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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1956

03/04/2019 Authored by Long, Sundin, Huot, Gomez, Pryor and others
The bill was read for the first time and referred to the Energy and Climate Finance and Policy Division

1.1 A bill for an act
1.2 relating to energy; establishing the Clean Energy First Act; requiring electric
1.3 utilities to meet resource needs using clean energy resources; modifying the
1.4 definition of biomass as an eligible energy technology; increasing the proportion
1.5 of energy that electricity-generating utilities must supply from renewable sources
1.6 and setting target dates by which those goals must be achieved; updating the state's
1.7 energy savings policy goal and establishing the Conservation Improvement Program
1.8 Modernization Act of 2019; amending Minnesota Statutes 2018, sections 216B.16,
1.9 subdivisions 6, 13; 216B.1645, subdivisions 1, 2; 216B.1691, subdivisions 1, 2b,
1.10 9, by adding a subdivision; 216B.2401; 216B.241, subdivisions 1a, 1c, 1d, 1f, 2,
1.11 2b, 7, by adding a subdivision; 216B.2422, subdivisions 1, 2, 4, 5, by adding a
1.12 subdivision; 216F.04; 216F.08; proposing coding for new law in Minnesota
1.13 Statutes, chapter 216B; repealing Minnesota Statutes 2018, section 216B.241,
1.14 subdivisions 1, 2c, 4, 5.

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

1.16 ARTICLE 1
1.17 CLEAN ENERGY FIRST ACT

1.18 Section 1. TITLE.

1.19 This article may be referred to as the "Clean Energy First Act."

1.20 Sec. 2. Minnesota Statutes 2018, section 216B.16, subdivision 6, is amended to read:

1.21 Subd. 6. Factors considered, generally. The commission, in the exercise of its powers
1.22 under this chapter to determine just and reasonable rates for public utilities, shall give due
1.23 consideration to the public need for adequate, efficient, and reasonable service and to the
1.24 need of the public utility for revenue sufficient to enable it to meet the cost of furnishing
1.25 the service, including adequate provision for depreciation of its utility property used and
1.26 useful in rendering service to the public, and to earn a fair and reasonable return upon the

2.1 investment in such property. In determining the rate base upon which the utility is to be
 2.2 allowed to earn a fair rate of return, the commission shall give due consideration to evidence
 2.3 of the cost of the property when first devoted to public use, to prudent acquisition cost to
 2.4 the public utility less appropriate depreciation on each, to construction work in progress, to
 2.5 offsets in the nature of capital provided by sources other than the investors, and to other
 2.6 expenses of a capital nature. For purposes of determining rate base, the commission shall
 2.7 consider the original cost of utility property included in the base and shall make no allowance
 2.8 for its estimated current replacement value. If the commission orders a generating facility
 2.9 to terminate its operations before the end of the facility's physical life in order to comply
 2.10 with a specific state or federal energy statute or policy, the commission may allow the public
 2.11 utility to recover any positive net book value of the facility as determined by the commission.

2.12 Sec. 3. Minnesota Statutes 2018, section 216B.16, subdivision 13, is amended to read:

2.13 Subd. 13. **Economic and community development.** The commission may allow a
 2.14 public utility to recover from ratepayers the expenses incurred (1) for economic and
 2.15 community development, and (2) to employ local workers to construct and maintain
 2.16 generation facilities that supply power to the utility's customers.

2.17 Sec. 4. Minnesota Statutes 2018, section 216B.1645, subdivision 1, is amended to read:

2.18 Subdivision 1. **Commission authority.** Upon the petition of a public utility, the Public
 2.19 Utilities Commission shall approve or disapprove power purchase contracts, investments,
 2.20 or expenditures entered into or made by the utility to satisfy the wind and biomass mandates
 2.21 contained in sections 216B.169, 216B.2423, and 216B.2424, and to satisfy the renewable
 2.22 energy objectives and standards set forth in section 216B.1691, including reasonable
 2.23 investments and expenditures, net of revenues, made to:

2.24 (1) transmit the electricity generated from sources developed under those sections that
 2.25 is ultimately used to provide service to the utility's retail customers, including studies
 2.26 necessary to identify new transmission facilities needed to transmit electricity to Minnesota
 2.27 retail customers from generating facilities constructed to satisfy the renewable energy
 2.28 objectives and standards, provided that the costs of the studies have not been recovered
 2.29 previously under existing tariffs and the utility has filed an application for a certificate of
 2.30 need or for certification as a priority project under section 216B.2425 for the new
 2.31 transmission facilities identified in the studies;

2.32 (2) provide storage facilities for renewable energy generation facilities that contribute
 2.33 to the reliability, efficiency, or cost-effectiveness of the renewable facilities; or

3.1 (3) develop renewable energy sources from the account required in section 116C.779.

3.2 Sec. 5. Minnesota Statutes 2018, section 216B.1645, subdivision 2, is amended to read:

3.3 Subd. 2. **Cost recovery.** The expenses incurred by the utility over the duration of the
3.4 approved contract or useful life of the investment ~~and~~, expenditures made pursuant to section
3.5 116C.779 ~~shall be~~, and employment of local workers to construct and maintain generation
3.6 facilities that supply power to the utility's customers are recoverable from the ratepayers of
3.7 the utility, to the extent they are not offset by utility revenues attributable to the contracts,
3.8 investments, or expenditures. Upon petition by a public utility, the commission shall approve
3.9 or approve as modified a rate schedule providing for the automatic adjustment of charges
3.10 to recover the expenses or costs approved by the commission under subdivision 1, which,
3.11 in the case of transmission expenditures, are limited to the portion of actual transmission
3.12 costs that are directly allocable to the need to transmit power from the renewable sources
3.13 of energy. The commission may not approve recovery of the costs for that portion of the
3.14 power generated from sources governed by this section that the utility sells into the wholesale
3.15 market.

3.16 Sec. 6. Minnesota Statutes 2018, section 216B.1691, subdivision 9, is amended to read:

3.17 Subd. 9. **Local benefits.** The commission shall take all reasonable actions within its
3.18 statutory authority to ensure this section is implemented to maximize benefits to Minnesota
3.19 citizens and local workers as defined in section 216B.2422, subdivision 1, balancing factors
3.20 such as local ownership of or participation in energy production, local job impacts as defined
3.21 in section 216B.2422, subdivision 1, development and ownership of eligible energy
3.22 technology facilities by independent power producers, Minnesota utility ownership of
3.23 eligible energy technology facilities, the costs of energy generation to satisfy the renewable
3.24 standard, and the reliability of electric service to Minnesotans.

3.25 Sec. 7. Minnesota Statutes 2018, section 216B.2422, subdivision 1, is amended to read:

3.26 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this
3.27 subdivision have the meanings given them.

3.28 (b) "Utility" means an entity with the capability of generating 100,000 kilowatts or more
3.29 of electric power and serving, either directly or indirectly, the needs of 10,000 retail
3.30 customers in Minnesota. Utility does not include federal power agencies.

3.31 (c) "Renewable energy" means electricity generated through use of any of the following
3.32 resources:

4.1 (1) wind;

4.2 (2) solar;

4.3 (3) geothermal;

4.4 (4) hydro;

4.5 (5) trees or other vegetation;

4.6 (6) landfill gas; or

4.7 (7) predominantly organic components of wastewater effluent, sludge, or related
4.8 by-products from publicly owned treatment works, but not including incineration of
4.9 wastewater sludge.

4.10 (d) "Resource plan" means a set of resource options that a utility could use to meet the
4.11 service needs of its customers over a forecast period, including an explanation of the supply
4.12 and demand circumstances under which, and the extent to which, each resource option
4.13 would be used to meet those service needs. These resource options include using,
4.14 refurbishing, and constructing utility plant and equipment, buying power generated by other
4.15 entities, controlling customer loads, and implementing customer energy conservation.

4.16 (e) "Refurbish" means to rebuild or substantially modify an existing electricity generating
4.17 resource of 30 megawatts or greater.

4.18 (f) "Clean energy resource" means (1) renewable energy, an energy storage system, and
4.19 energy efficiency and load management, as defined in section 216B.241, subdivision 1, or
4.20 (2) a carbon-free resource, as defined under paragraph (g) and determined by the commission
4.21 under subdivision 4, paragraph (g).

4.22 (g) "Carbon-free resource" means a generation technology that, when operating, does
4.23 not contribute to statewide greenhouse gas emissions, as defined in section 216H.01,
4.24 subdivision 2. Carbon-free resource does not include a nuclear generation facility that
4.25 currently exists in Minnesota.

4.26 (h) "Energy storage system" means a commercially available technology that:

4.27 (1) uses mechanical, chemical, or thermal processes to:

4.28 (i) store energy and deliver the stored energy for use at a later time; or

4.29 (ii) store thermal energy for direct use for heating or cooling at a later time in a manner
4.30 that reduces the demand for energy at the later time;

5.1 (2) if being used for electric grid benefits, is (i) operationally visible to the distribution
 5.2 or transmission entity managing it, and (ii) capable of being controlled by the distribution
 5.3 or transmission entity to enable and optimize the safe and reliable operation of the electric
 5.4 system; and

5.5 (3) achieves the following:

5.6 (i) reduces peak electrical demand;

5.7 (ii) defers the need or substitutes for an investment in electric generation, transmission,
 5.8 or distribution assets;

5.9 (iii) improves the reliable operation of the electrical transmission or distribution systems;
 5.10 and

5.11 (iv) lowers customer costs by storing energy when the cost of generating or purchasing
 5.12 energy is low and delivering energy to customers when costs are high.

5.13 (i) "Nonrenewable energy facility" means a generation facility, other than a nuclear
 5.14 facility, that does not use a renewable energy or other clean energy resource.

5.15 (j) "Local job impacts" means the impacts of a certificate of need, a power purchase
 5.16 agreement, or commission approval of a new or refurbished energy facility on the availability
 5.17 of construction employment opportunities to local workers.

5.18 (k) "Local workers" means workers employed to construct and maintain energy
 5.19 infrastructure that are Minnesota residents, residents of the utility's service territory, or who
 5.20 permanently reside within 150 miles of a proposed new or refurbished energy facility.

5.21 Sec. 8. Minnesota Statutes 2018, section 216B.2422, subdivision 2, is amended to read:

5.22 Subd. 2. **Resource plan filing and approval.** (a) A utility shall file a resource plan with
 5.23 the commission periodically in accordance with rules adopted by the commission. The
 5.24 commission shall approve, reject, or modify the plan of a public utility, as defined in section
 5.25 216B.02, subdivision 4, consistent with the public interest.

5.26 (b) In the resource plan proceedings of all other utilities, the commission's order shall
 5.27 be advisory and the order's findings and conclusions shall constitute prima facie evidence
 5.28 which may be rebutted by substantial evidence in all other proceedings. With respect to
 5.29 utilities other than those defined in section 216B.02, subdivision 4, the commission shall
 5.30 consider the filing requirements and decisions in any comparable proceedings in another
 5.31 jurisdiction.

6.1 (c) As a part of its resource plan filing, a utility shall include the least cost plan for
 6.2 meeting 50 and 75 percent of all energy needs from both new and refurbished generating
 6.3 facilities through a combination of ~~conservation~~ clean energy and ~~renewable energy~~
 6.4 carbon-free resources.

