

**SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION**

S.F. No. 3429

(SENATE AUTHORS: MCEWEN)

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OFFICIAL STATUS
Introduction and first reading
Referred to Energy, Utilities, Environment, and Climate

1.1 A bill for an act
1.2 relating to energy; requiring certain buildings to meet energy performance
1.3 standards; requiring reports; appropriating money; proposing coding for new law
1.4 in Minnesota Statutes, chapter 216C.

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

1.6 Section 1. **[216C.332] BUILDING ENERGY PERFORMANCE STANDARDS.**

1.7 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
1.8 the meanings given.

1.9 (b) "Building type" means a category of buildings similar in design, function, and energy
1.10 use.

1.11 (c) "Covered building" has the meaning given to "covered property" in section 216C.331,
1.12 subdivision 1.

1.13 (d) "Energy" has the meaning given in section 216C.331, subdivision 1.

1.14 (e) "Energy Star Portfolio Manager" has the meaning given in section 216C.331,
1.15 subdivision 1.

1.16 (f) "Energy use intensity" or "EUI" has the meaning given in section 216C.331,
1.17 subdivision 1.

1.18 (g) "Final performance standard" means the numeric value of a performance metric that
1.19 covered buildings must meet by 2045.

1.20 (h) "Financial distress" means that a covered building:

2.1 (1) is the subject of a qualified tax lien sale or public auction due to property tax
2.2 arrearages;

2.3 (2) is controlled by a court-appointed receiver based on financial problems;

2.4 (3) is owned by a financial institution through default by the borrower;

2.5 (4) has been acquired by deed in lieu of foreclosure; or

2.6 (5) has a senior mortgage that is subject to a notice of default.

2.7 (i) "Greenhouse gas emissions" means emissions of carbon dioxide, methane, nitrous
2.8 oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride resulting from energy
2.9 used at a building site.

2.10 (j) "Interim performance metric" means the numeric value of a performance metric that
2.11 covered properties must meet every five years until 2045.

2.12 (k) "Multifamily affordable housing" means a covered building that:

2.13 (1) contains five or more dwelling units;

2.14 (2) meets the eligibility standards established by the commissioner under section
2.15 216B.2403, subdivision 5, paragraph (e), for multifamily buildings to participate in energy
2.16 conservation programs provided to low-income households; and

2.17 (3) receives or received government financing or financial assistance at the county, state,
2.18 or federal level.

2.19 (l) "Owner" means an individual or entity that possesses the title to a covered building
2.20 or an agent that the individual or entity has authorized to act on behalf of the individual or
2.21 entity.

2.22 (m) "Total floor area" has the meaning given in section 216C.331, subdivision 1.

2.23 Subd. 2. **Establishment.** The commissioner must establish and maintain a building
2.24 energy performance standards program. The purpose of the program is to reduce:

2.25 (1) the amount of energy used to (i) heat and cool buildings, and (ii) provide other energy
2.26 services; and

2.27 (2) greenhouse gas emissions from covered buildings by 90 percent from a 2005 baseline
2.28 by 2045.

2.29 Subd. 3. **Classification of covered buildings.** For the purposes of this section, a covered
2.30 building is classified as follows:

3.1	<u>Class</u>	<u>Ownership</u>	<u>Total floor area (square feet)</u>
3.2	<u>1</u>	<u>City, state, county, school district,</u>	<u>100,000 or more</u>
3.3		<u>metropolitan council</u>	
3.4	<u>2</u>	<u>City, state, county, school district,</u>	<u>50,000 to 99,999</u>
3.5		<u>metropolitan council</u>	
3.6	<u>3</u>	<u>Private</u>	<u>100,000 or more</u>
3.7	<u>4</u>	<u>Private</u>	<u>50,000 or more</u>

3.8 Subd. 4. **Final EUI standards; establishment.** (a) No later than January 1, 2026, the
 3.9 commissioner must establish final EUI standards for all covered buildings. The commissioner
 3.10 must establish final EUI standards at a level at which, if the EUI standards are met by all
 3.11 covered buildings, the aggregated greenhouse gas emissions from all covered buildings is
 3.12 reduced by 90 percent by 2045 from a 2005 baseline.

