



MREA LEGISLATIVE REPORT
2009 SESSION
Lee Sundberg - Joel Johnson

2009 MREA Legislative Report

Table of Contents

INTRODUCTION	5
NEW LAWS	
Omnibus Energy Policy Bill	7
Omnibus Environment, Natural Resource & Energy Finance Bill	13
Federal Stimulus Bill	15
Omnibus Tax Bill	16
Public Finance Bill	17
Other New Laws	18
BILLS NOT PASSED	
C-BED Mandate and Carve-Out	21
Feed-In Tariff	21
Elimination of Eminent Domain Exemptions	22
Lifting the Ban on New Nuclear Plants	22
Elimination of Heating Sales Tax Exemption	22
Other Bills Not Passed	23

2009 Legislative Report

Session Overview

The 2009 Legislative session ended on time on May 18 with all but one of the Omnibus Budget Bills passed. However, the ending wasn't quite as definitive as it might sound.

On the Thursday before the session was to officially end and the prospect of a special session looking more and more likely, Governor Tim Pawlenty announced that he would use vetoes and his authority to unallot to balance the budget himself, without an overall budget agreement with the DFL-led Legislature.

The budget bills passed by the Legislature spend \$34 billion, but the state is expected to collect only \$31.3 billion, leaving a \$2.7 billion budget shortfall. That figure is also expected to rise in the coming months.

Although the Governor's actions will balance the budget at least temporarily, the state is looking at another \$4 billion-plus deficit in the next biennium. We could also see the current deficit increase over the coming months. That could open the door for a special session.

Still, even with the confusion over the budget, the 2009 Legislative Session was in fact pretty good for the state's electric cooperatives. Despite real concern prior to and early in session, there were no Cap & Trade proposals and no calls for a "Carbon Impact Fee." We like to think that our significant grassroots efforts in Our Energy, Our Future had a role in this outcome.

In addition, most of the controversial proposals that did emerge in the session -- a CBED carve-out, feed-in tariffs and elimination of the eminent domain exemptions for transmission projects -- were defeated.

Although some co-ops will see a rather large fee increase for lines crossing state land and water, we avoided a personal property tax rate increase on utilities, the elimination of certain exemptions and a new proposal to lift the sales tax exemption on winter heat. That's no small feat in a year when legislators were desperate for new sources of revenue.

We also made some small progress on the Conservation Improvement Program (CIP), allowing utilities to bank excess savings for up to three years.

Our relative success during the session was due to a number of things. First, the state's poor economy and the accompanying budget deficit made legislators think twice about enacting anything that could negatively affect the economy and job growth. That included a state-only carbon Cap & Trade program.

The federal stimulus package – the American Recovery and Reinvestment Act of 2009 – included a significant investment in energy related projects and that pot of money kept key legislators on the House and Senate Energy Committees occupied for much of the session.

However, we were ultimately able to knock down proposals like the C-BED Carve-Out or a proposal to eliminate the personal property tax exemption for utilities through the grassroots involvement of our members. Your involvement and contact with your legislators at key points during the session made a real difference.

The following pages include a rundown of the bills that did pass this session, as well as key proposals that were defeated.

NEW LAWS

Omnibus Energy Policy Bill

(HF680/SF550)

Chapter 110 of 2009 Session Laws

The Omnibus Energy Policy Bill was a catch-all for the energy-related policy bills that made their way through the committee process during the session. There were a number of controversial proposals offered during the session, including a proposed carve-out and standardized tariff for small wind developers, a wide-ranging feed-in tariff for renewable projects and an end to the eminent domain exemptions for utilities on high-voltage transmission projects, but the final bill was free of the most controversial.

Senate Energy Chair Yvonne Prettner-Solon (DFL-Duluth), State Senators David Senjem (R-Rochester) and Dan Sparks (D-Austin) and State Representative Mike Beard deserve a lot of credit for that.

Those four members of the conference committee were responsible for eliminating the two most controversial provisions in the House bill. The first was a provision that requires utilities to build a combined 200 MW of small wind by the end of 2010. This was the key component remaining from Rep. Andrew Falk's C-BED Carve-Out Bill. A utility's individual requirement would have been based on the amount of electricity it sells in the state.

The other stripped provision would have eliminated eminent domain exemptions for high voltage transmission lines. This was added as an amendment by Rep. David Bly (DFL-Northfield) to the bill on the House floor. A compromise measure was adopted that increased the maximum amount of money that may be awarded for appraisal fees from \$500 to \$3,000. The issue will come up again this summer and next session.

Please contact Senators Prettner-Solon, Senjem, Sparks and Rep. Beard and thank them for their leadership on these issues.

One highlight of the bill was the inclusion of a provision that will allow utilities to bank Conservation Improvement Program (CIP) credits. The provision will allow a utility to carry forward energy savings in excess of the 1.5 percent CIP goal for a period of three years. Savings from utility infrastructure projects may be carried forward for five years.

