

(4) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch;

(5) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, unless any of these activities disturbs the soil to a depth of 18 inches or more; ~~or~~

(6) landscaping or gardening unless one of the activities disturbs the soil to a depth of 12 inches or more; or

(7) installation of real estate "For Sale" signs, unless the installation disturbs the soil to a depth of 12 inches or more.

Sec. 4. **EFFECTIVE DATE.**

Section 2 is effective the day following final enactment.

Presented to the governor May 24, 1991

Signed by the governor May 28, 1991, 9:42 a.m.

CHAPTER 235—H.F.No. 1246

An act relating to energy; expanding conservation improvement programs; extending protection against disconnection of residential utility customers during cold weather; improving energy efficiency by prohibiting incandescent lighting in certain exit signs; requiring applicants for certificates of need for large utility facilities to justify the use of nonrenewable rather than renewable energy; establishing energy conservation goals for state buildings; requiring a review of the state building code and energy standards; requiring a report to the legislature; providing transitional spending requirements; requiring studies; authorizing conservation improvement financial incentive plans; making conforming amendments; prescribing penalties; appropriating money; amending Minnesota Statutes 1990, sections 16B.32; 16B.61, subdivision 3; 216B.16, subdivision 6b, and by adding a subdivision; 216B.241; 216B.243, subdivision 3, and by adding a subdivision; 216C.02, subdivision 1; 239.78; and 299F.011, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 216B and 216C.

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

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 1

CONSERVATION IMPROVEMENT PROGRAMS

Section 1. Minnesota Statutes 1990, section 216B.16, subdivision 6b, is amended to read:

Subd. 6b. **ENERGY CONSERVATION IMPROVEMENTS.** All investments and expenses of a public utility as defined in section 216B.241, subdivision ~~(1)~~, ~~clause (e)~~ 1, paragraph (d), incurred in connection with energy conservation improvements shall be recognized and included by the commission in the determination of just and reasonable rates as if the investments and expenses were directly made or incurred by the utility in furnishing utility service.

Sec. 2. Minnesota Statutes 1990, section 216B.241, is amended to read:

216B.241 **ENERGY CONSERVATION IMPROVEMENTS.**

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) "Commissioner" means the commissioner of public service.

(c) "Department" means the department of public service.

~~(e)~~ (d) "Energy conservation improvement" means the purchase or installation of any a device, method, or material that reduces consumption of or 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 a device or method ~~which~~ that creates, converts, or actively uses energy from renewable sources such as solar, wind, and biomass, ~~providing such~~ provided that the device or method conforms with national or state performance and quality standards whenever applicable.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) (e) "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.

(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.

Subd. 1a. INVESTMENTS, EXPENDITURES, AND CONTRIBUTIONS; REGULATED UTILITIES. (a) For purposes of this subdivision and subdivision 2, "public utility" has the meaning given it in section 216B.02, subdivision 4. Each public utility shall spend and invest for energy conservation improvements under this subdivision and subdivision 2 the following amounts:

(1) for a utility that furnishes gas service, .5 percent of its gross operating revenues from service provided in the state; and

(2) for a utility that furnishes electric service, 1.5 percent of its gross operating revenues from service provided in the state.

(b) The commissioner may require investments or spending greater than the amounts required under this subdivision for a public utility whose most recent advance forecast required under section 116C.54 projects a peak demand deficit of 100 megawatts or greater within five years under mid-range forecast assumptions. A public utility may appeal a decision of the commissioner under this paragraph to the commission under subdivision 2. In reviewing a decision of the commissioner under this paragraph, the commission shall rescind the decision if it finds that the required investments or spending will:

(1) not result in cost-effective programs; or

(2) otherwise not be in the public interest.

(c) Each utility shall determine what portion of the amount it sets aside for conservation improvement will be used for conservation improvements under subdivision 2 and what portion it will contribute to the energy and conservation account established in subdivision 2a. Contributions must be remitted to the commissioner of public service by February 1 of each year. Nothing in this subdivision prohibits a public utility from spending or investing for energy conservation improvement more than required in this subdivision.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 1b. CONSERVATION IMPROVEMENT; COOPERATIVES; MUNICIPALITIES. (a) This subdivision applies to:

(1) a cooperative electric association that generates and transmits electricity to associations that provide electricity at retail including a cooperative electric association not located in this state that serves associations or others in the state;

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

(3) a municipality with gross operating revenues in excess of \$5,000,000 from sales of 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, .5 percent of its gross operating revenues from the sale of gas and one percent of its gross operating revenues from the sale of electricity not purchased from a public utility governed by subdivision 1a or a cooperative electric association governed by this subdivision; and

(2) for a cooperative electric association, 1.5 percent of its gross operating revenues from service provided in the state.

(c) Each municipality and cooperative association subject to this subdivision shall identify and implement energy conservation improvement spending and investments that are appropriate for the municipality or association. Load management may be used to meet the requirements of this subdivision if it reduces the demand for or increases the efficiency of electric services. A generation and transmission cooperative electric association may include as spending and investment required under this subdivision conservation improvement spending and investment by cooperative electric associations that provide electric service at retail to consumers and that are served by the generation and transmission association. By February 1 of each year, each municipality or cooperative shall report to the commissioner its energy conservation improvement spending and investments with a brief analysis of effectiveness in reducing consumption of electricity or gas. The commissioner shall review each report and make recommendations, where appropriate, to the municipality or association to increase the effectiveness of conservation improvement activities.