3.13 (b) When establishing final EUI standards, the commissioner may utilize the building
 3.14 types used in the Energy Star Portfolio Manager benchmarking tool or other building types.

3.15 (c) Class 1 covered buildings must meet the final EUI standard no later than 2042. Class
 3.16 2 covered buildings must meet the final EUI standard no later than 2043. Class 3 covered
 3.17 buildings must meet the final EUI standard no later than 2044. Class 4 covered buildings
 3.18 must meet the final EUI standard no later than 2045.

3.19 (d) The final EUI standard established for a covered property containing more than a
 3.20 single building type must be calculated on a pro rata basis based on the square footage of
 3.21 each building type.

3.22 Subd. 5. **Interim EUI standards; establishment.** The commissioner must establish
 3.23 interim EUI standards that each covered building must meet every five years, beginning in
 3.24 2028 for class 1 covered buildings and continuing until 2045 for class 4 covered buildings.
 3.25 The interim EUI standards must be calculated on a straight-line trajectory with respect to
 3.26 the final EUI standards so that covered buildings meeting the interim EUI standards
 3.27 demonstrate steady progress toward the final EUI standards in equal increments. Each owner
 3.28 must submit a report to the commissioner, on a form prescribed by the commissioner,
 3.29 demonstrating the covered building's progress toward meeting the interim EUI standards.

3.30 Subd. 6. **EUI standards; extensions; exemptions; adjustments.** (a) An owner may
 3.31 request the commissioner to issue the owner an extension, exemption, or adjustment to an
 3.32 interim or final EUI standard for a covered building. The commissioner may approve the
 3.33 request if the commissioner determines that:

3.34 (1) the covered building is experiencing financial distress or is likely to experience
 3.35 financial distress within the next 12 months;

4.1 (2) the covered building:

4.2 (i) has been less than 50 percent occupied;

4.3 (ii) does not have a certificate of occupancy or a temporary certificate of occupancy;

4.4 (iii) was issued a demolition permit that remains current; or

4.5 (iv) received no energy services for at least 30 days; or

4.6 (3) meeting the EUI standard is not in the public interest.

4.7 (b) If an owner submits a request under this subdivision less than one year before the
4.8 deadline for the applicable EUI standard, the owner may be subject to a penalty of up to
4.9 \$1,000, as determined by the commissioner.

4.10 (c) An owner of multifamily affordable housing is exempt from the requirements of this
4.11 section until the owner refinances the building after the effective date of this act, at which
4.12 point the multifamily affordable housing is subject to the next sequential EUI standard that
4.13 covered buildings are required to meet under subdivision 4 or 5, as applicable.

4.14 (d) An owner is exempt from the requirements of this section with respect to a covered
4.15 building that the commissioner determines is subject to an EUI or other energy-related
4.16 standard required by the state or a political subdivision that is more stringent than an EUI
4.17 standard established under this section.

4.18 (e) An owner must provide information requested by the commissioner in order to
4.19 evaluate a request made under this subdivision. The commissioner must treat information
4.20 an owner provides under this subdivision as not public data under chapter 13.

4.21 Subd. 7. **Interface with utility conservation programs.** Nothing in this section limits
4.22 the ability of a public utility or municipal utility to offer programs to covered buildings, or
4.23 to claim energy savings resulting from the offered programs, through the utility's energy
4.24 conservation and optimization plans approved by the commissioner under section 216B.2403
4.25 or 216B.241.

4.26 Subd. 8. **Public buildings; portfolio option.** An owner of multiple class 1 or class 2
4.27 buildings may, after receiving the commissioner's approval, elect to meet an applicable EUI
4.28 standard by reducing energy use in one or more of the owner's class 1 or class 2 buildings
4.29 by an amount that is equal to or greater than the energy use that would have been reduced
4.30 had each of the owner's class 1 and class 2 buildings met the applicable EUI standard.