6.5 Sec. 9. Minnesota Statutes 2018, section 216B.2422, subdivision 4, is amended to read:

6.6 Subd. 4. **Preference for ~~renewable energy facility~~ clean energy resources.** (a) The
 6.7 commission shall not approve a new or refurbished nonrenewable energy facility located
 6.8 in Minnesota in an ~~integrated resource plan~~ or a certificate of need, pursuant to section
 6.9 216B.243, nor shall the commission approve a power purchase agreement for power from
 6.10 in-state generation or allow rate recovery pursuant to section 216B.16 for such a
 6.11 nonrenewable energy facility, unless the utility has demonstrated that a renewable energy
 6.12 facility, alone or in combination with other clean energy resources, is not in the public
 6.13 interest.

6.14 (b) When making the public interest determination under paragraph (a), the commission
 6.15 must consider:

6.16 (1) whether the record in the proposed certificate of need or proposed power purchase
 6.17 agreement for the new or refurbished nonrenewable energy facility in Minnesota demonstrates
 6.18 the utility is unable affordably and reliably to meet the resource need the facility is proposed
 6.19 for solely through the addition of clean energy resources, after evaluation by the utility, the
 6.20 department, and other parties to the docket;

6.21 ~~(2)~~ (2) whether the ~~resource plan~~ proposed certificate of need or proposed power purchase
 6.22 agreement helps the utility achieve the greenhouse gas reduction goals under section 216H.02,
 6.23 the renewable energy standard under section 216B.1691, or the solar energy standard under
 6.24 section 216B.1691, subdivision 2f;

6.25 ~~(2)~~ (3) impacts on local and regional grid reliability;

6.26 ~~(3)~~ (4) utility and ratepayer impacts resulting from the intermittent nature of renewable
 6.27 energy facilities, including but not limited to the costs of purchasing wholesale electricity
 6.28 in the market and the costs of providing ancillary services; and

6.29 ~~(4)~~ (5) utility and ratepayer impacts resulting from reduced exposure to fuel price
 6.30 volatility, changes in transmission costs, portfolio diversification, and environmental
 6.31 compliance costs, as well as utility and ratepayer impacts that might result from additional
 6.32 investment in nonrenewable energy facilities.

7.1 (c) If the commission finds the utility has made the demonstration required under
7.2 paragraph (a), the commission may approve a utility's proposal for a new or refurbished
7.3 nonrenewable energy facility located in Minnesota, as necessary to ensure reliable and
7.4 affordable service to the utility's customers.

7.5 (d) This subdivision does not apply to an energy facility approved by the legislature
7.6 under Laws 2017, chapter 5.

7.7 (e) When evaluating the reliability of proposed resources, the commission must consider
7.8 the ability of proposed resources to provide (1) essential reliability services needed by utility
7.9 customers or the electric system, including frequency response, balancing services, and
7.10 voltage control, and (2) energy and capacity.

7.11 (f) Nothing in this section impacts a decision to continue operating a nuclear facility
7.12 that is generating energy in Minnesota as of June 1, 2019. If a decision is made to retire an
7.13 existing nuclear unit, the process in paragraphs (a) to (c) applies to the identification of
7.14 replacement resources.

7.15 (g) The commission may, by order, add to the list of resources it determines are clean
7.16 energy resources for the purposes of this section upon a determination that the resource is
7.17 carbon free and cost competitive when compared with other carbon-free alternatives.

7.18 Sec. 10. Minnesota Statutes 2018, section 216B.2422, is amended by adding a subdivision
7.19 to read:

7.20 Subd. 4a. **Preference for local job creation.** As a part of its resource plan filing, a utility
7.21 must report on associated local job impacts and the steps the utility and its energy suppliers
7.22 and contractors are taking to maximize the availability of construction employment
7.23 opportunities for local workers. The commission must consider local job impacts and give
7.24 preference to proposals that maximize the creation of construction employment opportunities
7.25 for local workers, consistent with the public interest, when evaluating any utility proposal
7.26 that involves the selection or construction of facilities used to generate or deliver energy to
7.27 serve the utility's customers, including but not limited to a certificate of need, a power
7.28 purchase agreement, or commission approval of a new or refurbished electric generation
7.29 facility.

7.30 Sec. 11. Minnesota Statutes 2018, section 216B.2422, subdivision 5, is amended to read:

7.31 Subd. 5. **Bidding; exemption from certificate of need proceeding.** (a) A utility may
7.32 select resources to meet its projected energy demand through a bidding process approved

8.1 or established by the commission. A utility shall use the environmental cost estimates
8.2 determined under subdivision 3 and consider local job impacts in evaluating bids submitted
8.3 in a process established under this subdivision.

8.4 (b) Notwithstanding any other provision of this section, if an electric power generating
8.5 plant, as described in section 216B.2421, subdivision 2, clause (1), is selected in a bidding
8.6 process approved or established by the commission, a certificate of need proceeding under
8.7 section 216B.243 is not required.

8.8 (c) A certificate of need proceeding is also not required for an electric power generating
8.9 plant that has been selected in a bidding process approved or established by the commission,
8.10 or such other selection process approved by the commission, to satisfy, in whole or in part,
8.11 the wind power mandate of section 216B.2423 or the biomass mandate of section 216B.2424.

8.12 **Sec. 12. COORDINATED ELECTRIC TRANSMISSION STUDY.**

8.13 (a) Each entity subject to Minnesota Statutes, section 216B.2425, must participate in a
8.14 coordinated engineering study to identify transmission network enhancements necessary to
8.15 maintain system reliability in the event large generation resources are retired. Specifically,
8.16 the study must evaluate what enhancements are necessary in the event large generation
8.17 resources that reach the end of the large generation resource's depreciation term or operating
8.18 license term within 20 years of the effective date of this section are retired. The study must
8.19 also evaluate what transmission enhancements may be necessary to interconnect replacement
8.20 generation and renewable resource additions, including generation tie lines, anticipated by
8.21 2035 in any utility's integrated resource plan filed with or approved by the Public Utilities
8.22 Commission.

8.23 (b) When setting the scope for the study and as needed while the study is being conducted,
8.24 utilities must consult with the commissioner of commerce, technical representatives of
8.25 renewable energy resource developers, and other interested entities to discuss and identify
8.26 needed generation tie lines to support the continued orderly development of renewable
8.27 resources in Minnesota. The study must include any analysis performed by the Midcontinent
8.28 Independent System Operator.

8.29 (c) A report on the study must be completed and submitted to the Public Utilities
8.30 Commission by November 1, 2020, and include a preliminary plan to build the needed
8.31 transmission network enhancements. Reasonable and prudent costs for the study are
8.32 recoverable through the mechanism provided under Minnesota Statutes, section 216B.1645,
8.33 subdivision 2.

9.1 Sec. 13. **EFFECTIVE DATE.**

9.2 This article is effective August 1, 2019, and applies only to dockets initiated at the Public
9.3 Utilities Commission on or after that date.

9.4 **ARTICLE 2**

9.5 **CARBON-FREE ENERGY STANDARD**

9.6 Section 1. Minnesota Statutes 2018, section 216B.1691, subdivision 1, is amended to read:

9.7 Subdivision 1. **Definitions.** (a) Unless otherwise specified in law, "eligible energy
9.8 technology" means an energy technology that generates electricity from the following
9.9 renewable energy sources:

9.10 (1) solar;

9.11 (2) wind;

9.12 (3) hydroelectric with a capacity of less than 100 megawatts;

9.13 (4) hydrogen, provided that after January 1, 2010, the hydrogen must be generated from
9.14 the resources listed in this paragraph; or

9.15 (5) biomass, which includes, without limitation, landfill gas; an anaerobic digester
9.16 system; the predominantly organic components of wastewater effluent, sludge, or related
9.17 by-products from publicly owned treatment works, but not including incineration of
9.18 wastewater sludge to produce electricity; and an energy recovery facility used to capture
9.19 the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal
9.20 solid waste as a primary fuel.

9.21 (b) "Electric utility" means a public utility providing electric service, a generation and
9.22 transmission cooperative electric association, a municipal power agency, or a power district.

9.23 (c) "Total retail electric sales" means the kilowatt-hours of electricity sold in a year by
9.24 an electric utility to retail customers of the electric utility or to a distribution utility for
9.25 distribution to the retail customers of the distribution utility. "Total retail electric sales"
9.26 does not include the sale of hydroelectricity supplied by a federal power marketing
9.27 administration or other federal agency, regardless of whether the sales are directly to a
9.28 distribution utility or are made to a generation and transmission utility and pooled for further
9.29 allocation to a distribution utility.

9.30 (d) "Carbon-free" means a technology that generates electricity without emitting carbon
9.31 dioxide.

10.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

10.2 Sec. 2. Minnesota Statutes 2018, section 216B.1691, subdivision 2b, is amended to read:

10.3 Subd. 2b. **Modification or delay of standard.** (a) The commission shall modify or delay
10.4 the implementation of a standard obligation, in whole or in part, if the commission determines
10.5 it is in the public interest to do so. The commission, when requested to modify or delay
10.6 implementation of a standard, must consider:

10.7 (1) the impact of implementing the standard on its customers' utility costs, including the
10.8 economic and competitive pressure on the utility's customers;

10.9 (2) the environmental costs that would be incurred as a result of a delay or modification,
10.10 based on the environmental cost values established in section 216B.2422, subdivision 3;

10.11 (3) the effects of implementing the standard on the reliability of the electric system;

10.12 ~~(3)~~ (4) technical advances or technical concerns;

10.13 ~~(4)~~ (5) delays in acquiring sites or routes due to rejection or delays of necessary siting
10.14 or other permitting approvals;

10.15 ~~(5)~~ (6) delays, cancellations, or nondelivery of necessary equipment for construction or
10.16 commercial operation of an eligible energy technology facility;

10.17 ~~(6)~~ (7) transmission constraints preventing delivery of service; and

10.18 ~~(7)~~ (8) other statutory obligations imposed on the commission or a utility.

10.19 (b) The commission may modify or delay implementation of a standard obligation under
10.20 paragraph (a), clauses (1) to ~~(3)~~ (4) only if it finds implementation would cause significant
10.21 rate impact, requires significant measures to address reliability, would cause significant
10.22 environmental costs, or raises significant technical issues. The commission may modify or
10.23 delay implementation of a standard obligation under paragraph (a), clauses ~~(4)~~ (5) to ~~(6)~~
10.24 (7) only if it finds that the circumstances described in those clauses were due to circumstances
10.25 beyond an electric utility's control and make compliance not feasible.

10.26 (c) When evaluating transmission capacity constraints under paragraph (a), clause (7),
10.27 the commission must consider:

10.28 (1) whether the utility has, in a timely fashion, undertaken reasonable measures under
10.29 its control and consistent with its obligations under local, state, and federal laws and
10.30 regulations, and its obligations as a member of the Midcontinent Independent System
10.31 Operator, to acquire sites, necessary permit approvals, and necessary equipment to develop

11.1 and construct new transmission lines or upgrade existing transmission lines to transmit
 11.2 electricity generated by eligible energy technologies; and

11.3 (2) whether the utility has taken all reasonable operational measures to maximize
 11.4 cost-effective electricity delivery from eligible energy technologies in advance of
 11.5 transmission availability.

11.6 ~~(b)~~ (d) When considering whether to delay or modify implementation of a standard
 11.7 obligation, the commission must give due consideration to a preference for electric generation
 11.8 through use of eligible energy technology and to the achievement of the standards set by
 11.9 this section.

