

2015 Energy Legislation Summary

Legislative Energy Commission

What passed?

Jobs and energy bill

Below are energy provisions that were passed in the final jobs and energy bill (HF 3 of the 2015 first special session), along with some information on the provisions' origins. When comparing the final bill with the House and Senate energy omnibus bills (HF 843-Garofalo and SF 2101-Tomassoni), keep in mind that the Senate omnibus was a budget bill that included little policy. SF 1431 and SF 1735 were constructed separately as omnibus energy policy bills.

HF 1437 had passed as the omnibus jobs and energy bill during the regular session, and was vetoed by Gov. Dayton. HF 3 was passed in special session and subsequently signed into law.

*** New item added during special session*

** Changes made during special session*

Line number in Special Session HF 3	Summary of the provision	Comparison with regular session House & Senate omnibus bills (HF 843, SF 2101)	Bills of origin
26.7	<u>Transfer of functions study</u> : Minnesota Management and Budget is to conduct a study on transferring functions and staff from the division of energy resources in Dept. of Commerce to the Public Utilities Commission. MMB is to analyze the functions of both bodies, assess any duplication, and consider whether cost savings or program efficiencies could result from transferring certain functions and staff from DER to the PUC. The study is due January 1, 2016. \$92,000 in FY16 is appropriated from general fund to Dept. of Commerce and transferred to Dept. of Administration to fund this study.	Comes from HF 843. Language is identical.	HF 2033 (Newberger) SF 2073 (Osmek)
28.28	<u>Renewable Energy Equipment Grant Program renewal</u> : \$150,000 in each 2016 and 2017 is appropriated for providers of low-income weatherization services to install renewable energy equipment in households	Comes from SF 2101. Language is identical.	SF 804 (Skoe)

that are eligible for weatherization assistance (i.e. low income). This renews the 2013-14 program at the same funding level.

<p>**29.21 <u>Propane prepurchase for energy assistance customers:</u> \$5 million is appropriated from the general fund in each 2016 and 2017 to prepurchase propane for Minnesotans who receive energy assistance. Propane will be purchased during the summer months, when prices are generally lower, using general fund dollars. This spending will then be reimbursed to the general fund from the federal Low-Income Home Energy Assistance Program (LIHEAP) dollars received in the fall or winter. Propane in this program may not be distributed to customers before October 1, to comply with federal rules for reimbursement.</p>	<p>Included in HF 843 and SF 2101; language is slightly different.</p>	<p>HF 550 (Baker), SF 925 (Koenen). HF 903 (Anderson, P.) and HF 1064 (Koenen) are similar. SF 1064 (Koenen) would have included fuel oil in the program as well as propane.</p>
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This was added in special session.

<p>**68.1 <u>Definitions of propane, propane storage facility, and synthetic gas:</u> These new definitions reduce regulation in the construction of large propane storage facilities.</p>		<p>HF 550 (Baker), SF 1063 (Koenen)</p>
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This was added in special session.