- 5.1 Subd. 9. Building Performance Advisory Committee. (a) No later than August 15,
5.2 2025, the commissioner must establish and make appointments to a Building Performance
5.3 Advisory Committee consisting of representatives from the following entities and professions:
- 5.4 (1) the commissioner, or the commissioner's designee, as a nonvoting member;
- 5.5 (2) a public or municipal utility providing natural gas service to Minnesota retail
5.6 customers;
- 5.7 (3) a public or municipal utility providing electricity service to Minnesota retail
5.8 customers;
- 5.9 (4) an entity that provides energy efficiency measures to covered buildings;
- 5.10 (5) an entity that provides renewable energy facilities to covered buildings;
- 5.11 (6) a professional who designs covered buildings;
- 5.12 (7) an engineer experienced in operating energy systems in covered buildings;
- 5.13 (8) a manager of operations for covered buildings;
- 5.14 (9) a labor union representative of workers who operate or service covered buildings;
- 5.15 (10) an owner of a covered building containing residences for families;
- 5.16 (11) an owner of a covered building providing affordable housing for families;
- 5.17 (12) a tenant of multifamily affordable housing;
- 5.18 (13) a nonprofit organization that addresses climate change, decarbonization, or green
5.19 building issues;
- 5.20 (14) a nonprofit organization that addresses environmental justice issues;
- 5.21 (15) an expert on sustainable buildings from the University of Minnesota's Center for
5.22 Sustainable Building Research; and
- 5.23 (16) a local government unit.
- 5.24 (b) The Building Performance Advisory Committee must:
- 5.25 (1) advise the commissioner on implementing and operating this section;
- 5.26 (2) recommend interim and final EUI standards for different building types; and
- 5.27 (3) recommend procedures for exemptions, extensions, and adjustments the commissioner
5.28 may grant under subdivision 6.

6.1 (c) The advisory committee must elect a chair by majority vote at the advisory
6.2 committee's initial meeting. The advisory committee must meet quarterly. Additional
6.3 meetings may be held at the call of the chair. The department must serve as staff to the
6.4 advisory committee.

6.5 (d) Advisory committee members other than state employees are governed by section
6.6 15.059.

6.7 Subd. 10. **Penalties.** (a) An owner whose covered building fails to meet an interim or
6.8 final EUI standard by the date required, and who has not received a valid extension,
6.9 exemption, or adjustment from the commissioner under subdivision 6, must make a
6.10 compliance payment to the commissioner under this subdivision.

6.11 (b) Except as provided in paragraph (c), an owner whose covered building fails to meet
6.12 an EUI standard must pay to the commissioner a penalty, as determined by the commissioner,
6.13 of up to \$..... for each 1,000 British thermal units consumed by the covered building that
6.14 exceed the EUI standard. The maximum penalty imposed under this paragraph or paragraph
6.15 (c) must increase over time at the same rate as that of the estimate of the social cost of
6.16 carbon dioxide emissions most recently adopted by the commission under section 216B.2422,
6.17 subdivision 3.

6.18 (c) An owner may, with the commissioner's approval, elect to be excused from paying
6.19 a penalty imposed under paragraph (b). An owner who makes the election under this
6.20 paragraph and fails to meet the next scheduled EUI standard for the same covered building
6.21 must pay to the commissioner an amount equal to ... percent of the earlier penalty imposed
6.22 on the covered building, in addition to a payment for failing to meet the subsequent EUI
6.23 standard.

6.24 (d) A compliance payment must be made under this subdivision each year or portion of
6.25 a year during which a covered building fails to meet an EUI standard.

6.26 (e) When determining the amount of a compliance payment under this subdivision, the
6.27 commissioner must consider:

6.28 (1) the magnitude of the amount by which the covered building's performance exceeds
6.29 the level of the applicable EUI standard;

6.30 (2) the length of time over which the covered building has failed to meet the applicable
6.31 EUI standard;

6.32 (3) the assessed value of the covered building; and

6.33 (4) the total number of EUI standards the covered building has failed to meet over time.

7.1 Subd. 11. **Technical and financial assistance hub.** The department must contract with
7.2 a nonprofit organization with extensive experience implementing energy efficiency programs
7.3 in buildings to operate a building performance technical and financial assistance hub. The
7.4 hub must assist owners to comply with this section by:

7.5 (1) offering technical assistance directly to owners regarding energy-saving reduction
7.6 measures and strategies;

7.7 (2) connecting owners with other sources of technical assistance, including other covered
7.8 building owners who have successfully reduced energy use; and

7.9 (3) making owners aware of sources of financial assistance, including tax credits, that
7.10 are offered by utilities or available through programs administered by local, state, and federal
7.11 government entities to support implementing energy-saving measures.