Other key provisions in the final bill included:

- **Standardized contracts:** This was all that survived of Rep. Falk’s original C-BED Carve-Out Bill. As passed, it will require each utility to file with the Public Utilities Commission a standardized contract for projects 5 MW or less.
- **Green Pricing programs:** Green pricing programs will no longer be mandatory, but utilities will be able to offer programs that allow customers to purchase a higher proportion of electricity generated from renewable fuels than is reflected in the utility’s current supply mix. Utilities can then charge for any higher costs.
- **Sustainable Buildings 2030:** Utilities will now need to consider the strategic planting of trees and shrubs around buildings as a way to conserve energy.
- **Generation projects for CIP:** Allows a rural electric association, municipality, or public utility to spend 5 to 10 percent of the total amount that may be spent on energy conservation improvements on qualifying solar energy projects.
- **Annual Transmission Adequacy Report to the Legislature:** The Commissioner of Commerce, in consultation with the Public Utilities Commission, will put together an annual report to the Legislature on the status of electric transmission infrastructure in the state and whether it will meet our needs over the next 15 years.

Here are the specifics on the bill:

- **Section 1 (Renewable Energy Production Incentive)** makes some hydroelectric facilities eligible for renewable energy production incentives. Extends the period that incentives are available to January 1, 2021. Specifies that \$10.9 million must be allocated annually from available funds for incentives. Removes the 200 MW cap on electricity produced by wind power that is eligible for incentives.
- **Section 2 (Initiative for Renewable Energy and the Environment)** allocates \$5 million annually from the Renewable Development Account to fund a grant to the Board of Regents of the University of Minnesota for the Initiative for Renewable Energy and the Environment. Specifies how funding must be allocated and activities that may be funded by the grant. Requires the Director of the Initiative to submit an annual report to the Legislature on its activities.
- **Section 3 (Public Service Corporation Exceptions)** raises the maximum amount of appraisal fees that may be awarded to an owner whose land is taken by eminent domain from \$500 to \$1,500. Provides that the award for a public service corporation’s use of eminent domain for a high-voltage transmission line may not exceed \$3,000.
- **Section 4 (Record of Proceedings)** specifies that in addition to an audio magnetic recording device, an audio electronic recording device may be used to keep a record of proceedings before the Public Utilities Commission. Removes language stating that a

recording is necessary unless the Commission provides a hearing reporter to record the proceeding.

- **Section 5 (Hearing Reporter)** allows the Executive Secretary of the Public Utilities Commission to make arrangements for a hearing reporter. Requires the cost of hearing reporter services to be borne by the utility, telephone company, or telecommunications carrier that is the subject of the proceeding.
- **Section 6 (Suspension of Proposed Rate; Hearing; Final Determination Defined)** lengthens the period of time that the Public Utilities Commission may extend the suspension period when making a final determination on the reasonableness of a rate change in a utility rate schedule. Extension is currently allowed for a period of 20 days when the Commission's determination depends on the outcome of a pending case. This provision would extend the suspension period for a total of 90 additional calendar days. Makes a technical clarifying change by deleting a reference to any "previously filed case" and replacing it with any "pending case."
- **Section 7 (Incentive Plan for Energy Conservation Improvement)** allows the Public Utilities Commission, in setting rates to encourage the vigorous and effective implementation of utility conservation programs, to "adopt any mechanism that satisfies the criteria of the subdivision, such that implementation of cost-effective conservation is a preferred resource choice for the public utility considering the impact of conservation on earnings of the public utility." Removes language that allows the Commission to compensate the utility for earnings lost as result of its conservation programs. In short this gives the PUC more tools to engage in "decoupling."
- **Section 8 (Transmission Cost Adjustment), paragraph (a)** makes a technical change.
- **Section 9 (Central Corridor Utility Zone Cost Adjustment)** allows a public utility that provides retail electric service within the Central Corridor utility zone (in other words, Xcel Energy), that must replace, relocate, construct, or install new facilities due to changes within the zone to apply to the Public Utilities Commission for approval of new facilities to be located both within and outside the zone. Specifies the criteria that the Commission must use when considering whether to approve the new facilities. Requires the utility to submit periodic reports to the Commission that review the costs and benefits of the new facilities and their potential applicability to other areas outside the zone. Authorizes the Commission to approve a tariff mechanism for automatic cost adjustment for the facilities installed.
- **Section 10 (Standardized C-BED Contract)** requires each utility to file with the Public Utilities Commission a standardized contract form for purchase of electricity from projects with a nameplate capacity of 5MW or less.
- **Section 11 (Cost Recovery for Utility's Renewable Facilities)** modifies the criteria that the Public Utilities Commission must use when deciding to approve a rate schedule by allowing a utility to recover expenses incurred in relation to a renewable energy project,

provided that the utility demonstrates that the expenses advance research and understanding of how storage devices may improve renewable energy projects. Facilities are not subject to review by the Commission under Minnesota Statutes, section 216B.2422 (Resource Planning; Renewable Energy) or 216B.243 (Certificate of Need for Large Energy Facility) must petition the Commission for eligibility for cost recovery prior to making a request for cost recovery.