11.10 ~~(e)~~ (e) An electric utility requesting a modification or delay in the implementation of a
 11.11 standard must file a plan to comply with its standard obligation in the same proceeding that
 11.12 it is requesting the delay.

11.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

11.14 Sec. 3. Minnesota Statutes 2018, section 216B.1691, is amended by adding a subdivision
 11.15 to read:

11.16 Subd. 2g. **Carbon-free standard.** (a) By 2050, 100 percent of the electricity each electric
 11.17 utility subject to subdivision 2a, paragraph (a), provides directly to Minnesota retail
 11.18 customers, or indirectly through wholesale sales to a distribution utility serving Minnesota
 11.19 retail customers, must be generated by a technology that is carbon-free.

11.20 (b) By 2050, 100 percent of the electricity each electric utility subject to subdivision 2a,
 11.21 paragraph (b), provides directly to Minnesota retail customers, or indirectly through wholesale
 11.22 sales to a distribution utility serving Minnesota retail customers, must be generated by a
 11.23 technology that is carbon-free.

11.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

11.25 Sec. 4. Minnesota Statutes 2018, section 216B.1691, subdivision 9, is amended to read:

11.26 Subd. 9. **Local benefits.** (a) The commission shall take all reasonable actions within its
 11.27 statutory authority to ensure this section is implemented to maximize in a manner that
 11.28 maximizes benefits to all Minnesota citizens, balancing and local workers throughout the
 11.29 state. Benefits under this subdivision include but are not limited to:

11.30 (1) the creation of high-quality jobs in Minnesota that pay wages that support families;

11.31 (2) recognition of the rights of workers to organize and unionize;

12.1 (3) ensuring that workers have the necessary tools, opportunities, and economic assistance
 12.2 to adapt successfully during the energy transition, particularly in communities that host
 12.3 retiring power plants or that contain historically marginalized and underrepresented
 12.4 populations;

12.5 (4) ensuring that all Minnesotans share (i) the benefits of clean and renewable energy,
 12.6 and (ii) the opportunity to participate fully in the clean energy economy;

12.7 (5) ensuring that air emissions are reduced in communities historically burdened by
 12.8 pollution and the impacts of climate change; and

12.9 (6) the provision of affordable electric service to Minnesotans, particularly to low-income
 12.10 consumers.

12.11 (b) The commission must also implement this section in a manner that balances factors
 12.12 such as local ownership of or participation in energy production, local job impacts,
 12.13 development and ownership of eligible energy technology facilities by independent power
 12.14 producers, Minnesota utility ownership of eligible energy technology facilities, the costs
 12.15 of energy generation to satisfy the renewable ~~standard~~ and carbon-free standards, and the
 12.16 reliability of electric service to Minnesotans.

12.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.18 Sec. 5. Minnesota Statutes 2018, section 216B.2422, subdivision 1, is amended to read:

12.19 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this
 12.20 subdivision have the meanings given them.

12.21 (b) "Utility" means an entity with the capability of generating 100,000 kilowatts or more
 12.22 of electric power and serving, either directly or indirectly, the needs of 10,000 retail
 12.23 customers in Minnesota. Utility does not include federal power agencies.

12.24 (c) "Renewable energy" means electricity generated through use of any of the following
 12.25 resources:

12.26 (1) wind;

12.27 (2) solar;

12.28 (3) geothermal;

12.29 (4) hydro;

12.30 (5) trees or other vegetation;

12.31 (6) landfill gas; or

13.1 (7) predominantly organic components of wastewater effluent, sludge, or related
13.2 by-products from publicly owned treatment works, but not including incineration of
13.3 wastewater sludge.

13.4 (d) "Resource plan" means a set of resource options that a utility could use to meet the
13.5 service needs of its customers over a forecast period, including an explanation of the supply
13.6 and demand circumstances under which, and the extent to which, each resource option
13.7 would be used to meet those service needs. These resource options include using,
13.8 refurbishing, and constructing utility plant and equipment, buying power generated by other
13.9 entities, controlling customer loads, and implementing customer energy conservation.

13.10 (e) "Refurbish" means to rebuild or substantially modify an existing electricity generating
13.11 resource of 30 megawatts or greater.

13.12 (f) "Local job impacts" means the impacts of an integrated resource plan, a certificate
13.13 of need, a power purchase agreement, or commission approval of a new or refurbished
13.14 electric generation facility on the availability of high-quality construction employment
13.15 opportunities for local workers.

13.16 (g) "Local workers" means workers employed in the construction and maintenance of
13.17 energy infrastructure that are Minnesota residents, residents of the utility's service territory,
13.18 or permanently reside within 150 miles of an electric generation facility.

13.19 Sec. 6. Minnesota Statutes 2018, section 216F.04, is amended to read:

13.20 **216F.04 SITE PERMIT.**

13.21 (a) No person may construct an LW ECS without a site permit issued by the Public
13.22 Utilities Commission.

13.23 (b) Any person seeking to construct an LW ECS shall submit an application to the
13.24 commission for a site permit in accordance with this chapter and any rules adopted by the
13.25 commission. The permitted site need not be contiguous land.

13.26 (c) The commission shall make a final decision on an application for a site permit for
13.27 an LW ECS within 180 days after acceptance of a complete application by the commission.
13.28 The commission may extend this deadline for cause.

13.29 (d) The commission may place conditions in a permit and may deny, modify, suspend,
13.30 or revoke a permit.

13.31 (e) The commission may require, as a condition of permit issuance, that the recipient of
13.32 a site permit to construct an LW ECS with a nameplate capacity above 25,000 kilowatts and

14.1 all of the permit recipient's construction contractors and subcontractors on the project pay
 14.2 the prevailing wage rate, as defined in section 177.42. The commission may also require,
 14.3 as a condition of modifying a site permit for an LWECS repowering project as defined in
 14.4 section 216B.243, subdivision 8, paragraph (b), that the recipient of the site permit and all
 14.5 of the recipient's construction contractors and subcontractors on the repowering project pay
 14.6 the prevailing wage rate as defined in section 177.42.

14.7 Sec. 7. Minnesota Statutes 2018, section 216F.08, is amended to read:

14.8 **216F.08 PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.**

14.9 (a) A county board may, by resolution and upon written notice to the Public Utilities
 14.10 Commission, assume responsibility for processing applications for permits required under
 14.11 this chapter for LWECS with a combined nameplate capacity of less than 25,000 kilowatts.
 14.12 The responsibility for permit application processing, if assumed by a county, may be
 14.13 delegated by the county board to an appropriate county officer or employee. Processing by
 14.14 a county shall be done in accordance with procedures and processes established under
 14.15 chapter 394.

14.16 (b) A county board that exercises its option under paragraph (a) may issue, deny, modify,
 14.17 impose conditions upon, or revoke permits pursuant to this section. The action of the county
 14.18 board about a permit application is final, subject to appeal as provided in section 394.27.

14.19 (c) The commission shall, by order, establish general permit standards, including
 14.20 appropriate property line set-backs, governing site permits for LWECS under this section.
 14.21 The order must consider existing and historic commission standards for wind permits issued
 14.22 by the commission. The general permit standards shall apply to permits issued by counties
 14.23 and to permits issued by the commission for LWECS with a combined nameplate capacity
 14.24 of less than 25,000 kilowatts. The commission or a county may grant a variance from a
 14.25 general permit standard if the variance is found to be in the public interest, provided all
 14.26 LWECS site permits issued by the commission or a county and all modifications of site
 14.27 permits issued by the commission or a county for repowering projects comply with the
 14.28 prevailing wage rate requirements under section 216F.04, paragraph (e).

14.29 (d) The commission and the commissioner of commerce shall provide technical assistance
 14.30 to a county with respect to the processing of LWECS site permit applications.

15.1 **ARTICLE 3**

15.2 **ENERGY OPTIMIZATION ACT**

15.3 Section 1. **CITATION; CONSERVATION IMPROVEMENT PROGRAM**
 15.4 **MODERNIZATION ACT.**

15.5 This article may be referred to as the "Energy Optimization Act of 2019."

15.6 Sec. 2. **[216B.1697] INNOVATIVE CLEAN TECHNOLOGIES.**

15.7 (a) For purposes of this section, "innovative clean technology" means advanced energy
 15.8 technology that is (1) environmentally superior to technologies currently in use, (2) expected
 15.9 to offer energy-related, environmental, or economic benefits, and (3) not widely deployed
 15.10 by the utility industry.

15.11 (b) A public utility may petition the commission for authorization to invest in a project
 15.12 or projects to deploy one or more innovative clean technologies to further the development,
 15.13 commercialization, and deployment of those technologies for the benefit of utility customers.

15.14 (c) The commission may approve a petition under paragraph (b) if it finds:

15.15 (1) the technologies to be deployed are innovative clean technologies;

15.16 (2) the utility is meeting its energy conservation goals under section 216B.241; and

15.17 (3) the petition would not result in utility spending greater than \$5,000,000 per year on
 15.18 innovative clean technologies under this section.

15.19 (d) The commission may also permit a public utility to file rate schedules containing
 15.20 provisions to automatically adjust charges for public utility service in direct relation to
 15.21 changes in prudent costs incurred by a utility under this section, up to \$5,000,000 each year.
 15.22 To the extent the utility investment under this section is for a capital asset, the utility may
 15.23 request the asset be included in the utility's rate base.

15.24 Sec. 3. Minnesota Statutes 2018, section 216B.2401, is amended to read:

15.25 **216B.2401 ENERGY SAVINGS AND OPTIMIZATION POLICY GOAL.**

15.26 (a) The legislature finds that energy savings are an energy resource, and that cost-effective
 15.27 energy savings are preferred over all other energy resources. In addition, the legislature
 15.28 finds that optimizing when and how energy consumers manage energy use can provide
 15.29 significant benefits to the consumers and to the utility system as a whole. The legislature
 15.30 further finds that cost-effective energy savings and load management programs should be
 15.31 procured systematically and aggressively in order to reduce utility costs for businesses and

16.1 residents, improve the competitiveness and profitability of businesses, create more
 16.2 energy-related jobs, reduce the economic burden of fuel imports, and reduce pollution and
 16.3 emissions that cause climate change. Therefore, it is the energy policy of the state of
 16.4 Minnesota to achieve annual energy savings ~~equal~~ equivalent to at least ~~1.5~~ 2.5 percent of
 16.5 annual retail energy sales of electricity and natural gas through ~~cost-effective energy~~
 16.6 ~~conservation improvement programs and rate design, energy efficiency achieved by energy~~
 16.7 ~~consumers without direct utility involvement, energy codes and appliance standards, programs~~
 16.8 ~~designed to transform the market or change consumer behavior, energy savings resulting~~
 16.9 ~~from efficiency improvements to the utility infrastructure and system, and other efforts to~~
 16.10 ~~promote energy efficiency and energy conservation.~~ multiple means, including but not
 16.11 limited to:

16.12 (1) cost-effective energy conservation improvement programs, and efficient fuel-switching
 16.13 utility programs, under sections 216B.2402 to 216B.241;

16.14 (2) rate design;

16.15 (3) energy efficiency achieved by energy consumers without direct utility involvement;

16.16 (4) advancements in statewide energy codes and cost-effective appliance and equipment
 16.17 standards;

16.18 (5) programs designed to transform the market or change consumer behavior;

16.19 (6) energy savings resulting from efficiency improvements to the utility infrastructure
 16.20 and system; and

16.21 (7) other efforts to promote energy efficiency and energy conservation.

