

1991, to prepare educational material for distribution to infectious and pathological waste generators and transporters; treatment, storage, and disposal facility operators; households that generate infectious waste; and to the general public.

Sec. 14. EFFECTIVE DATE.

Sections 2, 3, 7, and 8 are effective the day after final enactment. Sections 1, 4, 5, 6 and 9 are effective January 1, 1990. Section 12 is effective January 1, 1990, and applies to crimes committed on or after that date.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:12 p.m.

CHAPTER 338—H.F.No. 1532

An act relating to utilities; low-income energy needs; designating the department of public service as the agency responsible for coordinating energy policy for low-income Minnesotans; requiring the department to gather certain information on low-income energy programs; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

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

Section 1. [216B.095] DISCONNECTION DURING COLD WEATHER.

The commission shall amend its rules governing disconnection of residential utility customers who are unable to pay for utility service during cold weather to include the following:

(1) coverage of customers whose household income is less than 185 percent of the federal poverty level;

(2) a requirement that a customer who pays the utility at least ten percent of the customer's income or the full amount of the utility bill, whichever is less, in a cold weather month cannot be disconnected during that month;

(3) that the ten percent figure in clause (2) must be prorated between energy providers proportionate to each provider's share of the customer's total heating energy costs where the customer receives service from more than one provider;

(4) that a customer's household income does not include any amount received for energy assistance;

(5) verification of income by the local energy assistance provider, unless the

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customer is automatically eligible as a recipient of any form of public assistance, including energy assistance, that uses income eligibility in an amount at or below the income eligibility in clause (1); and

(6) a requirement that the customer receive, from the local energy assistance provider or other entity, budget counseling and referral to weatherization, conservation, or other programs likely to reduce the customer's consumption of energy.

For the purpose of clause (2), the "customer's income" means the actual monthly income of the customer except for a customer who is normally employed only on a seasonal basis and whose annual income is over 135 percent of the federal poverty level, in which case the customer's income is the average monthly income of the customer computed on an annual calendar year basis.

Sec. 2. Minnesota Statutes 1988, section 216B.241, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section, the terms defined in this subdivision shall have the meanings given them:

(a) "Commission" means the public utilities commission, department of public service;

(b) "Department" means the department of public service;

(c) "Energy conservation improvement" means the purchase or installation of any device, method or material that increases the efficiency in the use of electricity or natural gas including, but not limited to:

- (1) insulation and ventilation;
- (2) storm or thermal doors or windows;
- (3) caulking and weatherstripping;
- (4) furnace efficiency modifications;
- (5) thermostat or lighting controls;
- (6) awnings; or

(7) systems to turn off or vary the delivery of energy. The term "energy conservation improvement" includes any device or method which creates, converts or actively uses energy from renewable sources such as solar, wind and biomass providing such device or method conforms with national or state performance and quality standards whenever applicable.

(d) "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:

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(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.

(d) (e) "Public utility" has the same meaning as given that term in section 216B.02, subdivision 4. For the purposes of this section, "public utility" shall not include cooperative electric associations that become subject to rate regulation after April 16, 1980.

Sec. 3. Minnesota Statutes 1988, section 216B.241, subdivision 2, is amended to read:

Subd. 2. **PROGRAMS.** ~~The commission~~ department ~~may order by rule require~~ public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements ~~shall must~~ be offered to the customers. The required programs must cover a two-year period. ~~The commission department~~ shall ~~order require~~ at least one public utility to establish a pilot program to make investments in and expenditures for energy from renewable resources such as solar, wind, or biomass. ~~The commission department~~ shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. ~~The order rules of the commission shall department must~~ provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, or material constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable. ~~The commission department~~ may ~~order require~~ a utility to make an energy conservation improvement investment or expenditure whenever the ~~commission department~~ finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. ~~The commission department~~ shall nevertheless insure that every public utility ~~with operating revenues in excess of \$50,000,000~~ operate one or more programs, under periodic review by the ~~commission department~~, ~~which~~ that make significant investments in and expenditures for energy conservation improvements. The department shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision or a nonprofit or community organization. ~~The commission department~~ shall ~~give special consideration to ensure that at least half the money spent on residential programs is devoted to programs that directly address the needs of renters and low income families and individuals unless an insufficient number of appropriate programs are available.~~ Provisions of the previous sentences shall expire on January 1, 1993. For purposes of this section, "low

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income" means an income less than 185 percent of the federal poverty level. Investments and expenditures made pursuant to an order shall under this subdivision must be treated for ratemaking purposes in the manner prescribed in section 216B.16, subdivision 6b. No utility shall make an energy conservation improvement pursuant to this section to a building envelope unless it is the primary supplier of energy used for either space heating or cooling in the building or unless the department determines that special circumstances, which would unduly restrict the availability of conservation programs, warrant otherwise. A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, or the attorney general acting on behalf of consumers and small business interests, may petition the commission to modify or revoke a department decision to require a program under this subdivision, and the commission may do so if it determines that the program is ineffective, does not adequately address the needs of renters and low-income families and individuals, or is otherwise not in the public interest. The person petitioning for commission review has the burden of proof. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest.

The commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department.

Sec. 4. Minnesota Statutes 1988, section 216C.02, subdivision 1, is amended to read:

Subdivision 1. **POWERS.** (a) The commissioner may:

(1) apply for, receive, and spend money received from federal, municipal, county, regional, and other government agencies and private sources;

(2) apply for, accept, and disburse grants and other aids from public and private sources;

(3) contract for professional services if work or services required or authorized to be carried out by the commissioner cannot be satisfactorily performed by employees of the department or by another state agency;

(4) enter into interstate compacts to carry out research and planning jointly with other states or the federal government when appropriate;

(5) upon reasonable request, distribute informational material at no cost to the public; and

(6) enter into contracts for the performance of the commissioner's duties with federal, state, regional, metropolitan, local, and other agencies or units of government and educational institutions, including the University of Minnesota, without regard to the competitive bidding requirements of chapters 16A and 16B.

(b) The commissioner shall collect information on conservation and other energy-related programs carried on by other agencies, by public utilities, by cooperative electric associations, by municipal power agencies, by other fuel suppliers, by political subdivisions, and by private organizations. Other

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agencies, cooperative electric associations, municipal power agencies, and political subdivisions shall cooperate with the commissioner by providing information requested by the commissioner. The commissioner may by rule require the submission of information by other program operators. The commissioner shall make the information available to other agencies and to the public and, as necessary, shall recommend to the legislature changes in the laws governing conservation and other energy-related programs to ensure that:

- (1) expenditures on the programs are adequate to meet identified needs;
- (2) the needs of low-income energy users are being adequately addressed;
- (3) duplication of effort is avoided or eliminated;
- (4) a program that is ineffective is improved or eliminated; and
- (5) voluntary efforts are encouraged through incentives for their operators.

The commissioner shall appoint an advisory task force to help evaluate the information collected and formulate recommendations to the legislature. The task force must include low-income energy users as defined in section 216B.241, subdivision 2.

(c) By January 15 of each year, the commissioner shall report to the legislature on the projected amount of federal money likely to be available to the state during the next fiscal year, including grant money and money received by the state as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations. The report must also estimate the amount of money projected as needed during the next fiscal year to finance a level of conservation and other energy-related programs adequate to meet projected needs, particularly the needs of low-income persons and households, and must recommend the amount of state appropriations needed to cover the difference between the projected availability of federal money and the projected needs.

Sec. 5. Minnesota Statutes 1988, section 216C.10, is amended to read:

216C.10 POWERS.

The commissioner may:

(a) (1) adopt rules pursuant to under chapter 14 as necessary to carry out the purposes of sections 216C.05 to 216C.30 and, when necessary for the purposes of section 216C.15, adopt emergency rules pursuant to under sections 14.29 to 14.36;

(b) (2) make all contracts pursuant to under sections 216C.05 to 216C.30 and do all things necessary to cooperate with the United States government, and to qualify for, accept, and disburse any grant intended for the administration of sections 216C.05 to 216C.30. Notwithstanding any other law the commissioner is designated the state agent to apply for, receive and accept federal or other funds made available to the state for the purposes of sections 216C.05 to 216C.30;

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~~(e)~~ (3) provide on-site technical assistance to units of local government in order to enhance local capabilities for dealing with energy problems;

~~(d)~~ (4) administer for the state, energy programs ~~pursuant to~~ under federal law, regulations, or guidelines, except for the ~~crisis fuel~~ low-income home energy assistance program and ~~low income~~ low-income weatherization programs administered by the department of jobs and training, and coordinate the programs and activities with other state agencies, units of local government, and educational institutions;

~~(e)~~ design and administer a statewide program for the energy and economic development authority and actively involve major organizations and community leaders in its work and shall solicit funds from all sources;

~~(f)~~ (5) develop a state energy investment plan with yearly energy conservation and alternative energy development goals, investment targets, and marketing strategies;

~~(g)~~ (6) perform market analysis studies relating to conservation, alternative and renewable energy resources, and energy recovery;

~~(h)~~ (7) assist with the preparation of proposals for innovative conservation, renewable, alternative, or energy recovery projects;

~~(i)~~ (8) manage and disburse funds made available for the purpose of research studies or demonstration projects related to energy conservation or other activities deemed appropriate by the commissioner;

~~(j)~~ (9) intervene in certificate of need proceedings before the public utilities commission; ~~and~~

~~(k)~~ (10) collect fees from recipients of loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations, which fees ~~shall~~ must be used to pay the department's costs in administering those financial aids; and

(11) collect fees from proposers and operators of conservation and other energy-related programs that are reviewed, evaluated, or approved by the department, other than proposers that are political subdivisions or community or nonprofit organizations, to cover the department's cost in making the review, evaluation, or approval and in developing additional programs for others to operate.

