A bill for an act
relating to energy; amending regulations for municipalities and electric cooperative associations with respect to energy conservation programs; amending Minnesota Statutes 2010, section 216B.241, subdivisions 1b, 1c.

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

Section 1. Minnesota Statutes 2010, section 216B.241, subdivision 1b, is amended to read:

Subd. 1b. **Conservation improvement by cooperative association or municipality.** (a) This subdivision applies to:

(1) a cooperative electric association that provides retail service to its members;

(2) a municipality that provides electric service to retail customers; and

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

(b) Each cooperative electric association and municipality subject to this subdivision shall spend and invest for energy conservation improvements under this subdivision the following amounts:

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

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

(c) Each municipality and cooperative electric association subject to this subdivision:

(1) shall make a good-faith effort to meet an annual energy-savings goal equivalent to 1.5 percent gross annual retail energy sales, although no municipality or cooperative association is required to spend more than the proportion of gross operating revenues cited in paragraph (b) to achieve the energy-savings goal;

(2) may, if it experiences zero or negative growth in gross retail energy sales, be deemed to satisfy the energy-savings goal if it achieves savings equal to 0.75 percent of gross retail energy sales;

(3) shall calculate the energy-savings goal based on weather-normalized average gross retail energy sales during the three most recent calendar years;

(4) may elect to carry forward energy-savings in excess of 1.5 percent to apply to the energy-savings goal in subsequent years;

(5) may use a particular energy savings only for one year's goal;

(6) may apply towards its energy-savings goal energy saved from electric utility infrastructure projects as defined in section 216B.1636, provided that the projects result in increased efficiency greater than that which would have occurred through normal maintenance activity; and

(7) may apply toward its energy-savings goal five kilowatt-hours per dollar spent, including labor and administrative costs, to educate customers about energy conservation and to educate and train utility employees, contractors, and others to perform energy audits, install conservation measures, and conduct other activities directly related to conservation investments.

(d) Each municipality and cooperative electric association subject to this subdivision shall identify and implement energy conservation improvement spending and investments that are appropriate for the municipality or association, except that a municipality or association may not spend or invest for energy conservation improvements that directly benefit a large energy facility or a large electric customer facility for which the commissioner has issued an exemption under subdivision 1a, paragraph (b). A municipality or cooperative electric association whose annual gross retail energy sales increase by ten percent or more over the previous year as the result of the addition of a single new customer or increased demand from a singe existing customer may petition the commissioner to exclude those incremental sales from its energy-savings goal. If the commissioner approves the exclusion, the municipality or cooperative electric association may petition the commissioner annually to extend the exclusion, even if the incremental sales added by the customer no longer increase gross retail energy sales by ten percent or more over the previous year. The commissioner must approve the extension if the commissioner determines that the petition contains sufficient evidence to demonstrate that the customer whose sales are sought to be excluded continues to make reasonable efforts to identify, evaluate, and implement energy conservation improvements at the customer's facility.

(e) A municipality and cooperative electric association subject to this subdivision is not required to make energy conservation investments to attain the energy-savings goal of this subdivision that are not cost-effective even if the investment is necessary to attain the energy-savings goal. For the purpose of this paragraph, in determining cost-effectiveness, the commissioner shall consider the costs and benefits to ratepayers, the cooperative electric association or municipality, participants, and society. In addition, the commissioner shall consider the rate at which a cooperative electric association or municipality is increasing its energy savings and its expenditures on energy conservation.

~~(d)~~ (f) Each municipality and cooperative electric association subject to this subdivision may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this subdivision on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the municipality or cooperative electric association.

~~(e)~~ (g) Load-management activities may be used to meet 50 percent of the conservation investment and spending requirements of this subdivision. The amount of energy a utility shifts from peak daily demand by implementing load-management activities may count for up to 50 percent of the energy-savings goal of a municipality or cooperative electric association.