- **Section 12 (Renewable and High-Efficiency Energy Rate Options)** permits a utility to voluntarily offer a green pricing program to customers that allows the customer to purchase a higher proportion of electricity generated from renewable fuels than is reflected in the utility's current supply mix, and specifies the components of the additional price a customer may be charged for the additional renewable energy.
- **Section 13 (Eligible Energy Technology Standard)** provides that an electric utility that owns a nuclear generating facility may use solar energy in addition to wind energy toward its Renewable Energy Standard goal. Specifies that solar energy may count toward one percent of the current 25 percent carve out for wind.
- **Section 14 (Authority to Issue Refund)** allows the Public Utilities Commission to require a public utility to refund its customers, upon the finding that the utility unlawfully charged a rate and collected revenue.
- **Section 15 (Energy-Savings Goals)** allows a utility or association to carry forward energy savings in excess of the 1.5 percent per year requirement in the Conservation Improvement Program. The energy savings may be used toward the goal in the next three calendar years, provided that they may only be used once. Allows energy savings from electric utility infrastructure projects to be carried forward for five years.
- **Section 16 (Qualifying Solar Energy Project)** provides that qualifying solar energy projects are eligible for a performance incentive under the Conservation Improvement Program as specified.
- **Section 17 (Biomethane Purchases)** allows a natural gas utility to include purchases of biomethane in its conservation plan. Allows up to five percent of the total amount to be spent on conservation improvements. Describes how cost-effectiveness may be determined and how energy savings may be counted.
- **Section 18 (Building Performance Standards; Sustainable Building 2030), paragraph (e)** requires a utility's Sustainable Building 2030 design assistance program to consider strategic planting of trees and shrubs around buildings as an energy conservation strategy for a designed project. Specifies that \$350,000 of the annual contract amount with the Center for Sustainable Building Research must be spent on programmatic activities as specified, in addition to the subcontracts already authorized by the section.
- **Section 19 (Generation Projects)** allows a rural electric association, municipality, or public utility to request authority from the Commissioner of Commerce to spend five to

ten percent of the total amount that must be spent on energy conservation improvements on a program that promotes qualifying solar energy projects to customers. Requires the Commissioner to consider customer interest when deciding to approve the request.

- **Section 20 (Definitions)** modifies the definition of a "qualifying solar electric project." Removes the definition of "small business," and adds commercial, publically-owned and storage facilities, along with residential.
- **Section 21 (Decoupling Criteria)** allows the Public Utilities Commission to establish criteria and standards for decoupling in a separate proceeding or in a general rate case or other proceeding in which it approves a pilot program.
- **Section 22 (Reduction of Biomass Mandate)** amends current law with respect to Xcel's state biomass mandate. Requires Xcel to amend a power purchase agreement, upon the request of a project owner, to limit the average price for energy in nominal dollars, measured over the term of the agreement, to no more than five percent above \$104 per megawatt hour. Describes the Public Utilities Commission review process for the amendment.
- **Section 23 (Exemptions)** removes the Certificate of Need exemption for large energy facilities that generate electricity from wind energy conversion systems, serve Minnesota retail customers, meet the Renewable Energy Standard or address an identified resource need, and derive at least ten percent of total nameplate capacity from one or more C-BED projects. The wind exemption is stated in a following subdivision.
- **Section 24 (Renewable Energy Standard Facilities)** modifies the criteria that the Public Utilities Commission must use when evaluating if a wind energy conversion system or a solar electric generation facility may be exempt from a Certificate of Need.
- **Section 25 (Assessing all Public Utilities)** makes a conforming change to incorporate expenditures of audits authorized in **Section 27**.
- **Section 26 (Objections)** makes a conforming change to incorporate audits authorized in **Section 27** in the objection process.
- **Section 27 (Audit Investigation Costs)** allows the Public Utilities Commission to conduct an investigation or audit of a "public utility" as specified. Establishes the Audit Investigation Account as a separate account in the Special Revenue Fund in the State Treasury. Provides that a public utility may be assessed for the cost of an investigation and money received must be credited to the account.
- **Section 28 (Annual Transmission Adequacy Report to Legislature)** directs the Commissioner of Commerce, in consultation with the Public Utilities Commission, to submit an annual report to the Legislature that describes the electric transmission infrastructure needed within the state over the next 15 years and the progress being made to meet the need. Describes information that the report must contain.