Notwithstanding any other law, the commissioner is designated the state agent to apply for, receive, and accept federal or other funds made available to the state for the purposes of sections 216C.05 to 216C.30.

Sec. 6. Minnesota Statutes 1988, section 216C.11, is amended to read:

216C.11 ENERGY CONSERVATION INFORMATION CENTER.

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The commissioner shall establish an energy information center in the department's offices in St. Paul. The information center shall maintain a toll-free telephone information service and disseminate printed materials on energy conservation topics, including but not limited to, availability of loans and other public and private financing methods for energy conservation physical improvements, the techniques and materials used to conserve energy in buildings, including retrofitting or upgrading insulation and installing weatherstripping, the projected prices and availability of different sources of energy, and alternative sources of energy.

The energy information center shall serve as the official Minnesota alcohol fuels information center and shall disseminate information, printed, by the toll-free telephone information service, or otherwise on the applicability and technology of alcohol fuels.

The information center shall include information on the potential hazards of energy conservation techniques and improvements in the printed materials disseminated. The commissioner shall not be liable for damages arising from the installation or operation of equipment or materials recommended by the information center.

The information center shall use the information collected under section 216C.02, subdivision 1, to maintain a central source of information on conservation and other energy-related programs, including both programs required by law or rule and programs developed and carried on voluntarily. In particular, the information center shall compile and maintain information on policies covering disconnections or denials of fuel during cold weather adopted by public utilities and other fuel suppliers not governed by Minnesota Rules, parts 7820.1500 to 7820.2300, including the number of households disconnected or denied fuel and the duration of the disconnections or denials.

Sec. 7. Minnesota Statutes 1988, section 268.37, is amended by adding a subdivision to read:

Subd. 2a. BENEFITS OF WEATHERIZATION. In the case of any grant made to an owner of a rental dwelling unit for weatherization, the commissioner shall require that (1) the benefits of weatherization assistance in connection with the dwelling unit accrue primarily to the low income family that resides in the unit; (2) the rents on the dwelling unit will not be raised because of any increase in value due solely to the weatherization assistance; and (3) no undue or excessive enhancement will occur to the value of the dwelling unit.

Sec. 8. **STUDY, CONSERVATION IMPROVEMENT PROGRAMS; GRANTS.**

The department of public service shall study the feasibility of requiring heating fuel suppliers, including fuel oil distributors and retailers and propane dealers, to undertake conservation improvement programs. In addition, the department shall study the feasibility of basing grants to low-income energy users on their total energy costs. The department shall report its findings and recommendations to the legislature by January 15, 1990.

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Sec. 9. CONSERVATION IMPROVEMENT PROGRAMS.

Notwithstanding section 216B.241, subdivision 2, the department of public service may permit utilities governed by that section to carry on programs currently approved by the public utilities commission and the commission may continue to approve programs until the department has adopted rules and approved new programs to cover a two-year program beginning in 1990.

Sec. 10. APPROPRIATION.

\$22,000 is appropriated from the general fund to the commissioner of public service for the purposes of rulemaking.

Sec. 11. OIL OVERCHARGE MONEY; APPROPRIATION.

Subdivision 1. LIMITATION. The money appropriated by this section is money received by the state, or to be made available to the state in the future, as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations that is not otherwise appropriated by law or dedicated by court order.

Subd. 2. ENERGY RELATED PROJECTS. \$3,100,000 of the money specified in subdivision 1 is appropriated for transfer to the housing development fund for home energy loans. Of that amount, \$2,200,000 must be made available as soon as federal approval is received. The balance must be made available from money received later in the fiscal years ending June 30, 1990, and June 30, 1991.

Subd. 3. OTHER PROJECTS. One-half of the remainder of the money specified in subdivision 1 must be appropriated to the commissioner of jobs and training for energy conservation projects that directly serve low-income Minnesotans. Money appropriated under subdivision 2 and under this subdivision is not governed by Minnesota Statutes, section 4.071, and is available until spent.

Sec. 12. EFFECTIVE DATE.

This act is effective July 1, 1989, except that sections 1, 9, and 11 are effective the day following final enactment.

Presented to the governor May 30, 1989

Signed by the governor June 2, 1989, 12:15 p.m.

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