<p>69.1 <u>Transmission cost adjustment for electric utilities:</u> The Public Utilities Commission may approve a tariff mechanism for the automatic annual adjustment of charges to cover the costs of new transmission or distribution facilities that are deemed to be a priority under utilities' required transmission and distribution planning. Utilities may also recover costs associated with required distribution planning, and investments to upgrade the distribution facilities under approved plans. Distribution planning will now be required of utilities that file multi-year rate plans (see below).</p>	<p>Comes from HF 843, though language is not identical</p>	<p>SF 1431 (Marty) SF 1735 (Marty). Language is identical.</p>
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<p>70.27 <u>Utility multi-year rate plans:</u> Public utilities may propose a multiyear rate plan over 5 years, an increase from the previous limit of 3 years. The PUC may require the utility to provide performance measures and incentives, which is a move from cost-based regulation toward performance-based regulation. See also state transmission and distribution plan, below.</p>	<p>Comes from HF 843. Language is very similar.</p>	<p>SF 1735 (Marty). Language is identical.</p>
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72.7	<u>Natural gas extension costs shared across customer base:</u> Natural gas utilities may spread up to 33% of the cost of expanding gas service across their existing customer base. Previously, all costs of expansion to a new area had to be borne by the customers in the new area. A report on such projects is due to the legislature by January 15, 2017 and every three years thereafter.	Comes from HF 843. Language is identical.	SF 843 (Skoe), HF 1522 (O'Neill)
*74.13	<u>Net metering changes:</u> Cooperative and municipal electric utilities may charge an additional fee to customers that have on-site generation under 40 kW. The fee would recover fixed costs that are no longer being fully recovered through a customer's electric rates, since the customer no longer purchases as much electricity. The fee must be "reasonable and appropriate for that class of customer based on the most recent cost of service study," which must be made available to the customer upon request.	Comes from HF 843. Language is somewhat different.	
	<p>A cooperative or municipal utility customer may elect to be compensated for their net input to the grid in the form of a kWh credit on their energy bill, which carries forward to subsequent bills until the balance cancels at the end of the calendar year. This paragraph was left out in a drafting error during regular session, and reinserted in special session. Under existing language that was unchanged in this section, customers also have the option of electing to be compensated at the average utility rate.</p> <p>These section only applies to customers installing net metered systems after July 1, 2015.</p>		
75.30	<u>State transmission and distribution plan:</u> A public utility that is operating under a multi-year rate plan must identify needed investments in its transmission and distribution systems, and conduct a distribution study to identify interconnection points for small-scale distributed generation and upgrades that are needed.	Comes from HF 843. Language is very similar.	SF 1735 (Marty)
**77.27	<u>Assessment for Dept. of Commerce regional and national duties:</u> Commerce may assess up to \$1 million per fiscal year to energy utilities for its		

activities representing the interests of Minnesota energy consumers before regional, national, and international bodies. This extends existing authority for 2 more years, until 2017.

This was added during special session.

<p>**78.5 <u>Legislative review of Clean Power Plan implementation plan</u>: By March 15, 2016, the commissioners of Commerce and the Pollution Control Agency must submit to the legislature for review and comment the draft plan for state compliance with the EPA's Clean Power Plan for Existing Power Plants.</p> <p>This was added during special session.</p>	<p>Contained in both HF 843 and SF 2101. Language does not match either exactly.</p>	<p>HF 333 (Newberger), SF 231 (Brown) would have required legislative approval of the plan</p>
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<p>*79.27 <u>Competitive rate for energy-intensive trade-exposed (EITE) electric customers</u>: This section states that it is the policy of the state of Minnesota to ensure competitive electric rates for EITE customers, and allows certain electric utilities to propose EITE rate options for certain large customers. It applies to investor-owned electric utilities with between 50,000 and 200,000 retail electric customers (which includes Minnesota Power and Otter Tail Power).</p>	<p>Contained in both HF 843 and SF 2101. Language does not match either exactly.</p>	<p>SF 1321 (Tomassoni) HF 1315 (Garofalo) Also: SF 1431 (Marty) SF 1735 (Marty)</p>
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Qualifying EITE customers include:

- Iron mining extraction and processing facility
- Paper mill, wood products manufacturer, sawmill, or oriented strand board manufacturer
- Steel mill and related facilities
- Retail customer that has facilities under a single electric service agreement that (i) collectively imposes a peak electrical demand of at least 10,000 kW, (ii) has a combined annual average load factor in excess of 80%, (iii) is subject to globally competitive pressures and whose electric energy costs are at least 10% overall cost of production. This was changed in special session. In the previous version, any retail customer that met criteria (iii) could qualify.

The bill does not set out exactly how an EITE rate would be structured, but rather allows utilities to

propose various options. An EITE rate will be approved by the PUC upon a finding of net benefit to the utility or the state.

A utility with an EITE rate will be allowed to recover lost revenues (or refund savings) through its general rate, but shall not recover costs from (or refund savings to) EITE customers or low-income residential ratepayers. The utility must contribute \$10,000 to expand the outreach of the commission-approved affordability program.

The Dept. of Commerce shall assess up to \$854,000 per biennium for services it provides to implement this. This piece was added during special session.

Bioenergy

The omnibus environment and agriculture bill contained at least three bioenergy-related provisions. Gov. Dayton vetoed this bill (HF 846-McNamara) during the regular session; the final version that became law is SF 5 of the first special session.