- **Section 29 (Key Role of Solar and Biomass Resources in Producing Thermal Energy)** requires the Commissioners of Commerce and the Pollution Control Agency to include in their annual report to the Legislature on greenhouse gas emission reduction, proposals regarding the use of solar energy and the combustion of grasses, agricultural wastes, trees, and other vegetation to produce thermal energy for heating and industrial processes, if such policies are appropriate to achieve the state's emission reduction goals.
- **Section 30 (Energy Conservation Information Center)** corrects a statutory reference relating to the Cold Weather Rule.
- **Section 31 (Renewable Development Account)** makes some hydroelectric facilities eligible for renewable energy production incentives. Removes the 200 MW cap on electricity produced by wind power that is eligible for incentives.
- **Section 32 (Natural Gas Utilities; Interim Energy Savings Plan)** allows the Commissioner of Commerce to approve an energy conservation improvement plan in 2009 for a natural gas utility as specified.
- **Section 33 (Utility Rates Study)** requires the Public Utilities Commission, in consultation with the Office of Energy Security, to conduct a study and report to the Legislature on automatic cost-recovery mechanisms and alternative forms of utility rate regulation as specified. Allows the Commission to assess public utilities for the cost of the study.
- **Section 34 (Mountain Iron Economic Development Authority - Wind Energy Project)** allows the Mountain Iron Economic Development Authority to form or become a member of a limited liability company for the purpose of development of a C-BED project. Prohibits a project to sell, transmit, or distribute the electrical energy at retail or provide for end use of electricity to an off-site facility of the economic development corporation or limited liability company.
- **Section 35 (Solar Cities Report)** requires the Cities of Minneapolis and St. Paul, which are federally designated solar cities, to submit a report to the Legislative Energy Commission on strategies to accelerate the rate of solar thermal and solar electric energy installations in all building types throughout the state. Specifies information that the report must include.
- **Section 36 (Cancellation and Appropriation)** cancels \$750,000 of the amount remaining of the appropriation to the Commissioner of Commerce to provide competitive, cost-share grants to fund renewable energy research, to the special revenue fund. Appropriates that amount to the Commissioner of Commerce for a one time grant to the BioBusiness Alliance of Minnesota for bioscience business development programs.
- **Section 37 (Revisor's Instruction)** contains an instruction for the Revisor of Statutes.

- **Section 38 (Repealer)** repeals Laws 2007, Chapter 3, Section 3, which repeals Minnesota Statutes, section 216B.169 (Renewable and High-Efficiency Energy Rate Options) on January 1, 2010.

Omnibus Environment, Natural Resource and Energy Finance Bill HF 2123 – Chapter 37 of 2009 S.L.

The bill, which provides funding for the Public Utilities Commission, the Office of Energy Security, the Pollution Control Agency and the Department of Natural Resources, is decent for the most part.

The only really bad provision was a significant increase (10-fold in one case) in the fees utilities will now have to pay to cross state waters or state land, with the money going to the DNR. Most co-ops in the state won't be impacted too much, though there are a number that will face a significant increase in fees.

The new fees are expected to raise \$612,000 a year statewide. The application fee for a public water crossing license will be \$2,000, up from \$500. The fee for a public lands crossing license will be \$5,000, up from \$500. To this is added the current crossing fees specified in Minnesota Rules.

In addition, a new monitoring fee will also be assessed. This is intended to cover reasonable costs for DNR to monitor the construction of a utility line, as well as prepare any special terms and conditions needed for the license or easement.

Here are other key energy-related provisions in the bill:

- **Greenhouse gas emissions reporting:** The commissioner of the Pollution Control Agency (PCA) will now have to establish a system for reporting and maintaining an inventory of greenhouse gas emissions and coordinate the system where practicable with any regional or federal systems.
- **High global warming potential (GWP) greenhouse gas reporting:** This provision modifies the definition of “high GWP greenhouse gas” to include nitrous trifluoride and any other gas the PCA determines, by rule, to have a high global warming potential and raises the threshold for high-GWP greenhouse gas reporting requirements from 500 to 10,000 metric tons. The provision also authorizes the PCA commissioner to adopt rules to establish different reporting requirements and permits a regional or national greenhouse gas registry to satisfy the reporting requirement.

- **Environmental review streamlining report:** This requires the commissioner of the PCA, in consultation with staff from the Environmental Quality Board, to submit a report to the Legislature on options to streamline the environmental review process.
- **Carbon sequestration forestry report:** This was based on the Minnesota Climate Change Advisory Group's recommendation to increase carbon sequestration in forests by planting a million more trees in the state. It will require the Minnesota Forest Resources Council to review the proposal and submit a report on its feasibility, as well as offer recommendations on how to best go about it.
- **Geothermal Report:** The Natural Resources and Research Institute at the University of Minnesota, Duluth will receive a \$300,000 grant from the Renewable Development Fund to develop heat flow maps in order to determine the geothermal potential of the state of Minnesota.
- **CERTS:** The state's Clean Energy Resource Teams (CERTs) – community-based groups that encourage renewable energy development and conservation – will get a \$625,000 per year appropriation from the Renewable Development Fund.
- **Green Jobs Task Force Recommendations:** An as-of-yet unspecified non-profit will receive a \$25,000 appropriation from the Renewable Development Fund to assist in the implementation of the Green Jobs Task Force's recommendations.
- **Solar Rebates:** A \$400,000 appropriation from the Renewable Development Fund will go to provide financial rebates for new solar electricity projects.
- **Minnesota Green Enterprise Assistance:** The commissioner of Employment and Economic Development is designated to lead a multiagency project to develop and encourage green enterprise and green economy projects in the state. The idea is to create a central place to help expedite the delivery of grants, licenses, permits and other requirements for green projects. Proponents hope it will be a one-stop shop for businesses looking to locate in Minnesota.
- **Bulk installation of solar photovoltaic panels on school buildings – feasibility study:** By Jan. 15, 2010, the Office of Energy Security, in conjunction with the Department of Education, schools and school districts and the solar industry, must study the feasibility of bulk installation of solar photovoltaic panels on school buildings in the state. The study must use a power-purchase agreement model, where a private company would pay for, install and own the solar photovoltaic panels.