~~(f)~~ (h) A generation and transmission cooperative electric association that provides energy services to cooperative electric associations that provide electric service at retail to consumers may invest in energy conservation improvements on behalf of the associations it serves and may fulfill the conservation, spending, reporting, and energy-savings goals on an aggregate basis. A municipal power agency or other not-for-profit entity that provides energy service to municipal utilities that provide electric service at retail may invest in energy conservation improvements on behalf of the municipal utilities it serves and may fulfill the conservation, spending, reporting, and energy-savings goals on an aggregate basis, under an agreement between the municipal power agency or not-for-profit entity and each municipal utility for funding the investments.

~~(g)~~ (i) Each municipality or cooperative electric association shall file energy conservation improvement plans or a summary of the plans by June 1 on a schedule determined by order of the commissioner, but at least every three years. Plans or summaries received by June 1 must be ~~approved or approved as modified~~ reviewed by the commissioner and the commissioner's comments must be submitted to the municipality or cooperative electric association by December 1 of the same year. The municipality or cooperative electric association shall provide an evaluation to the commissioner ~~detailing~~ summarizing its energy conservation improvement spending and investments for the previous period. The evaluation must briefly describe each conservation program and must specify the energy savings or increased efficiency in the use of energy within the service territory of the ~~utility~~ municipality or cooperative electric association that is the result of the spending and investments. The evaluation must analyze the cost-effectiveness of the ~~utility's~~ municipality's or cooperative electric association's conservation programs, using a list of baseline energy and capacity savings assumptions developed in consultation with the department. The commissioner shall review each evaluation and make recommendations, where appropriate, to the municipality or cooperative electric association to increase the effectiveness of conservation improvement activities. In making recommendations, the commissioner may consider the municipality's or cooperative electric association's rate of conservation spending and energy savings, historical conservation investment experience, impact on rates of conservation spending and energy savings, customer class profile, load growth trends, conservation potential, customers' ability to pay, as well as local economic conditions, advancing technology, and other relevant factors.

~~(h)~~ (j) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system until July 1, 2007. From July 1, 2007, through June 30, 2011, expenditures made to refurbish a district heating or cooling system are considered to be load-management activities under paragraph ~~(e)~~ (g). This paragraph expires July 1, 2011.

~~(i)~~ (k) The commissioner shall consider and may require a utility, association, or other entity providing energy efficiency and conservation services under this section to undertake a program suggested by an outside source, including a political subdivision, nonprofit corporation, or community organization.

Sec. 2. Minnesota Statutes 2010, section 216B.241, subdivision 1c, is amended to read:

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

(b) Each individual public utility ~~and association~~ shall have an annual energy-savings goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the commissioner under paragraph (d). The savings goals must be calculated based on the most recent three-year weather-normalized average. A public utility ~~or association~~ may elect to carry forward energy savings in excess of 1.5 percent for a year to the succeeding three calendar years, except that savings from electric utility infrastructure projects allowed under paragraph (d) may be carried forward for five years. A particular energy savings can be used only for one year's goal.

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

(d) In its energy conservation improvement plan filing, a public utility ~~or association~~ may request the commissioner to adjust its annual energy-savings percentage goal based on its historical conservation investment experience, customer class makeup, load growth, a conservation potential study, or other factors the commissioner determines warrants an adjustment. The commissioner may not approve a plan that provides for an annual energy-savings goal of less than one percent of gross annual retail energy sales from energy conservation improvements.

A public utility ~~or association~~ may include in its energy conservation plan energy savings from electric utility infrastructure projects approved by the commission under section 216B.1636 or waste heat recovery converted into electricity projects that may count as energy savings in addition to the minimum energy-savings goal of at least one percent for energy conservation improvements. Electric utility infrastructure projects must result in increased energy efficiency greater than that which would have occurred through normal maintenance activity.

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

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

(g) On an annual basis, the commissioner shall produce and make publicly available a report on the annual energy savings and estimated carbon dioxide reductions achieved by the energy conservation improvement programs for the two most recent years for which data is available. The commissioner shall report on program performance both in the aggregate and for each entity filing an energy conservation improvement plan for approval or review by the commissioner.

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

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective the day following final enactment.