16.22 (b) A utility should design and offer to their customers load management programs that
 16.23 enable: (1) customers to maximize the economic value gained from the energy purchased
 16.24 from their utility service providers; and (2) utilities to optimize the infrastructure and
 16.25 generation capacity needed to effectively serve customers and to facilitate the integration
 16.26 of renewable energy into the energy system. The commissioner must provide a reasonable
 16.27 estimate for progress toward this statewide energy savings goal in the annual report required
 16.28 under section 216B.241, subdivision 1c, along with recommendations for administrative or
 16.29 legislative initiatives to increase energy savings toward that goal. The commissioner must
 16.30 also report annually the energy productivity of the state's economy by providing an estimate
 16.31 of the ratio of economic output produced in a previous year to the primary energy inputs
 16.32 used in that year.

17.1 Sec. 4. [216B.2402] DEFINITIONS.

17.2 (a) For the purposes of section 216B.16, subdivision 6b, and sections 216B.2401 to
17.3 216B.241, the terms defined in this section have the meanings given them.

17.4 (b) "Consumer-owned utility" means a municipal utility or a cooperative electric
17.5 association.

17.6 (c) "Cumulative lifetime savings" means the total electric energy or natural gas savings
17.7 in a given year from energy conservation improvements installed that year or in previous
17.8 years that are still operational and providing savings in that year because the measures have
17.9 not reached the end of the measure's useful life.

17.10 (d) "Efficient fuel-switching improvement" means a project that (1) results in converting
17.11 a customer from use of a fuel to the use of electric energy or natural gas delivered at retail
17.12 by a utility subject to this section, resulting in a net increase in the use of electric energy or
17.13 natural gas and a net decrease in source energy consumption on a fuel-neutral basis, and
17.14 (2) otherwise meets the criteria established in section 216B.2403, subdivision 8. An efficient
17.15 fuel-switching improvement requires the installation of equipment that utilizes electric
17.16 energy or natural gas, resulting in a reduction or elimination of use of the previous fuel.

17.17 (e) "Energy conservation" means an action that results in a net reduction in electric
17.18 energy or natural gas consumption.

17.19 (f) "Energy conservation improvement" means a project that results in energy efficiency
17.20 or energy conservation. Energy conservation improvement may include waste heat that is
17.21 recovered and converted into electricity, but does not include electric utility infrastructure
17.22 projects approved by the commission under section 216B.1636. Energy conservation
17.23 improvement includes waste heat recovered and used as thermal energy.

17.24 (g) "Energy efficiency" means measures or programs, including energy conservation
17.25 measures or programs, that target consumer behavior, equipment, processes, or devices
17.26 designed to produce either an absolute decrease in consumption of electric energy or natural
17.27 gas or a decrease in consumption of electric energy or natural gas on a per unit of production
17.28 basis, without reducing the quality or level of service provided to the energy consumer.

17.29 (h) "Fuel" means energy consumed by a retail utility customer. Fuel includes electricity,
17.30 propane, natural gas, heating oil, gasoline, diesel fuel, or steam.

17.31 (i) "Fuel neutral" means an approach that compares the use of various fuels for a given
17.32 end use, using a common metric.

18.1 (j) "Gross annual retail energy sales" means the annual electric sales to all retail customers
18.2 in a utility's or association's Minnesota service territory or natural gas throughput to all retail
18.3 customers, including natural gas transportation customers, on a utility's distribution system
18.4 in Minnesota. Gross annual retail energy sales does not include:

18.5 (1) gas sales to:

18.6 (i) a large energy facility;

18.7 (ii) a large customer facility whose natural gas utility has been exempted by the
18.8 commissioner under section 216B.241, subdivision 1a, paragraph (b), with respect to natural
18.9 gas sales made to the large customer facility; and

18.10 (iii) a commercial gas customer facility whose natural gas utility has been exempted by
18.11 the commissioner under section 216B.241, subdivision 1a, paragraph (c), with respect to
18.12 natural gas sales made to the commercial gas customer facility; or

18.13 (2) electric sales to a large customer facility whose electric utility has been exempted
18.14 by the commissioner under section 216B.241, subdivision 1a, paragraph (b), with respect
18.15 to electric sales made to the large facility.

18.16 (k) "Investments and expenses of a public utility" means the investments and expenses
18.17 incurred by a public utility in connection with an energy conservation improvement.

18.18 (l) "Large customer facility" means all buildings, structures, equipment, and installations
18.19 at a single site that collectively (1) impose a peak electrical demand on an electric utility's
18.20 system of at least 20,000 kilowatts, measured in the same way as the utility that serves the
18.21 customer facility measures electric demand for billing purpose, or (2) consume at least
18.22 500,000,000 cubic feet of natural gas annually. When calculating peak electrical demand,
18.23 a large customer facility may include demand offset by on-site cogeneration facilities and,
18.24 if engaged in mineral extraction, may aggregate peak energy demand from the large customer
18.25 facility's mining processing operations.

18.26 (m) "Large energy facility" has the meaning given it in section 216B.2421, subdivision
18.27 2, clause (1).

18.28 (n) "Lifetime energy savings" means the amount of savings a particular energy
18.29 conservation improvement produces over the improvement's effective useful lifetime.

18.30 (o) "Load management" means an activity, service, or technology to change the timing
18.31 or the efficiency of a customer's use of energy that allows a utility or a customer to respond
18.32 to local and regional energy system conditions, or to reduce peak demand for electric energy

19.1 or natural gas. Load management that reduces the customer's net annual energy consumption
 19.2 is also energy conservation.

19.3 (p) "Low-income programs" means energy conservation improvement programs that
 19.4 directly serve the needs of low-income persons, including low-income renters.

19.5 (q) "Member" has the meaning given to it in section 308B.005, subdivision 15.

19.6 (r) "Qualifying utility" means a utility that supplies energy to a customer that enables
 19.7 the customer to qualify as a large customer facility.

19.8 (s) "Source energy" means the total amount of fuel required for a given purpose,
 19.9 considering energy losses in the production, transmission, and delivery of the energy.

19.10 (t) "Waste heat recovered and used as thermal energy" means capturing heat energy that
 19.11 would be exhausted or dissipated to the environment from machinery, buildings, or industrial
 19.12 processes, and productively using the recovered thermal energy where it was captured or
 19.13 distributing it as thermal energy to other locations where it is used to reduce demand-side
 19.14 consumption of natural gas, electric energy, or both.

19.15 (u) "Waste heat recovery converted into electricity" means an energy recovery process
 19.16 that converts otherwise lost energy from the heat of exhaust stacks or pipes used for engines
 19.17 or manufacturing or industrial processes, or the reduction of high pressure in water or gas
 19.18 pipelines.

19.19 **Sec. 5. [216B.2403] CUSTOMER-OWNED UTILITIES; ENERGY CONSERVATION**
 19.20 **AND OPTIMIZATION.**

19.21 Subdivision 1. **Applicability.** This section applies to:

19.22 (1) a cooperative electric association that provides retail service to more than 5,000
 19.23 members;

19.24 (2) a municipality that provides electric service to more than 1,000 retail customers; and

19.25 (3) a municipality with more than 1,000,000,000 cubic feet in annual throughput sales
 19.26 to natural gas retail customers.

19.27 Subd. 2. **Consumer-owned utility; energy savings goal.** (a) Each individual
 19.28 consumer-owned utility subject to this section has an annual energy savings goal equivalent
 19.29 to 1.5 percent of gross annual retail energy sales. The annual energy savings goal must be
 19.30 met with a minimum of energy savings from energy conservation improvements equivalent
 19.31 to at least one percent of the consumer-owned utility's gross annual retail energy sales. The

20.1 balance of energy savings toward the annual energy savings goal must be achieved by the
20.2 following utility activities:

20.3 (1) energy savings from additional energy conservation improvements;

20.4 (2) electric utility infrastructure projects, as defined in section 216B.1636, subdivision
20.5 1; or

20.6 (3) net energy savings from efficient fuel-switching improvements that meet the criteria
20.7 under subdivision 7.

20.8 (b) Nothing in this section limits a utility's ability to report and recognize savings from
20.9 activities under paragraph (a), clauses (2) and (3), in excess of the utility's annual energy
20.10 savings provided the utility has met the minimum energy savings goal from energy
20.11 conservation improvements.

20.12 (c) The energy savings goals specified in this section must be calculated based on the
20.13 most recent three-year, weather-normalized average. A consumer-owned utility that elects
20.14 to file annual plans may carry forward for up to three years any energy savings in excess
20.15 of its 1.5 percent energy savings goal in a single year.

20.16 (d) A consumer-owned utility subject to this section is not required to make energy
20.17 conservation improvements that are not cost-effective, even if the improvement is necessary
20.18 to attain the energy savings goal. A consumer-owned utility subject to this section must
20.19 make reasonable efforts to implement energy conservation improvements above the minimum
20.20 level set under this subdivision, if cost-effective opportunities and utility funding are
20.21 available, considering other potential investments the utility plans to make for the benefit
20.22 of customers during the term of the plan filed under subdivision 3.

20.23 (e) A consumer-owned utility may request that the commissioner adjust its minimum
20.24 goal for energy savings from energy conservation improvements specified under paragraph
20.25 (a) for the period of the plan filed under subdivision 3. The request must be made by January
20.26 1 of any year when the utility must file a plan under subdivision 4. The request must be
20.27 based on:

20.28 (1) historical energy conservation improvement program achievements;

20.29 (2) customer class makeup;

20.30 (3) projected load growth;

20.31 (4) an energy conservation potential study that estimates the amount of cost-effective
20.32 energy conservation potential that exists in the utility's service territory;

21.1 (5) the cost-effectiveness and quality of the energy conservation programs offered by
 21.2 the utility; and

21.3 (6) other factors the commissioner and consumer-owned utility determine warrants an
 21.4 adjustment.

21.5 The commissioner must adjust the savings goal to a level the commissioner determines is
 21.6 supported by the record, but must not approve a minimum energy savings goal from energy
 21.7 conservation improvements that is less than one percent of gross annual retail energy sales.

21.8 Subd. 3. **Consumer-owned utility; energy savings investments.** (a) Each cooperative
 21.9 electric association and municipality subject to subdivision 2 must spend and invest in the
 21.10 following amounts for energy conservation improvements under this subdivision:

21.11 (1) for a municipality, 0.5 percent of its gross operating revenues from the sale of gas
 21.12 and 1.5 percent of its gross operating revenues from the sale of electricity, excluding gross
 21.13 operating revenues from electric and gas service provided in Minnesota to large electric
 21.14 customer facilities; and

21.15 (2) for a cooperative electric association, 1.5 percent of its gross operating revenues
 21.16 from service provided in the state, excluding gross operating revenues from service provided
 21.17 in the state to large electric customer facilities indirectly through a distribution cooperative
 21.18 electric association.

21.19 (b) Each municipality and cooperative electric association subject to this subdivision
 21.20 must identify and implement energy conservation improvement spending and investments
 21.21 that are appropriate for the municipality or association, except that a municipality or
 21.22 association must not spend or invest for energy conservation improvements that directly
 21.23 benefit a large energy facility or a large electric customer facility that the commissioner has
 21.24 issued an exemption to under section 216B.241, subdivision 1a, paragraph (b).