Federal Stimulus bill

SF 657 – Chapter 138 of 2009 S.L.

With the state's budget woes, this bill drew much of the focus of the House and Senate Energy Committees this session, in part because it was one of the few places legislators could "spend" money this session. That was probably a good thing for us.

Technically, the bill provides guidance to the state's Office of Energy Security on how to use funding from the federal stimulus package, targeting specific amounts of money to specific projects. Most of the funding will go to weatherization projects for both private homes and public buildings, but there are considerable resources for smaller renewable energy projects.

Here are the details.

Weatherization Program - \$131,937,411

- Most of the funding will go to pay for materials and labor for weatherization programs across the state. However, \$250,000 is directed for outreach, another \$250,000 will go to outreach under the state energy program and \$1,000,000 will pay for training and workforce development.

Energy Efficiency and Conservation Block Grant Program - \$10,644,100

- \$6,836,460 for energy efficiency grants to local governments for planning, consultant services, energy audits, implementing energy-efficient building codes and inspection services, and energy efficiency, including window replacement, street lighting and the installation of renewable energy devices used in public buildings.
- \$4,257,640 for energy efficiency grants to local government and school district buildings for energy-efficiency improvements like lighting upgrades, energy-efficient windows, energy recommissioning and other projects that are ready for immediate implementation.

State Energy Program -\$54,172,000

- \$8,750,000 for energy efficiency projects in local government and school district buildings. The grants are distributed in the same way as the energy efficiency and conservation block grant appropriations.
- \$6,922,000 for energy efficiency projects in state government buildings, with the focus on lighting upgrades, window repairs and upgrades, energy recommissioning, and other cost-effective energy projects that are ready for immediate implementation.
- \$7,900,000 for residential energy efficiency programs, with \$250,000 going to outreach. The program will work within existing Minnesota Housing Finance Agency programs and will provide loans, grants and rebates.
- \$1,600,000 for innovative residential energy efficiency programs in Duluth (\$1,500,000) and Park Rapids (\$100,000).

- \$1,000,000 for training and workforce development. This appropriation is for low-income persons who could not otherwise afford training. Funding is to prepare low-income persons for residential weatherization jobs and to support job training opportunities for low-income persons in residential and commercial energy efficiency and renewable energy-related trades.
- \$1,500,000 for training and workforce development. The jobs include energy auditors, energy managers and building operators, as well as training on energy code compliance and enforcement.
- \$5,000,000 for renewable and geothermal rebates, with at least \$3,000,000 targeted for solar.
- \$3,000,000 for grants to local units of government for solar energy projects, including large-and small-scale solar electric projects and innovative energy storage technology. Most of this will be used along the Central Corridor light rail line in St. Paul.
- \$6,500,000 is for grants to install renewable energy in local government and school buildings.
- \$2,000,000 for grants to emerging renewable energy industries, with the focus on manufacturing. It includes solar energy systems, biomass, wind energy conversion systems, energy storage systems and heating and cooling applications using geothermal energy.
- \$5,000,000 for the St. Paul Port Authority for energy efficiency and renewable energy in commercial and industrial buildings.
- \$4,500,000 for similar projects around the state. Of this amount, \$150,000 is targeted to the Chisago County economic development authority for the development of a biomass energy facility. Of the remaining appropriation, \$500,000 is for the Center for Energy and Environment to develop an energy-technology transfer center.

Omnibus Tax Bill

HF 2323 – Chapter 179 of 2009 S.L.

Vetoed by Governor Pawlenty

This bill, which was intended to close the gap between \$34 billion contained in the spending bills sent to the Governor and \$31.3 billion of expected revenue, ended up being vetoed by the Governor. It would have included a new fourth tier on the income tax for couples making \$250,000 or more a year, increased alcohol taxes, imposes a new surtax on certain interest income and appropriated \$4.66 million for tougher tax compliance and debt collection initiatives.

All told, it would have raised just under \$1 billion in new revenue. It also included a \$1.7 billion delay in payments to schools until the next budget cycle.

The final bill did not include the four key provision impacting utilities – an increase in the class rate on personal property tax for utilities, the phasing out of existing exemptions for electric

generation personal property, an increase in the statewide general property levy and elimination of the sales tax exemption on heating for many Minnesotans.