The bill contained an advanced biofuel production incentive (line 43.5). Advanced biofuel production facilities sourcing raw materials from agricultural, forestry, or solid waste sources within Minnesota (or within a 100-mile radius of facilities 50 miles or less from the border) are eligible to receive the incentive. Production of corn ethanol and conventional biodiesel is not eligible. The production incentive is set at \$2.1053 per MMBtu for advanced biofuel from cellulosic biomass, and \$1.053 per MMBtu for advanced biofuel from sugar or starch, for ten years after the start of production. Producers must derive a minimum amount of the MMBtus from perennial or cover crops, at amounts that increase over the life of the program: 10% must be from perennial or cover crop during the first two years of eligible production, 30% during the third and fourth years, and 50% during the fifth through tenth years. Additional requirements exist for the responsible production and harvest of forestry and agricultural biomass. No payments will be made for advanced biofuel production after June 30, 2035.

A biomass thermal production incentive was also established (line 48.3). Eligible biomass thermal production facilities source at least 80% of their raw materials from Minnesota (or within a 100 mile radius of facilities located within 50 miles of the border), begin production between July 1, 2015 and June 30, 2025, and produce at least 1000 MMBtu per year. This can include existing companies that are adding production capacity or retrofitting existing capacity, as well as new companies and facilities. Eligible facilities receive \$5 per MMBtu of biomass thermal production for 10 years after the start of production. A facility producing biomass thermal using agricultural cellulosic biomass is eligible for a 20% bonus payment for each MMBtu produced from biomass derived from perennial or cover crops. Payments will not be made on over 30,000 MMBtu per producer per year or 150,000 MMBtu to all producers each year, and will be available on a first-come, first-served basis. No payments will be made

for biomass thermal production that occurs after June 30, 2035. The provision includes requirements for the sustainable growth and harvest of forest, brushland, and agricultural biomass.

Each year, the commissioner of Agriculture must report to the legislature on both of these incentive programs, as well as a renewable chemical production incentive, including information on production and incentive expenditures.

The bill also provided one-time appropriations of \$250,000 each in FY16 and FY17 for grants to enable retail petroleum dispensers to dispense E15 to the public, in accordance with state's biofuel replacement goals, established in Minnesota Statutes §239.7911 (line 12.18).

What did not pass?

Listed here are some same and similar provisions contained in both House and Senate bills that did not pass. This list is not exhaustive.

Repowering large wind and solar

Provisions in HF 843 and SF 1735 would have exempted large wind and solar electricity facilities (50 MW capacity or greater) from having to obtain a certificate of need before repowering (modifying, replacing, or expanding their capacity). If the wind system's capacity would increase, the project would need to have signed an interconnection agreement with the Midcontinent Independent System Operator. Bill of origin: SF 1355 (Rosen).

Unregulated small gas utility franchise size increase

Currently, a small utility providing natural gas service no more than 2,000 customers total and no more than 650 customers on a single system is not required to be regulated by the Public Utilities Commission. Provisions in the House omnibus (HF 843) and the Senate policy omnibus bills (SF 1431 and SF 1735) would have increased the size limit to 5,000 total customers. Bill of origin: HF 550 (Baker).

Electric and natural gas vehicle promotion

Both HF 843 and SF 1735 contained programs for electric vehicle promotion, though the two programs were different. The House provided rebates for electric vehicles. The Senate required public utilities serving cities of the first class to promote the purchase of electric vehicles by their customers and the construction of electric vehicle infrastructure. Bills of origin: HF 2081 (Garofalo), SF 1948 (Marty).

Both chambers also had bills for natural gas vehicle promotion (HF 843, originally HF 2081-Garofalo; SF 1516-Hoffman). The Senate version included rebates for fueling infrastructure. The House omnibus included propane vehicle rebates.

Energy technology business accelerator

The House and Senate omnibus bills would have provided funding for an energy technology business accelerator to a Minnesota-based nonprofit with demonstrated expertise and capability in energy

efficiency, energy technology research, and conservation improvement program delivery. The House version granted \$400,000 in each of FY16 and FY17, provided the grant recipient provide a \$100,000 match each year. The Senate version allowed the nonprofit to apply for a grant under the Conservation Improvement Program. Bills of origin: HF 1378 (Lucero), SF 984 (Dibble).

Natural gas financing through PACE

The Property Assessed Clean Energy program (PACE) allows building owners to finance energy improvements through their property taxes. SF 1735 and HF 843 would have added conversion to natural gas heat to the list of eligible improvements. The House bill would have included propane conversion as well.