21.25 Subd. 4. **Consumer-owned utility; energy conservation and optimization plans.** (a)
 21.26 By June 1, 2021, each consumer-owned utility must file with the commissioner an energy
 21.27 conservation and optimization plan that describes the programs for energy conservation,
 21.28 efficient fuel-switching improvements and load management programs, and other processes
 21.29 and programs the utility plans to use to achieve its energy-savings goal. The plan may cover
 21.30 a period not to exceed two years. The plan must provide an analysis of the cost-effectiveness
 21.31 of the consumer-owned utility's programs offered under the plan, using a list of baseline
 21.32 energy and capacity savings assumptions developed in consultation with the department.
 21.33 An individual utility program may combine elements of energy conservation, load
 21.34 management, or efficient fuel-switching. Plans received by June 1 must be evaluated by the

22.1 commissioner based on how well the plan meets the goals set under subdivision 2 by
22.2 December 1 of the same year, including the commissioner's assessment of whether the plan
22.3 will likely achieve those goals. Beginning June 1, 2022, and each subsequent June 1, each
22.4 consumer-owned utility must file: (1) an annual update identifying the status of its annual
22.5 plan filed under this subdivision, including total expenditures and investments made to date,
22.6 and any intended changes to the plan; and (2) a summary of the annual energy-savings
22.7 achievements under a completed plan, and a new plan that complies with this section.

22.8 (b) In the filings required under paragraph (a), the consumer-owned utility must provide
22.9 a description and evaluation of the programs offered by the utility under the plan, including:

22.10 (1) energy conservation improvements in the previous period, and its progress toward
22.11 the minimum energy savings goal from energy conservation improvements described in
22.12 subdivision 2, including accounting for lifetime savings and cumulative lifetime energy
22.13 savings under the plan. The evaluation must briefly describe each conservation program
22.14 the utility offers or plans to offer, and must specify the energy savings or increased efficiency
22.15 in the use of energy within the service territory of the utility that is the result of the program.
22.16 The commissioner must review each evaluation and make recommendations, where
22.17 appropriate, to the consumer-owned utility to increase the effectiveness of conservation
22.18 improvement activities. The commissioner must consider and may require a consumer-owned
22.19 utility to undertake a cost-effective program suggested by an outside source, including a
22.20 political subdivision, nonprofit corporation, or community organization;

22.21 (2) load management activities, including an analysis of the reduction in peak load that
22.22 is the result of the program, and an assessment of the cost-effectiveness of each program;
22.23 and

22.24 (3) efficient fuel-switching improvement activities, including an analysis regarding how
22.25 each program meets the criteria specified in subdivision 8, and an assessment of the
22.26 cost-effectiveness of each program. For improvements requiring the deployment of electric
22.27 technologies, the plan must also provide an analysis regarding how the fuel-switching
22.28 improvement will be operated in order to facilitate the integration of variable renewable
22.29 energy into the electric system.

22.30 (c) When evaluating the cost-effectiveness of utility programs, the consumer-owned
22.31 utility and the commissioner must consider the costs and benefits to ratepayers, the utility,
22.32 participants, and society. In addition, the commissioner must consider the rate at which the
22.33 consumer-owned utility is increasing its energy savings and expenditures on energy

23.1 conservation, as well as the lifetime energy savings and cumulative energy savings of the
23.2 consumer-owned utility.

23.3 (d) Each consumer-owned utility subject to this subdivision may annually spend and
23.4 invest up to ten percent of the total amount spent and invested on energy conservation
23.5 improvements under this subdivision on research and development projects that meet the
23.6 definition of energy conservation improvement and that are funded directly by the
23.7 consumer-owned utility.

23.8 (e) A generation and transmission cooperative electric association or municipal power
23.9 agency that provides energy services to consumer-owned utilities may invest in energy
23.10 conservation improvements on behalf of consumer-owned utilities it serves and may fulfill
23.11 the conservation, reporting, and energy-savings goals for any of those consumer-owned
23.12 utilities on an aggregate basis. For consumer-owned utilities electing to aggregate services
23.13 under this paragraph, multiyear plans up to three years may be filed with the department
23.14 under subdivision 3 activities with continued annual performance reporting.

23.15 (f) A consumer-owned utility must not spend for or invest in energy conservation
23.16 improvements that directly benefit a large energy facility or a large electric customer facility
23.17 for which the commissioner has issued an exemption under section 216B.241, subdivision
23.18 1a.

23.19 (g) The energy conservation and optimization plan of each consumer-owned utility
23.20 subject to this section must have a component focused on improving the energy efficiency
23.21 in the public schools served by the utility. At a minimum, the efficiency in schools component
23.22 must consist of programs to update lighting in the school, update the heating and cooling
23.23 systems of the school, provide for building recommissioning, provide building operator
23.24 training, and provide opportunities to educate students, teachers, and staff regarding energy
23.25 efficiency measures implemented at that school, including associated benefits for improved
23.26 learning resulting from the measures.

23.27 Subd. 5. **Low-income programs.** (a) Each consumer-owned utility subject to this section
23.28 must provide low-income energy conservation programs. The commissioner must provide
23.29 an evaluation of a utility's plans under this section, considering the utility's historic spending
23.30 and participation levels, energy savings for low-income programs, and the number of
23.31 low-income persons residing in the utility's service territory. A municipal utility that furnishes
23.32 gas service must spend at least 0.4 percent of its most recent three-year average gross
23.33 operating revenue from residential customers in Minnesota on low-income programs. A
23.34 consumer-owned utility that furnishes electric service must spend at least 0.4 percent of its

24.1 gross operating revenue from residential customers in Minnesota on low-income programs.
24.2 This requirement applies to each generation and transmission cooperative association's
24.3 members' aggregate gross operating revenue from the sale of electricity to residential
24.4 customers in Minnesota.

24.5 (b) To meet the requirements of paragraph (a), a consumer-owned utility may contribute
24.6 money to the energy and conservation account in section 216B.241, subdivision 2a. An
24.7 energy conservation improvement plan must state the amount, if any, of low-income energy
24.8 conservation improvement funds the utility plans to contribute to the energy and conservation
24.9 account. Contributions must be remitted to the commissioner by February 1 each year.

24.10 (c) The commissioner must establish low-income programs to use money contributed
24.11 to the energy and conservation account under paragraph (b). When establishing low-income
24.12 programs, the commissioner must consult political subdivisions, utilities, and nonprofit and
24.13 community organizations, including organizations engaged in providing energy and
24.14 weatherization assistance to low-income persons. Money contributed to the energy and
24.15 conservation account under paragraph (b) must provide programs for low-income persons,
24.16 including low-income renters, located in the service territory of the utility or association
24.17 providing the money. The commissioner must record and report expenditures and energy
24.18 savings achieved as a result of low-income programs funded through the energy and
24.19 conservation account in the report required under section 216B.241, subdivision 1c, paragraph
24.20 (g). The commissioner may contract with a political subdivision, nonprofit or community
24.21 organization, public utility, municipality, or cooperative electric association to implement
24.22 low-income programs funded through the energy and conservation account.

24.23 (d) A consumer-owned utility may petition the commissioner to modify its required
24.24 spending under this subdivision if the utility and the commissioner were unable to expend
24.25 the amount required for three consecutive years.

24.26 Subd. 6. **Recovery of expenses.** The commission must allow a cooperative electric
24.27 association subject to rate regulation under section 216B.026 to recover expenses resulting
24.28 from (1) a plan under this subdivision, and (2) assessments and contributions to the energy
24.29 and conservation account under section 216B.241, subdivision 2a.

24.30 Subd. 7. **Ownership of energy conservation improvement.** An energy conservation
24.31 improvement to or installed in a building under this section, except systems owned by the
24.32 consumer-owned utility and designed to turn off, limit, or vary the delivery of energy, is
24.33 the exclusive property of the building owner, except to the extent that the improvement is
24.34 subject to a security interest in favor of the utility in case of a loan to the building owner.

25.1 The utility has no liability for loss, damage, or injury caused directly or indirectly by an
 25.2 energy conservation improvement, except for negligence by the utility in purchase,
 25.3 installation, or modification of the product.

25.4 Subd. 8. **Criteria for efficient fuel-switching improvements.** A fuel-switching
 25.5 improvement is deemed efficient if the improvement, relative to the fuel that is being
 25.6 displaced:

25.7 (1) results in a net reduction in the cost and amount of source energy consumed for a
 25.8 particular use, measured on a fuel-neutral basis;

25.9 (2) results in a net reduction of statewide greenhouse gas emissions, as defined in section
 25.10 216H.01, subdivision 2, over the lifetime of the improvement. For an efficient electrification
 25.11 or conversion improvement installed by an electric utility, the reduction in emissions must
 25.12 be measured based on the emissions profile of the utility or the utility's wholesale provider.
 25.13 Where applicable, the emissions profile used must be the most recent resource plan accepted
 25.14 by the commission under section 216B.2422;

25.15 (3) is cost-effective from a societal perspective, considering the costs associated with
 25.16 both the fuel used in the past and the fuel used in the future; and

25.17 (4) is planned to be installed and operated in a manner that does not unduly increase the
 25.18 utility's system peak demand or require significant new investment in utility infrastructure.

25.19 Subd. 9. **Manner of filing and service.** (a) A consumer-owned utility must submit the
 25.20 filings required by this section to the department using the department's electronic filing
 25.21 system.

25.22 (b) The submission of a document to the department's electronic filing system constitutes
 25.23 service on the department. If a department rule requires service of a notice, order, or other
 25.24 document by the department, utility, or interested party upon persons on a service list
 25.25 maintained by the department, service may be made by personal delivery, mail, or electronic
 25.26 service, except that electronic service may only be made to persons on the service list that
 25.27 have previously agreed in writing to accept electronic service at an electronic address
 25.28 provided to the department for electronic service purposes.

25.29 Subd. 10. **Assessment.** The commission or department may assess utilities subject to
 25.30 this section to carry out the purposes of section 216B.241, subdivisions 1d, 1e, and 1f. An
 25.31 assessment under this paragraph must be proportionate to the utility's respective gross
 25.32 operating revenue from sales of gas or electric service in Minnesota during the previous

26.1 calendar year. Assessments under this subdivision are not subject to the cap on assessments
 26.2 under section 216B.62 or any other law.

26.3 Subd. 11. **Waste heat recovery; thermal energy distribution.** Subject to department
 26.4 approval, demand-side natural gas or electric energy displaced by use of waste heat recovered
 26.5 and used as thermal energy, including the recovered thermal energy from a cogeneration
 26.6 or combined heat and power facility, is eligible to be counted toward a consumer-owned
 26.7 utility's natural gas or electric savings goals.