The first two of those provisions were included in the Senate Tax Bill (SF 2074) and were pushed by communities looking for more property tax revenues from electric generating facilities in their communities. Great River Energy estimated that the changes could have cost the utility and its members between \$9 million and \$12 million. State Representative Paul Marquart, a member of the House Tax and Property Tax Committees, as well as the Omnibus Tax Bill Conference Committee, did a great deal of work behind the scenes making sure those provisions were defeated.

The elimination of the sales tax exemptions on heating was introduced by Rep. Paul Gardner. The original idea behind the bill was to eliminate the sales tax exemption on what the author called “energy hogs,” folks in large homes who use more energy than what the author thought they should.

Although we argued that the bill as written would likely tax every consumer in the state who uses electricity for heat, he continued to push the measure. Fortunately, it was eliminated in conference committee.

The final bill also included a measure that would have converted the refund for sales tax paid on capital equipment to an up-front exemption. However, that provision died with the Governor’s veto.

Public Finance Bill

HF 1298 – Chapter 88 of 2009 S.L.

This technical tax bill did survive and makes a number of smaller technical changes to the tax code. It didn’t generate anything near the controversy of the Omnibus Tax Bill.

Energy-related provisions included the following:

- **Personal property tax exemptions for energy projects:** These were targeted to projects being developed by Excelsior Energy, Ottertail Power and LS Power.
- **Change in the formula for distribution of revenues from the wind energy production tax:** The change is for 2010 and thereafter, so that 80 percent of the revenues are distributed to the county and 20 percent to the city or township. The current formula is 80 percent to the county, 14 percent to the city or township and 6 percent to the school district.
- **Pollution control exemption study:** The Commissioner of Revenue, in consultation with the commissioner of the PCA, is charged with studying the eligibility of electric generation personal property for the pollution control exemption. The study will look at

factors such as location, value and tax impact of the exemptions, and assess whether the equipment does reduce pollution.

- **C-BED changes for counties:** Modifies the definition of C-BED project to apply to all types of renewable energy projects and authorizes counties to enter into joint agreements for purchase of energy or for acquisition of interests in CBED projects. It also allows counties to finance qualifying projects by issuing revenue bonds, including clean renewable energy bonds.
- **Mountain Iron C-BED project:** Authorizes the Mountain Iron Economic Development Authority (EDA) to participate in a CBED project as part of a limited liability company. It permits the EDA to lease land outside its corporate boundaries. We had some concerns that the original language could allow the EDA to sell or distribute the energy off site. However, we worked with author (Sen. David Tomassoni) to include language that specifically prohibits the EDA from selling, transmitting or distributing electrical energy at retail.
- **Winona CBED project:** This provision authorizes the Winona County Economic Development Authority (EDA) to do the same.

Other New Laws

Plug-in hybrid electric vehicle infrastructure

HF 1250 – Chapter 134

The bill begins to lay the groundwork for increased use of plug-in hybrid electric vehicles and all-electric vehicles in the state. The bill establishes that companies that sell electricity for use in electric vehicles are not public utilities, but are more like electric equivalent of gas stations. It requires the Center for Sustainable Building Research at the University of Minnesota to add electric vehicle charging infrastructure as part of its ongoing research in energy efficiency performance standards. It also requires that any electrical vehicle infrastructure must be done without significant electrical upgrading and for electric utilities, must be cost effective.

Co-op Annual Renewal with SOS

SF 1288 – Chapter 101, section 76

Other businesses for about 5 years have been annually renewing their registrations with the Secretary of State. Co-ops have been on a biennial registration renewal schedule. Now, we are no longer special, but must file an annual renewal with the SOS. The registration renewal fee remains the same at \$25. Also relating to the SOS and a co-op's name, see a technical revision in SF 1288 (Chapter 98), section 12.

Omnibus Economic Development Bill

HF 2088 – Chapter 78

A provision in this bill modifies the definition of “qualifying owner” of a community-based energy development project (CBED) by specifying that the Commissioner of the Iron Range Resources and Rehabilitation Board is eligible.

Omnibus Agriculture and Veterans Affairs Finance Bill

HF 1122 – Chapter 94

The bill creates a new program to promote the state’s agricultural and renewable energy industries through grants, loans or other forms of financial assistance. The program, which will be run by the Agriculture Commissioner, will get a \$1 million appropriation.

Omnibus K-12 Education Finance Bill

HF 2 – Chapter 96, Section 5

The bill contains a provision that authorizes a school board, individually or as a member of a joint powers board, to become a partner, member, or shareholder in a company that constructs, buys or finances wind energy projects.

As it was originally written, we were concerned that the bill could allow these school groups to sell or distribute the energy off site. However, we worked with the House and Senate authors (Rep. David Bly and Sen. Kevin Dahle, both of Northfield), representatives of the state’s school board association and other utilities to include language that specifically prohibits a school board from selling, transmitting or distributing electrical energy at retail.

