13 (4) heating, ventilating, or air conditioning system modifications or replacements;

7.14 (5) replacement or modifications of lighting fixtures to increase the energy efficiency  
7.15 of the lighting system without increasing the overall illumination of a facility, unless such  
7.16 increase in illumination is necessary to conform to the applicable state or local building  
7.17 code for the lighting system after the proposed modifications are made;

7.18 (6) energy recovery systems;

7.19 (7) cogeneration systems that produce steam or forms of energy such as heat, as well  
7.20 as electricity, for use primarily within a building or complex of buildings;

7.21 (8) energy conservation measures that provide long-term operating cost reductions.

7.22 (b) "Guaranteed energy savings contract" means a contract for the evaluation  
7.23 and recommendations of energy conservation measures, and for one or more energy  
7.24 conservation measures. The contract must provide that all payments, except obligations  
7.25 on termination of the contract before its expiration, are to be made over time, but not to  
7.26 exceed 15 years from the date of final installation, and the savings are guaranteed to the  
7.27 extent necessary to make payments for the systems.

7.28 (c) "Qualified provider" means a person or business experienced in the design,  
7.29 implementation, and installation of energy conservation measures. A qualified provider  
7.30 to whom the contract is awarded shall give a sufficient bond to the school district for  
7.31 its faithful performance.

7.32 (d) "Commissioner" means the commissioner of ~~commerce through the state energy~~  
7.33 ~~office~~ energy.

7.34 Sec. 7. Minnesota Statutes 2006, section 123B.65, subdivision 5, is amended to read:

8.1 Subd. 5. **Payment of review expenses.** The commissioner may charge a district  
 8.2 requesting services under subdivisions 3 and 4 actual costs incurred by the Department of  
 8.3 ~~Commerce~~ Energy while conducting the review, or one-half percent of the total identified  
 8.4 project cost, whichever is less. Before conducting the review, the commissioner shall  
 8.5 notify a district requesting review services that expenses will be charged to the district.  
 8.6 The commissioner shall bill the district upon completion of the contract review. Money  
 8.7 collected by the commissioner under this subdivision must be deposited in the general  
 8.8 fund. A district may include the cost of a review by the commissioner under subdivision 3  
 8.9 in a contract made pursuant to this section.

8.10 Sec. 8. Minnesota Statutes 2006, section 216A.085, is amended to read:

8.11 **216A.085 ENERGY ISSUES INTERVENTION OFFICE.**

8.12 Subdivision 1. **Creation.** There is created within the Department of ~~Commerce~~  
 8.13 Energy an Intervention Office to represent the interests of Minnesota residents, businesses,  
 8.14 and governments before bodies and agencies outside the state that make, interpret, or  
 8.15 implement national and international energy policy.

8.16 Subd. 2. **Duties.** The Intervention Office shall determine those areas in which state  
 8.17 intervention is most needed, most likely to have a positive impact, and most effective  
 8.18 for the broad public interest of the state. The office shall seek recommendations from  
 8.19 appropriate public and private sources before deciding which cases merit intervention.

8.20 Subd. 3. **Staffing.** The Intervention Office shall be under the control and supervision  
 8.21 of the commissioner of ~~commerce~~ energy. The commissioner may hire staff or contract  
 8.22 for outside services as needed to carry out the purposes of this section. The attorney  
 8.23 general shall act as counsel in all intervention proceedings.

8.24 Sec. 9. Minnesota Statutes 2006, section 216A.095, is amended to read:

8.25 **216A.095 COOPERATION BETWEEN DEPARTMENT AND COMMISSION.**

8.26 Nothing in this chapter prevents the Department of Energy or the Public Utilities  
 8.27 Commission from entering into agreements with each other or with other agencies to  
 8.28 coordinate and share services, to conduct joint projects or investigations on matters within  
 8.29 the authority and jurisdiction of the parties thereto, or to temporarily assign staff to projects  
 8.30 requested by each other or by other agencies. The cooperative agreements may provide  
 8.31 for the sharing of costs between the parties thereto or the reimbursement of the department  
 8.32 or commission operating budget for expenditures made on behalf of the department or  
 8.33 commission or agency. No cooperative effort shall interfere with the independence and  
 8.34 integrity of either the commission or the department or any other agency that is a party.

9.1 Sec. 10. Minnesota Statutes 2006, section 216B.241, subdivision 1, is amended to read:

9.2 Subdivision 1. **Definitions.** For purposes of this section and section 216B.16,  
9.3 subdivision 6b, the terms defined in this subdivision have the meanings given them.

9.4 (a) "Commission" means the Public Utilities Commission.

9.5 (b) "Commissioner" means the commissioner of ~~commerce~~ energy.

9.6 (c) "Customer facility" means all buildings, structures, equipment, and installations  
9.7 at a single site.

9.8 (d) "Department" means the Department of ~~Commerce~~ Energy.

9.9 (e) "Energy conservation" means demand-side management of energy supplies  
9.10 resulting in a net reduction in energy use. Load management that reduces overall energy  
9.11 use is energy conservation.

9.12 (f) "Energy conservation improvement" means a project that results in energy  
9.13 conservation.

9.14 (g) "Investments and expenses of a public utility" includes the investments  
9.15 and expenses incurred by a public utility in connection with an energy conservation  
9.16 improvement, including but not limited to:

9.17 (1) the differential in interest cost between the market rate and the rate charged on a  
9.18 no-interest or below-market interest loan made by a public utility to a customer for the  
9.19 purchase or installation of an energy conservation improvement;

9.20 (2) the difference between the utility's cost of purchase or installation of energy  
9.21 conservation improvements and any price charged by a public utility to a customer for  
9.22 such improvements.

9.23 (h) "Large electric customer facility" means a customer facility that imposes a  
9.24 peak electrical demand on an electric utility's system of not less than 20,000 kilowatts,  
9.25 measured in the same way as the utility that serves the customer facility measures  
9.26 electrical demand for billing purposes, and for which electric services are provided at  
9.27 retail on a single bill by a utility operating in the state.

9.28 (i) "Load management" means an activity, service, or technology to change the  
9.29 timing or the efficiency of a customer's use of energy that allows a utility or a customer to  
9.30 respond to wholesale market fluctuations or to reduce the overall demand for energy or  
9.31 capacity.

9.32 Sec. 11. Minnesota Statutes 2006, section 216C.01, subdivision 2, is amended to read:

9.33 Subd. 2. **Commissioner.** "Commissioner" means the commissioner of ~~commerce~~  
9.34 energy.

10.1 Sec. 12. Minnesota Statutes 2006, section 216C.01, subdivision 3, is amended to read:

10.2 Subd. 3. **Department.** "Department" means the Department of ~~Commerce~~ Energy.

10.3 Sec. 13. **REVISOR'S INSTRUCTION.**

10.4 The revisor of statutes shall renumber the sections in column A to the sections  
10.5 in column B.

10.6	<u>Column A</u>	<u>Column B</u>
10.7	<u>116C.779</u>	<u>216H.60</u>
10.8	<u>216A.085</u>	<u>216H.45</u>
10.9	<u>216A.095</u>	<u>216H.50</u>
10.10	<u>216B.241</u>	<u>216H.55</u>