26.8 Sec. 6. Minnesota Statutes 2018, section 216B.241, subdivision 1a, is amended to read:

26.9 Subd. 1a. ~~Investment, expenditure, and contribution; public utility~~ Large customer
 26.10 facility. (a) ~~For purposes of this subdivision and subdivision 2, "public utility" has the~~
 26.11 ~~meaning given it in section 216B.02, subdivision 4. Each public utility shall spend and~~
 26.12 ~~invest for energy conservation improvements under this subdivision and subdivision 2 the~~
 26.13 ~~following amounts:~~

26.14 ~~(1) for a utility that furnishes gas service, 0.5 percent of its gross operating revenues~~
 26.15 ~~from service provided in the state;~~

26.16 ~~(2) for a utility that furnishes electric service, 1.5 percent of its gross operating revenues~~
 26.17 ~~from service provided in the state; and~~

26.18 ~~(3) for a utility that furnishes electric service and that operates a nuclear-powered electric~~
 26.19 ~~generating plant within the state, two percent of its gross operating revenues from service~~
 26.20 ~~provided in the state.~~

26.21 ~~For purposes of this paragraph (a), "gross operating revenues" do not include revenues~~
 26.22 ~~from large customer facilities exempted under paragraph (b), or from commercial gas~~
 26.23 ~~customers that are exempted under paragraph (c) or (e).~~

26.24 ~~(b)~~ (a) The owner of a large customer facility may petition the commissioner to exempt
 26.25 both electric and gas utilities serving the large customer facility from the investment and
 26.26 expenditure requirements of ~~paragraph (a)~~ a utility's plan under this section or section
 26.27 216B.2403 with respect to retail revenues attributable to the large customer facility. The
 26.28 filing must include a discussion of the competitive or economic pressures facing the owner
 26.29 of the facility and the efforts taken by the owner to identify, evaluate, and implement energy
 26.30 conservation and efficiency improvements. A filing submitted on or before October 1 of
 26.31 any year must be approved within 90 days and become effective January 1 of the year
 26.32 following the filing, unless the commissioner finds that the owner of the large customer
 26.33 facility has failed to take reasonable measures to identify, evaluate, and implement energy

27.1 conservation and efficiency improvements. If a facility qualifies as a large customer facility
 27.2 solely due to its peak electrical demand or annual natural gas usage, the exemption may be
 27.3 limited to the qualifying utility if the commissioner finds that the owner of the large customer
 27.4 facility has failed to take reasonable measures to identify, evaluate, and implement energy
 27.5 conservation and efficiency improvements with respect to the nonqualifying utility. Once
 27.6 an exemption is approved, the commissioner may request the owner of a large customer
 27.7 facility to submit, not more often than once every five years, a report demonstrating the
 27.8 large customer facility's ongoing commitment to energy conservation and efficiency
 27.9 improvement after the exemption filing. The commissioner may request such reports for
 27.10 up to ten years after the effective date of the exemption, unless the majority ownership of
 27.11 the large customer facility changes, in which case the commissioner may request additional
 27.12 reports for up to ten years after the change in ownership occurs. The commissioner may,
 27.13 within 180 days of receiving a report submitted under this paragraph, rescind any exemption
 27.14 granted under this paragraph upon a determination that the large customer facility is not
 27.15 continuing to make reasonable efforts to identify, evaluate, and implement energy
 27.16 conservation improvements. A large customer facility that is, under an order from the
 27.17 commissioner, exempt from the investment and expenditure requirements of paragraph (a)
 27.18 as of December 31, 2010, is not required to submit a report to retain its exempt status, except
 27.19 as otherwise provided in this paragraph with respect to ownership changes. No exempt large
 27.20 customer facility may participate in a utility conservation improvement program unless the
 27.21 owner of the facility submits a filing with the commissioner to withdraw its exemption.

27.22 ~~(e)~~(b) A commercial gas customer that is not a large customer facility and that purchases
 27.23 or acquires natural gas from a public utility having fewer than 600,000 natural gas customers
 27.24 in Minnesota may petition the commissioner to exempt gas utilities serving the commercial
 27.25 gas customer from the investment and expenditure requirements of ~~paragraph (a)~~ a utility's
 27.26 plan under this section or section 216B.2403 with respect to retail revenues attributable to
 27.27 the commercial gas customer. The petition must be supported by evidence demonstrating
 27.28 that the commercial gas customer has acquired or can reasonably acquire the capability to
 27.29 bypass use of the utility's gas distribution system by obtaining natural gas directly from a
 27.30 supplier not regulated by the commission. The commissioner shall grant the exemption if
 27.31 the commissioner finds that the petitioner has made the demonstration required by this
 27.32 paragraph.

27.33 ~~(d)~~(c) The commissioner may require investments or spending greater than the amounts
 27.34 required under this subdivision for a public utility whose most recent advance forecast

28.1 required under section 216B.2422 or 216C.17 projects a peak demand deficit of 100
 28.2 megawatts or greater within five years under midrange forecast assumptions.

28.3 ~~(e)~~ (d) A public utility or owner of a large customer facility may appeal a decision of
 28.4 the commissioner under paragraph (a) or (b), ~~(e)~~, ~~or (d)~~ to the commission under subdivision
 28.5 2. In reviewing a decision of the commissioner under paragraph (a) or (b), ~~(e)~~, ~~or (d)~~, the
 28.6 commission shall rescind the decision if it finds ~~that the required investments or spending~~
 28.7 ~~will:~~

28.8 ~~(1) not result in cost-effective energy conservation improvements; or~~

28.9 ~~(2) otherwise~~ the decision is not be in the public interest.

28.10 (e) A public utility is prohibited from spending for or investing in energy conservation
 28.11 improvements that directly benefit a large energy facility or a large electric customer facility
 28.12 for which the commissioner has issued an exemption under this section.

28.13 Sec. 7. Minnesota Statutes 2018, section 216B.241, subdivision 1c, is amended to read:

28.14 Subd. 1c. **Public utility; energy-saving goals.** (a) The commissioner shall establish
 28.15 energy-saving goals for energy conservation improvement expenditures and shall evaluate
 28.16 an energy conservation improvement program on how well it meets the goals set.

28.17 (b) Each individual public utility and association shall have providing electric service
 28.18 has an annual energy-savings goal equivalent to 1.75 percent of gross annual retail
 28.19 energy sales unless Each individual public utility providing natural gas service has an annual
 28.20 energy savings goal equivalent to one percent of gross annual retail energy sales. The level
 28.21 of the savings goal may be modified by the commissioner under paragraph ~~(d)~~ (c). The
 28.22 savings goals must be calculated based on the most recent three-year weather-normalized
 28.23 average. A public utility or association providing electric service may elect to carry forward
 28.24 energy savings in excess of ~~1.5~~ 1.75 percent for a year to the succeeding three calendar
 28.25 years, ~~except that savings from electric utility infrastructure projects allowed under paragraph~~
 28.26 ~~(d) may be carried forward for five years.~~ A public utility providing natural gas service may
 28.27 elect to carry forward energy savings in excess of one percent for a year to the succeeding
 28.28 three calendar years. A particular energy savings can be used only for one year's goal.

28.29 ~~(e) The commissioner must adopt a filing schedule that is designed to have all utilities~~
 28.30 ~~and associations operating under an energy-savings plan by calendar year 2010.~~

28.31 ~~(d)~~ (c) In its energy conservation ~~improvement~~ and optimization plan filing, a public
 28.32 utility or association may request the commissioner to adjust its annual energy-savings
 28.33 percentage goal based on its historical conservation investment experience, customer class

29.1 makeup, load growth, a conservation potential study, or other factors the commissioner
 29.2 determines warrants an adjustment. The commissioner may not approve a plan of a public
 29.3 utility that provides for an annual energy-savings goal of less than one percent of gross
 29.4 annual retail energy sales from energy conservation improvements.

29.5 (d) A public utility or association may include in its energy conservation and optimization
 29.6 plan energy savings from electric utility infrastructure projects approved by the commission
 29.7 under section 216B.1636 or waste heat recovery converted into electricity projects that may
 29.8 count as energy savings in addition to a minimum energy-savings goal of at least one percent
 29.9 for energy conservation improvements. Energy savings from electric utility infrastructure
 29.10 projects, as defined in section 216B.1636, may be included in the energy conservation plan
 29.11 of a municipal utility or cooperative electric association. Electric utility infrastructure projects
 29.12 must result in increased energy efficiency greater than that which would have occurred
 29.13 through normal maintenance activity.

29.14 ~~(e) An energy-savings goal is not satisfied by attaining the revenue expenditure~~
 29.15 ~~requirements of subdivisions 1a and 1b, but can only be satisfied by meeting the~~
 29.16 ~~energy-savings goal established in this subdivision.~~

29.17 ~~(f) An association or~~ (e) A public utility is not required to make energy conservation
 29.18 investments to attain the energy-savings goals of this subdivision that are not cost-effective
 29.19 even if the investment is necessary to attain the energy-savings goals. For the purpose of
 29.20 this paragraph, in determining cost-effectiveness, the commissioner shall consider the costs
 29.21 and benefits to ratepayers, the utility, participants, and society. In addition, the commissioner
 29.22 shall consider the rate at which ~~an association or~~ municipal utility is increasing its energy
 29.23 savings and its expenditures on energy conservation, as well as the lifetime energy savings
 29.24 and cumulative energy savings of the public utility.

29.25 ~~(g) (f)~~ (f) On an annual basis, the commissioner shall produce and make publicly available
 29.26 a report on the annual energy and capacity savings and estimated carbon dioxide reductions
 29.27 achieved by the ~~energy conservation improvement~~ programs under this section and section
 29.28 216B.2403 for the two most recent years for which data is available. The report must also
 29.29 include information regarding any annual energy sales or generation capacity increases
 29.30 resulting from any efficient fuel-switching improvements. The commissioner shall report
 29.31 on program performance both in the aggregate and for each entity filing an energy
 29.32 conservation improvement plan for approval or review by the commissioner, and must
 29.33 provide an estimate for progress toward the statewide energy savings goal under section
 29.34 216B.2401.

30.1 ~~(h) By January 15, 2010, the commissioner shall report to the legislature whether the~~
 30.2 ~~spending requirements under subdivisions 1a and 1b are necessary to achieve the~~
 30.3 ~~energy savings goals established in this subdivision.~~

30.4 ~~(i) This subdivision does not apply to:~~

30.5 ~~(1) a cooperative electric association with fewer than 5,000 members;~~

30.6 ~~(2) a municipal utility with fewer than 1,000 retail electric customers; or~~

30.7 ~~(3) a municipal utility with less than 1,000,000,000 cubic feet in annual throughput sales~~
 30.8 ~~to retail natural gas customers.~~

30.9 Sec. 8. Minnesota Statutes 2018, section 216B.241, subdivision 1d, is amended to read:

30.10 Subd. 1d. **Technical assistance.** (a) The commissioner shall evaluate energy conservation
 30.11 improvement programs under this section and section 216B.2403 on the basis of
 30.12 cost-effectiveness and the reliability of the technologies employed. The commissioner shall,
 30.13 by order, establish, maintain, and update energy-savings assumptions that must be used
 30.14 when filing energy conservation improvement programs. The department must track a public
 30.15 utility's or consumer-owned utility's lifetime energy savings and cumulative lifetime energy
 30.16 savings provided to the commissioner in plans submitted under this section. The
 30.17 commissioner shall establish an inventory of the most effective energy conservation
 30.18 programs, techniques, and technologies, and encourage all Minnesota utilities to implement
 30.19 them, where appropriate, in their service territories. The commissioner shall describe these
 30.20 programs in sufficient detail to provide a utility reasonable guidance concerning
 30.21 implementation. The commissioner shall prioritize the opportunities in order of potential
 30.22 energy savings and in order of cost-effectiveness. The commissioner may contract with a
 30.23 third party to carry out any of the commissioner's duties under this subdivision, and to obtain
 30.24 technical assistance to evaluate the effectiveness of any conservation improvement program.
 30.25 The commissioner may assess up to \$850,000 annually for the purposes of this subdivision.
 30.26 The assessments must be deposited in the state treasury and credited to the energy and
 30.27 conservation account created under subdivision 2a. An assessment made under this
 30.28 subdivision is not subject to the cap on assessments provided by section 216B.62, or any
 30.29 other law.