Omnibus Bonding Bill

HF 855 – Chapter 93

The University of Minnesota received a \$2.15 million appropriation to design, engineer, construct and equip a solar rating and certification laboratory.

Omnibus Health and Human Services Finance Bill

HF 1362 – Chapter 79

The Omnibus Health and Human Services Bill contained an appropriation of \$55,000 for a risk assessment study of the chemical pentachlorophenol, which is used to treat some utility poles. However, key language was inadvertently left out of the bill, so HF 1988 (Chapter 173,1,48) was passed as a technical correction. That language requires the Commissioner of the Department of Health to work with the appropriate local, state and federal agencies to determine whether utility poles in Minneapolis treated with pentachlorophenol, creosote or probable human carcinogens present a health risk to residents, utility workers and others who handle the treated poles.

The provision was introduced in response to complaints by several Minneapolis residents of the powerful smell associated with newly installed utility poles in their neighborhoods and plugged into the conference committee report late at night.

Unemployment insurance law changes

SF 1197 – Chapter 15

The legislation changes the way the state calculates an individual's unemployment benefits by using more recent wages and adding a pair of new exceptions for individuals who quit their jobs. The state needed to make the changes to receive \$130 million federal stimulus funds for unemployment benefits.

Bills that did not pass

C-BED Mandate and Carve-Out – HF357/SF 399

Authored by Rep. Andrew Falk (DFL-Murdock) in the House and Sen. Gary Kubly (DFL-Granite Falls), the bill as it was originally written established a tariff for 800MW of C-BED wind projects based on the average MISO next day cost. An amended provision included in the House version would require all electric utilities to purchase in the aggregate 200 MW of 5 MW or less renewable energy projects by Dec. 30, 2010. Such projects must be constructed or under contract by Dec. 31, 2010.

For Great River Energy, the proportionate share of 200 MW would have meant seven projects of 5 MW. Glen Skarbakka, manager, resource planning for Great River Energy, testified against the amendment, pointing out the logistical difficulties in meeting the time frame requirements (interconnection issues, etc.). This provision was ultimately dropped from the final bill.

Feed-In Tariff Bill - HF 932

HF932 creates a system of Renewable Energy Feed-In Tariffs at rates well above current retail rates. It's similar to the bill introduced by its chief author, State Rep. David Bly (DFL-Northfield), a year ago, though with a few minor changes.

The bill requires utilities to purchase wind and solar renewable energy from Minnesota-owned projects connected to their local distribution systems. The power purchase agreements for these projects would have to extend for at least 20 years and the rates vary between types of renewable energy.

For example, the rate for most wind would be 10.5 cents per kwh. Small wind projects would be paid 25 cents per kwh. Solar projects would receive an even larger windfall, with rates varying between 50-65 cents per kwh, depending on the size and type of solar projects. The rates would be reduced by other incentive programs, except for solar. A minimum 10% profit is guaranteed.

Owners of the projects would be responsible for paying for interconnection to the distribution system only. Any other interconnection costs would fall on the utilities.

The bill also creates a rate equalization account which would be used to equalize the impact on rates throughout Minnesota. The account, which would be funded by all of the state's electric utilities, are based on a complicated formula that takes into account the amount of these projects on a given system, the number of customers, the amount of electricity sold in a given system and overall rates.

This bill is likely to come up again next year.

Elimination of Eminent Domain Exemptions – HF 1182/SF 112

This bill appeared to die in the committee process, but was resurrected on the floor and added to the House Omnibus Energy Policy Bill as an amendment before being defeated in conference committee. The bill, authored by Rep. David Bly (Northfield) in the House and Sen. Kevin Dahle (Northfield) in the Senate, would repeal the eminent domain exemptions for public service corporations which build high-voltage transmission lines. Compromise language was adopted in the conference committee that increased the reimbursement fee for real estate appraisals for landowners. The issue is likely to come up again over the interim and next session.

Lifting the Ban on New Nuclear Plants – SF 550

There were 14 versions of this bill introduced in the House and Senate and a dedicated hearing of the Legislative Commission on Energy, but the issue appeared dead in the committee process after it was withdrawn before a vote in the Senate Energy Committee.

However, Sen. Steve Dille (R-Dassel) offered an amendment to the Senate Omnibus Energy Bill to repeal the prohibition on the construction of new nuclear power facilities in Minnesota. The amendment was adopted on a surprisingly strong 42-24 vote, with 23 DFL Senators joining 19 Republicans in support of the measure. The same amendment was offered on the House floor by Rep. Tim Faust (DFL-Hinckley), but it failed on a 60-72 vote. It was then removed in conference.

Elimination of heating sales tax exemption - HF 1584

The bill eliminates the sales tax exemption on heating for anyone using more than 5,750 KWh of electricity for heat in a season. The bill's author, Rep. Paul Gardner (DFL-Shoreview), said his intention was to target "excessive energy consumers who live in McMansions," but the bill would have applied the sales tax to virtually every consumer who uses electricity to heat their home, including those using dual sources of heat.