7.12 Subd. 12. **Program implementation.** The commissioner may contract with an
7.13 independent third party to implement any or all of the commissioner's duties required under
7.14 this section. The commissioner must assist owners to access the technical and financial
7.15 assistance hub established under subdivision 11 and the building energy performance
7.16 improvement grant program established under subdivision 14 to reduce energy use from
7.17 the owners' covered properties through outreach and training. The commissioner must begin
7.18 informing owners of this section's requirements in 2025 as part of outreach activities required
7.19 under the energy benchmarking program under section 216C.331.

7.20 Subd. 13. **Account established.** (a) A building energy performance standards program
7.21 account is established in the special revenue account in the state treasury. The commissioner
7.22 must credit to the account appropriations and transfers made to the account and penalties
7.23 collected under this section. Earnings, including interest, dividends, and any other earnings
7.24 arising from assets of the account, must be credited to the account. Money remaining in the
7.25 account at the end of a fiscal year does not cancel to the general fund but remains in the
7.26 account. The commissioner must manage the account.

7.27 (b) Money in the account that is not collected from penalties is appropriated to the
7.28 commissioner and must be used only to reimburse the reasonable expenses incurred by the
7.29 department to administer the building energy performance standards program under this
7.30 section.

7.31 (c) Money in the account collected from penalties under subdivision 10 is appropriated
7.32 to the commissioner and must only be used to award building energy performance
7.33 improvement grants under subdivision 14.

8.1 Subd. 14. **Building energy performance improvement grants.** (a) A building energy
8.2 performance improvement grant program is established in the department to provide financial
8.3 assistance to eligible applicants to make improvements that reduce energy use in order to
8.4 achieve the EUI standards established under this section.

8.5 (b) An application for a grant under this section must be made to the commissioner on
8.6 a form developed by the commissioner. The application must be accompanied by
8.7 documentation, as required by the commissioner:

8.8 (1) that the applicant is the owner of a covered building or the owner's agent;

8.9 (2) that the applicant has had an energy assessment, conducted of the covered building
8.10 within the previous 24 months by a qualified person as determined by the commissioner,
8.11 indicating the opportunities to reduce the covered building's energy use;

8.12 (3) indicating the total energy and greenhouse gas emission savings expected from the
8.13 proposed improvements; and

8.14 (4) indicating the total cost to purchase and install the improvements.

8.15 (c) The commissioner must develop administrative procedures governing the application
8.16 and grant award processes.

8.17 (d) The commissioner may, in consultation with the Building Performance Advisory
8.18 Committee, establish preferences for applicants seeking grants for certain building types or
8.19 energy-reduction measures.

8.20 (e) When awarding grants under this subdivision, the commissioner must give priority
8.21 to applications that propose to:

8.22 (1) reduce energy use in multifamily affordable housing; or

8.23 (2) achieve reductions in energy use greater than or sooner than is required by the
8.24 applicable EUI standard.

8.25 (f) Fifty percent of a grant awarded under this subdivision must be paid to an applicant
8.26 prior to the commencement of work. The balance of a grant awarded under this subdivision
8.27 must be paid when the work supported by the grant is completed.

8.28 (g) The commissioner must modify program requirements under this section when
8.29 necessary to align with comparable federal programs administered by the department under
8.30 the federal Inflation Reduction Act of 2022, Public Law 117-189.

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

9.1 Sec. 2. **APPROPRIATION.**

9.2 \$..... in fiscal year 2026 is appropriated from the general fund to the commissioner of
9.3 commerce to administer and enforce the building energy performance standards program
9.4 under Minnesota Statutes, section 216C.332. Of this amount:

9.5 (1) up to \$..... may be used to award grants to applicants under the building energy
9.6 performance improvement grant program established under Minnesota Statutes, section
9.7 216C.332, subdivision 14; and

9.8 (2) up to \$..... may be used to fund the technical and financial assistance hub established
9.9 under Minnesota Statutes, section 216C.332, subdivision 11.