30.30 ~~(b) Of the assessment authorized under paragraph (a), the commissioner may expend~~
 30.31 ~~up to \$400,000 annually for the purpose of developing, operating, maintaining, and providing~~
 30.32 ~~technical support for a uniform electronic data reporting and tracking system available to~~
 30.33 ~~all utilities subject to this section, in order to enable accurate measurement of the cost and~~

31.1 ~~energy savings of the energy conservation improvements required by this section. This~~
 31.2 ~~paragraph expires June 30, 2018. By March 15 of the year following the enactment of this~~
 31.3 ~~section, the commissioner must, by order, develop and publish technical information~~
 31.4 ~~necessary to evaluate whether deployment of a fuel-switching improvement meets the~~
 31.5 ~~criteria established under subdivision 11, paragraph (c), and section 216B.2403, subdivision~~
 31.6 ~~8, including the formula to account for the energy saved by a fuel-switching improvement~~
 31.7 ~~on a fuel-neutral basis. The commissioner must update the technical information as necessary.~~

31.8 Sec. 9. Minnesota Statutes 2018, section 216B.241, subdivision 1f, is amended to read:

31.9 Subd. 1f. **Facilities energy efficiency.** (a) The commissioner of administration and the
 31.10 commissioner of commerce shall maintain and, as needed, revise the sustainable building
 31.11 design guidelines developed under section 16B.325.

31.12 (b) The commissioner of administration and the commissioner of commerce shall maintain
 31.13 and update the benchmarking tool developed under Laws 2001, chapter 212, article 1, section
 31.14 3, so that all public buildings can use the benchmarking tool to maintain energy use
 31.15 information for the purposes of establishing energy efficiency benchmarks, tracking building
 31.16 performance, and measuring the results of energy efficiency and conservation improvements.

31.17 ~~(e) The commissioner shall require that utilities include in their conservation improvement~~
 31.18 ~~plans programs that facilitate professional engineering verification to qualify a building as~~
 31.19 ~~Energy Star-labeled, Leadership in Energy and Environmental Design (LEED) certified, or~~
 31.20 ~~Green Globes certified. The state goal is to achieve certification of 1,000 commercial~~
 31.21 ~~buildings as Energy Star-labeled, and 100 commercial buildings as LEED-certified or Green~~
 31.22 ~~Globes certified by December 31, 2010.~~

31.23 ~~(d)~~ (c) The commissioner may assess up to \$500,000 annually for the purposes of this
 31.24 subdivision. The assessments must be deposited in the state treasury and credited to the
 31.25 energy and conservation account created under subdivision 2a. An assessment made under
 31.26 this subdivision is not subject to the cap on assessments provided by section 216B.62, or
 31.27 any other law.

31.28 Sec. 10. Minnesota Statutes 2018, section 216B.241, subdivision 2, is amended to read:

31.29 Subd. 2. **Programs Public utility; energy conservation and optimization plans.** (a)
 31.30 The commissioner may require public utilities to make investments and expenditures in
 31.31 energy conservation improvements, explicitly setting forth the interest rates, prices, and
 31.32 terms under which the improvements must be offered to the customers. The required
 31.33 programs must cover no more than a three-year period. Public utilities shall file energy

32.1 conservation ~~improvement~~ and optimization plans by June 1, on a schedule determined by
 32.2 order of the commissioner, but at least every three years. As provided in subdivision 11,
 32.3 plans may include programs for efficient fuel-switching improvements and load management.
 32.4 An individual utility program may combine elements of energy conservation, load
 32.5 management, or efficient fuel-switching. Plans received by a public utility by June 1 must
 32.6 be approved or approved as modified by the commissioner by December 1 of that same
 32.7 year. The plan must account for the lifetime energy savings and cumulative lifetime savings
 32.8 under the plan. The commissioner shall evaluate the program on the basis of
 32.9 cost-effectiveness and the reliability of technologies employed. The commissioner's order
 32.10 must provide to the extent practicable for a free choice, by consumers participating in the
 32.11 program, of the device, method, material, or project constituting the energy conservation
 32.12 improvement and for a free choice of the seller, installer, or contractor of the energy
 32.13 conservation improvement, provided that the device, method, material, or project seller,
 32.14 installer, or contractor is duly licensed, certified, approved, or qualified, including under
 32.15 the residential conservation services program, where applicable.

32.16 (b) The commissioner may require a utility subject to subdivision 1c to make an energy
 32.17 conservation improvement investment or expenditure whenever the commissioner finds
 32.18 that the improvement will result in energy savings at a total cost to the utility less than the
 32.19 cost to the utility to produce or purchase an equivalent amount of new supply of energy.
 32.20 ~~The commissioner shall nevertheless ensure that every public utility operate one or more~~
 32.21 ~~programs under periodic review by the department.~~

32.22 (c) Each public utility subject to this subdivision ~~1a~~ may spend and invest annually up
 32.23 to ten percent of the total amount ~~required to be~~ spent and invested on energy conservation
 32.24 improvements under this section by the utility on research and development projects that
 32.25 meet the definition of energy conservation improvement in subdivision 1 and that are funded
 32.26 directly by the public utility.

32.27 (d) ~~A public utility may not spend for or invest in energy conservation improvements~~
 32.28 ~~that directly benefit a large energy facility or a large electric customer facility for which the~~
 32.29 ~~commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b).~~ The
 32.30 commissioner shall consider and may require a public utility to undertake a program
 32.31 suggested by an outside source, including a political subdivision, a nonprofit corporation,
 32.32 or community organization.

32.33 (e) A utility, a political subdivision, or a nonprofit or community organization that has
 32.34 suggested a program, the attorney general acting on behalf of consumers and small business
 32.35 interests, or a utility customer that has suggested a program and is not represented by the

33.1 attorney general under section 8.33 may petition the commission to modify or revoke a
 33.2 department decision under this section, and the commission may do so if it determines that
 33.3 the program is not cost-effective, does not adequately address the residential conservation
 33.4 improvement needs of low-income persons, has a long-range negative effect on one or more
 33.5 classes of customers, or is otherwise not in the public interest. The commission shall reject
 33.6 a petition that, on its face, fails to make a reasonable argument that a program is not in the
 33.7 public interest.

33.8 (f) The commissioner may order a public utility to include, with the filing of the utility's
 33.9 annual status report, the results of an independent audit of the utility's conservation
 33.10 improvement programs and expenditures performed by the department or an auditor with
 33.11 experience in the provision of energy conservation and energy efficiency services approved
 33.12 by the commissioner and chosen by the utility. The audit must specify the energy savings
 33.13 or increased efficiency in the use of energy within the service territory of the utility that is
 33.14 the result of the spending and investments. The audit must evaluate the cost-effectiveness
 33.15 of the utility's conservation programs.

33.16 ~~(g) A gas utility may not spend for or invest in energy conservation improvements that~~
 33.17 ~~directly benefit a large customer facility or commercial gas customer facility for which the~~
 33.18 ~~commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b), (c), or~~
 33.19 ~~(e). The commissioner shall consider and may require a utility to undertake a program~~
 33.20 ~~suggested by an outside source, including a political subdivision, a nonprofit corporation,~~
 33.21 ~~or a community organization.~~

33.22 (g) The energy conservation and optimization plan for each public utility subject to this
 33.23 section must include a component focused on improving energy efficiency in public schools
 33.24 served by the utility. At a minimum, the efficiency in schools component must consist of
 33.25 programs to update lighting in schools, update heating and cooling systems in schools,
 33.26 provide for building recommissioning, provide building operator training, and provide
 33.27 opportunities to educate students, teachers, and staff regarding energy efficiency measures
 33.28 implemented at the school, including the associated benefits for improved learning resulting
 33.29 from the measures.

33.30 Sec. 11. Minnesota Statutes 2018, section 216B.241, subdivision 2b, is amended to read:

33.31 Subd. 2b. **Recovery of expenses.** The commission shall allow a public utility to recover
 33.32 expenses resulting from a an energy conservation improvement program required and
 33.33 optimization plan approved by the department under this section and contributions and
 33.34 assessments to the energy and conservation account, unless the recovery would be

34.1 inconsistent with a financial incentive proposal approved by the commission. ~~The commission~~
 34.2 ~~shall allow a cooperative electric association subject to rate regulation under section~~
 34.3 ~~216B.026, to recover expenses resulting from energy conservation improvement programs,~~
 34.4 ~~load management programs, and assessments and contributions to the energy and~~
 34.5 ~~conservation account unless the recovery would be inconsistent with a financial incentive~~
 34.6 ~~proposal approved by the commission.~~ In addition, a public utility may file annually, or the
 34.7 Public Utilities Commission may require the utility to file, and the commission may approve,
 34.8 rate schedules containing provisions for the automatic adjustment of charges for utility
 34.9 service in direct relation to changes in the expenses of the utility for real and personal
 34.10 property taxes, fees, and permits, the amounts of which the utility cannot control. A public
 34.11 utility is eligible to file for adjustment for real and personal property taxes, fees, and permits
 34.12 under this subdivision only if, in the year previous to the year in which it files for adjustment,
 34.13 it has spent or invested at least 1.75 percent of its gross revenues from provision of electric
 34.14 service, excluding gross operating revenues from electric service provided in the state to
 34.15 large electric customer facilities for which the commissioner has issued an exemption under
 34.16 subdivision 1a, paragraph (b), and 0.6 percent of its gross revenues from provision of gas
 34.17 service, excluding gross operating revenues from gas services provided in the state to large
 34.18 electric customer facilities for which the commissioner has issued an exemption under
 34.19 subdivision 1a, paragraph (b), for that year for energy conservation improvements under
 34.20 this section.

34.21 Sec. 12. Minnesota Statutes 2018, section 216B.241, subdivision 7, is amended to read:

34.22 Subd. 7. **Low-income programs.** (a) The commissioner shall ensure that each public
 34.23 ~~utility and association~~ subject to subdivision 1c provides low-income programs. When
 34.24 approving spending and energy-savings goals for low-income programs, the commissioner
 34.25 shall consider historic spending and participation levels, energy savings for low-income
 34.26 programs, and the number of low-income persons residing in the utility's service territory.
 34.27 ~~A municipal utility that furnishes gas service must spend at least 0.2 percent, and a public~~
 34.28 ~~utility furnishing gas service must spend at least 0.4~~ 0.8 percent, of its most recent three-year
 34.29 average gross operating revenue from residential customers in the state on low-income
 34.30 programs. A utility or association that furnishes electric service must spend at least ~~0.1~~ 0.4
 34.31 percent of its gross operating revenue from residential customers in the state on low-income
 34.32 programs. ~~For a generation and transmission cooperative association, this requirement shall~~
 34.33 ~~apply to each association's members' aggregate gross operating revenue from sale of~~
 34.34 ~~electricity to residential customers in the state. Beginning in 2010, A utility or association~~

35.1 ~~that furnishes electric service must spend 0.2 percent of its gross operating revenue from~~
35.2 ~~residential customers in the state on low-income programs.~~

35.3 (b) To meet the requirements of paragraph (a), a public utility ~~or association~~ may
35.4 contribute money to the energy and conservation account. An energy conservation
35.5 improvement plan must state the amount, if any, of low-income energy conservation
35.6 improvement funds the public utility ~~or association~~ will contribute to the energy and
35.7 conservation account. Contributions must be remitted to the commissioner by February 1
35.8 of each year.