The bill originally eliminated the sales tax exemption after just 750 KWh a month of use, but was raised to 5,750 KWh a season after objections from a number of utilities. Utilities continued their opposition even after the change.

Other bills that did not pass

Decarbonization Study

SF 1012 – Chapter 143, section 2 subdivision 7(a)

The University of Minnesota was to receive a \$143,000 appropriation to explore options to “decarbonize” Minnesota’s electrical power system, based on the Minnesota Climate Change Advisory Group’s greenhouse gas reduction recommendations. The Governor line-item vetoed this provision from SF 1012 (Environment and Natural Resources LCCMR Bill, stating that its language and direction is vague and appears to call for a study of a previous study. (See SF 1012 – Chapter 143, section 2, subdivision 7(a), along with the Governor’s line item veto message dated May 22nd.)

Minnesota Climate Change Advisory Group Proposals

Several bills addressed recommendations by the Minnesota Climate Change Advisory Group related to reducing the number of vehicle miles traveled and better land use planning. Various stakeholders raised concerns over these proposals. None were enacted into law.

Distributed Generation Cooperatives - HF 1862/SF 1861

This bill, which had House Speaker Margaret Anderson Kelliher as a co-author, would authorize the formation of distributed generation co-ops under the Minnesota Cooperative Law, Ch. 308A. Despite the Speaker’s name on the bill, it didn’t receive a hearing in either the House or Senate.

Utility property tax class rate increase - SF 1420/HF 1574

As we mentioned above, this proposal was added to Senate version of the Omnibus Tax Bill, SF 2074, but eliminated in conference committee.

Personal Property Tax Exemption - SF2074

This was also included in the Senate Omnibus Tax bill, but eliminated in conference. On a related note, HF 2323, as it first passed the House, included a permanent personal property tax exemption for all future power plants.

New KWH franchise tax - HF 2077

This would allow cities to impose a new KWH franchise tax.

Capital Equipment Sales Tax Exemption - HF 467/SF 809

Under current law, companies can apply for a refund for the sales tax on capital equipment. This bill would have replaced the refund with an up-front exemption, reducing paperwork and eliminating the time it took to get the refund. It was included in the final Omnibus Tax Bill, but vetoed by the Governor.

Elimination of Utility Pollution Control Property Tax Exemption - HF 739/SF 463

This is being driven by local units of government looking to expand their local property tax base. It didn't make it into the final Omnibus Tax Bill, but funding for a study was included in the technical tax bill (HF 1298).

Statewide General Property Levy - SF2074

This would have applied to utility non-generating personal property.

Intervener Compensation in Certificate-of-Need Cases - HF 2018

Co-authored by Rep. Andrew Falk and Rep. David Bly, this was intended to help citizens and non-profits contest certificate of need cases.

County Siting Authority - HF 2019/SF 1891

Another Falk wind-developer bill, this would increase wind capacity of projects over which counties could assume siting authority. It was added to House Omnibus Energy Bill, but deleted in conference committee.

Home Energy Usage Bill - HF 1131/SF 841

This would require a study on the disclosure of energy usage in residential buildings. It was in response to concerns about the sharing of home usage information in conservation programs.

State Climate Adoption Plan - SF 1480

This would require the state's Environmental Quality Board to develop a proposal for creating a State Climate Adoption Plan to deal with impact of future climate change.

High Voltage Line Certificate of Need - HF 1633/SF 1537

This would expand the definition of large energy facility to include smaller-sized high voltage transmission lines in the certificate of need process.

Department of Energy and Environmental Protection - SF 1642/HF 2089

This proposal would combine the Office of Energy Security and the Minnesota Pollution Control Agency into a new state Department of Energy and Environmental Protection.

CIP Credits for Renewable Energy - HF 2159 & HF2160

These bills would allow utilities to earn additional CIPs credit for certain renewable energy projects. This was mainly targeted at developing solar.

CCS Exemption - HF 2390/SF 2157

Introduced late in the session by Sen. Dan Skogen in the Senate and Rep. Tim Faust in the House, the bill would provide an exemption to the August 1, 2009 prohibition against building a coal power plant or importing coal power for coal power plants that use carbon capture and storage.

CO2 Exemptions - HF 2394/SF 2158

In a similar vein, this bill, again authored by Skogen and Faust, would modify the coal prohibition so as not to apply to CO2 emissions from states (North Dakota) actively engaged in activities to develop and demonstrate Green House Gas (GHG) emission-control technologies.

Non-Utility Businesses - SF 43/HF 235

Targeted mainly at Ottertail Power, this provision would prohibit a “public utility” from acquiring a nonutility business.

Assaults on Utility Employees - SF 1750/HF 67

This would make it a serious crime to assault a utility employee or contractor. It was added to the House Omnibus Public Safety Bill, HF 1301, but deleted in conference.

Ken Tschumper Memorial Bill – HF 2342

This bill, which was introduced by former Rep. Ken Tschumper in 2007, would establish the right of local ordinances to control pesticide applications.