35.9 (c) The commissioner shall establish low-income programs to utilize money contributed
35.10 to the energy and conservation account under paragraph (b). In establishing low-income
35.11 programs, the commissioner shall consult political subdivisions, utilities, and nonprofit and
35.12 community organizations, especially organizations engaged in providing energy and
35.13 weatherization assistance to low-income persons. Money contributed to the energy and
35.14 conservation account under paragraph (b) must provide programs for low-income persons,
35.15 including low-income renters, in the service territory of the public utility ~~or association~~
35.16 providing the money. The commissioner shall record and report expenditures and energy
35.17 savings achieved as a result of low-income programs funded through the energy and
35.18 conservation account in the report required under subdivision 1c, paragraph (g). The
35.19 commissioner may contract with a political subdivision, nonprofit or community organization,
35.20 public utility, municipality, or cooperative electric association to implement low-income
35.21 programs funded through the energy and conservation account.

35.22 (d) A public utility ~~or association~~ may petition the commissioner to modify its required
35.23 spending under paragraph (a) if the utility or association and the commissioner have been
35.24 unable to expend the amount required under paragraph (a) for three consecutive years.

35.25 (e) The costs and benefits associated with any approved low-income gas or electric
35.26 conservation improvement program that is not cost-effective when considering the costs
35.27 and benefits to the utility may, at the discretion of the utility, be excluded from the calculation
35.28 of net economic benefits for purposes of calculating the financial incentive to the utility.
35.29 The energy and demand savings may, at the discretion of the utility, be applied toward the
35.30 calculation of overall portfolio energy and demand savings for purposes of determining
35.31 progress toward annual goals and in the financial incentive mechanism.

36.1 Sec. 13. Minnesota Statutes 2018, section 216B.241, is amended by adding a subdivision
36.2 to read:

36.3 **Subd. 11. Programs for efficient fuel-switching improvements and load**
36.4 **management.** (a) A public utility subject to this section may include in its plan required
36.5 under subdivision 2 programs for efficient fuel-switching improvements and load
36.6 management, or combinations of energy conservation improvements, fuel-switching
36.7 improvements, and load management. For each program, the utility must provide proposed
36.8 budgets, cost-effectiveness analyses, and estimated net energy and demand savings.

36.9 (b) The department may approve proposed programs for efficient fuel-switching
36.10 improvements if it finds the improvements meet the requirements of paragraph (c). For
36.11 improvements requiring the deployment of electric technologies, the department must also
36.12 consider whether the fuel-switching improvement can be operated in a manner that facilitates
36.13 the integration of variable renewable energy into the electric system. The net benefits from
36.14 an efficient fuel-switching improvement that is integrated with an energy efficiency program
36.15 approved under this section may be counted toward the net benefits of the energy efficiency
36.16 program, provided the department finds the primary purpose and effect of the program is
36.17 energy efficiency.

36.18 (c) The department may approve a proposed program in load management if it finds the
36.19 program investment is cost-effective after considering the costs and benefits of the proposed
36.20 investment to ratepayers, the utility, participants, and society. The net benefits from a load
36.21 management activity that is integrated with an energy efficiency program approved under
36.22 this section may be counted toward the net benefits of the energy efficiency program,
36.23 provided the department finds the primary purpose and effect of the program is energy
36.24 efficiency.

36.25 (d) The commission may permit a public utility to file rate schedules that provide for
36.26 annual cost recovery for efficient fuel-switching improvements and cost-effective load
36.27 management programs approved by the department, including reasonable and prudent costs
36.28 of implementing and promoting programs approved under this subdivision. The commission
36.29 may approve, modify, or reject a proposal made by the department or a utility for an incentive
36.30 plan to encourage investments in load management programs, applying the considerations
36.31 established under section 216B.16, subdivision 6c, paragraphs (b) and (c). An incentive
36.32 plan to encourage cost-effective load management programs may be structured as a regulatory
36.33 asset on which a public utility could earn a rate of return. A utility is not eligible for a
36.34 financial incentive under this subdivision in any year the utility or association did not achieve
36.35 its minimum energy savings goal.

37.1 (e) A fuel-switching improvement is deemed efficient if the commissioner finds the
37.2 improvement, relative to the fuel that is being displaced, meets the following criteria:

37.3 (1) results in a net reduction in the cost and amount of source energy consumed for a
37.4 particular use, measured on a fuel-neutral basis;

37.5 (2) results in a net reduction of statewide greenhouse gas emissions as defined in section
37.6 216H.01, subdivision 2. For an efficient fuel-switching improvement affecting a customer's
37.7 use of electricity, the change in emissions must be measured based on the hourly emission
37.8 profile of the electric utility that controls the system where the electric technology is installed,
37.9 using the most recent resource plan approved by the commission under section 216B.2422;

37.10 (3) is cost-effective from a societal perspective, considering the costs associated with
37.11 both the fuel that was used and the fuel that will be used; and

37.12 (4) is installed and operated in a manner that does not unduly increase the utility's system
37.13 peak demand or require significant new investment in utility infrastructure.

37.14 Sec. 14. **REPEALER.**

37.15 Minnesota Statutes 2018, section 216B.241, subdivisions 1, 2c, 4, and 5, are repealed.

216B.241 ENERGY CONSERVATION IMPROVEMENT.

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

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

(b) "Commissioner" means the commissioner of commerce.

(c) "Department" means the Department of Commerce.

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

(e) "Energy conservation improvement" means a project that results in energy efficiency or energy conservation. Energy conservation improvement may include waste heat that is recovered and converted into electricity, but does not include electric utility infrastructure projects approved by the commission under section 216B.1636. Energy conservation improvement also includes waste heat recovered and used as thermal energy.

(f) "Energy efficiency" means measures or programs, including energy conservation measures or programs, that target consumer behavior, equipment, processes, or devices designed to produce either an absolute decrease in consumption of electric energy or natural gas or a decrease in consumption of electric energy or natural gas on a per unit of production basis without a reduction in the quality or level of service provided to the energy consumer.

(g) "Gross annual retail energy sales" means annual electric sales to all retail customers in a utility's or association's Minnesota service territory or natural gas throughput to all retail customers, including natural gas transportation customers, on a utility's distribution system in Minnesota. For purposes of this section, gross annual retail energy sales exclude:

(1) gas sales to:

(i) a large energy facility;

(ii) a large customer facility whose natural gas utility has been exempted by the commissioner under subdivision 1a, paragraph (b), with respect to natural gas sales made to the large customer facility; and

(iii) a commercial gas customer facility whose natural gas utility has been exempted by the commissioner under subdivision 1a, paragraph (c), with respect to natural gas sales made to the commercial gas customer facility; and

(2) electric sales to a large customer facility whose electric utility has been exempted by the commissioner under subdivision 1a, paragraph (b), with respect to electric sales made to the large customer facility.

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

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

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

(i) "Large customer facility" means all buildings, structures, equipment, and installations at a single site that collectively (1) impose a peak electrical demand on an electric utility's system of not less than 20,000 kilowatts, measured in the same way as the utility that serves the customer facility measures electrical demand for billing purposes or (2) consume not less than 500 million cubic feet of natural gas annually. In calculating peak electrical demand, a large customer facility may include demand offset by on-site cogeneration facilities and, if engaged in mineral extraction, may aggregate peak energy demand from the large customer facility's mining and processing operations.

(j) "Large energy facility" has the meaning given it in section 216B.2421, subdivision 2, clause (1).

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

(l) "Low-income programs" means energy conservation improvement programs that directly serve the needs of low-income persons, including low-income renters.

(m) "Qualifying utility" means a utility that supplies the energy to a customer that enables the customer to qualify as a large customer facility.

(n) "Waste heat recovered and used as thermal energy" means capturing heat energy that would otherwise be exhausted or dissipated to the environment from machinery, buildings, or industrial processes and productively using such recovered thermal energy where it was captured or distributing it as thermal energy to other locations where it is used to reduce demand-side consumption of natural gas, electric energy, or both.

(o) "Waste heat recovery converted into electricity" means an energy recovery process that converts otherwise lost energy from the heat of exhaust stacks or pipes used for engines or manufacturing or industrial processes, or the reduction of high pressure in water or gas pipelines.

Subd. 2c. **Performance incentives.** By December 31, 2008, the commission shall review any incentive plan for energy conservation improvement it has approved under section 216B.16, subdivision 6c, and adjust the utility performance incentives to recognize making progress toward and meeting the energy-savings goals established in subdivision 1c.

Subd. 4. **Federal law prohibitions.** If investments by public utilities in energy conservation improvements are in any manner prohibited or restricted by federal law and there is a provision under which the prohibition or restriction may be waived, then the commission, the governor, or any other necessary state agency or officer shall take all necessary and appropriate steps to secure a waiver with respect to those public utility investments in energy conservation improvements included in this section.

Subd. 5. **Efficient lighting program.** (a) Each public utility, cooperative electric association, and municipal utility that provides electric service to retail customers and is subject to subdivision 1c shall include as part of its conservation improvement activities a program to strongly encourage the use of fluorescent and high-intensity discharge lamps. The program must include at least a public information campaign to encourage use of the lamps and proper management of spent lamps by all customer classifications.

(b) A public utility that provides electric service at retail to 200,000 or more customers shall establish, either directly or through contracts with other persons, including lamp manufacturers, distributors, wholesalers, and retailers and local government units, a system to collect for delivery to a reclamation or recycling facility spent fluorescent and high-intensity discharge lamps from households and from small businesses as defined in section 645.445 that generate an average of fewer than ten spent lamps per year.

(c) A collection system must include establishing reasonably convenient locations for collecting spent lamps from households and financial incentives sufficient to encourage spent lamp generators to take the lamps to the collection locations. Financial incentives may include coupons for purchase of new fluorescent or high-intensity discharge lamps, a cash back system, or any other financial incentive or group of incentives designed to collect the maximum number of spent lamps from households and small businesses that is reasonably feasible.

(d) A public utility that provides electric service at retail to fewer than 200,000 customers, a cooperative electric association, or a municipal utility that provides electric service at retail to customers may establish a collection system under paragraphs (b) and (c) as part of conservation improvement activities required under this section.

(e) The commissioner of the Pollution Control Agency may not, unless clearly required by federal law, require a public utility, cooperative electric association, or municipality that establishes a household fluorescent and high-intensity discharge lamp collection system under this section to manage the lamps as hazardous waste as long as the lamps are managed to avoid breakage and are delivered to a recycling or reclamation facility that removes mercury and other toxic materials contained in the lamps prior to placement of the lamps in solid waste.

(f) If a public utility, cooperative electric association, or municipal utility contracts with a local government unit to provide a collection system under this subdivision, the contract must provide

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for payment to the local government unit of all the unit's incremental costs of collecting and managing spent lamps.

(g) All the costs incurred by a public utility, cooperative electric association, or municipal utility for promotion and collection of fluorescent and high-intensity discharge lamps under this subdivision are conservation improvement spending under this section.