(e) As part of its spending for conservation improvement, a municipality or association may contribute to the energy and conservation account. Any amount contributed must be remitted to the commissioner of public service by February 1 of each year.

Subd. 2. PROGRAMS. The department commissioner may by rule require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under

New language is indicated by underline, deletions by ~~strikeout~~.

which the improvements must be offered to the customers. The required programs must cover a two-year period. The ~~department commissioner~~ shall 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 and shall give special consideration and encouragement to programs that bring about significant net savings through the use of energy-efficient lighting. The ~~department commissioner~~ shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The rules of the 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 ~~department commissioner~~ may require a utility to make an energy conservation improvement investment or expenditure whenever the ~~department commissioner~~ 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 ~~department commissioner~~ shall nevertheless ensure that every public utility operate one or more programs; under periodic review by the department; ~~that make significant investments in and expenditures for energy conservation improvements.~~ Load management may be used to meet the requirements for energy conservation improvements under this section if it results in a demonstrable reduction in consumption of energy. The ~~department commissioner~~ 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 department shall 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. For purposes of this section, "low income" means an income less than 185 percent of the federal poverty level. Investments and expenditures made under this subdivision must be treated for ratemaking purposes in the manner prescribed in section 216B.16, subdivision 6b. No utility shall may make an energy conservation improvement pursuant to under this section to a building envelope unless:

(1) it is the primary supplier of energy used for either space heating or cooling in the building ~~or unless~~;

(2) the ~~department commissioner~~ determines that special circumstances, which would unduly restrict the availability of conservation programs, warrant otherwise; or

(3) the utility has been awarded a contract under subdivision 2a.

A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, or the attorney general acting on behalf of con-

New language is indicated by underline, deletions by ~~strikeout~~.

sumers and small business interests, may petition the commission to modify or revoke a department decision ~~to require a program~~ under this ~~subdivision section~~, 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 not cost effective, has a long-range negative effect on one or more classes of customers,~~ 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.

Subd. 2a. ENERGY AND CONSERVATION ACCOUNT. The commissioner shall deposit money contributed under subdivisions 1a and 1b in the energy and conservation account in the general fund. Money in the account is appropriated to the department for programs designed to meet the energy conservation needs of low-income persons and to make energy conservation improvements in areas not adequately served under subdivision 2. Interest on money in the account accrues to the account. Using information collected under section 216C.02, subdivision 1, paragraph (b), the commissioner shall, to the extent possible, allocate enough money to programs for low-income persons to assure that their needs are being adequately addressed. The commissioner shall request the commissioner of finance to transfer money from the account to the commissioner of jobs and training for an energy conservation program for low-income persons. In establishing programs, the commissioner shall consult political subdivisions and nonprofit and community organizations, especially organizations engaged in providing energy and weatherization assistance to low-income persons. At least one program must address the need for energy conservation improvements in areas in which a high percentage of residents use fuel oil or propane to fuel their source of home heating. The commissioner may contract with a political subdivision, a nonprofit or community organization, a public utility, a municipality, or a cooperative electric association to implement its programs.

Subd. 2b. RECOVERY OF EXPENSES; TAXES. The commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department and contributions to the energy and conservation account, unless the recovery would be inconsistent with a financial incentive proposal approved by the commission. In addition, a utility may file annually, or the public utilities commission may require the utility to file, and the commission may approve, rate schedules containing provisions for the automatic adjustment of charges for utility service in direct relation to changes in the expenses of the utility for real and personal property taxes, fees, and permits, the amounts of which the utility cannot control. A public utility is eligible to file for adjustment for real and personal property taxes, fees, and permits under this subdivision only if, in the year previous to the year in which it files for adjustment, it has spent or invested at least 1.75 percent of its gross revenues from provision of electric service and .6 percent of its gross revenues from provision of gas service for that year for energy conservation improvements under section 216B.241.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **OWNERSHIP OF ENERGY CONSERVATION IMPROVEMENTS.** ~~Any~~ An energy conservation improvement made to or installed in ~~any~~ a building ~~pursuant to~~ in accordance with this section, except systems owned by the utility and designed to turn off, limit, or vary the delivery of energy, ~~shall be~~ are the exclusive property of the owner of the building except ~~insofar as it to the extent that the improvement~~ is subjected to a security interest in favor of the utility in case of a loan to the building owner. The utility ~~shall have~~ has no liability for loss, damage or injury caused directly or indirectly by ~~any~~ an energy conservation improvement except for negligence by the utility in purchase, installation, or modification of the product.

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 ~~such~~ 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.

Sec. 3, Minnesota Statutes 1990, 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 agen-

New language is indicated by underline, deletions by ~~strikeout~~.

cies, 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. 4. REPORT; "CIP" PROGRAMS FOR STORED FUELS PROVIDERS.

Not later than February 1, 1992, the commissioner of public service shall report to the energy policy committees of the senate and the house of representatives on proposals to include in conservation improvement programs providers of liquefied petroleum gas (LPG or "propane") and fuel oil for residential heating.

Sec. 5. [216C.195] ENERGY CODE AMENDMENTS; COMMERCIAL BUILDINGS.

Subdivision 1. COMMISSIONER TO ADOPT. Not later than September 1, 1992, the commissioner of public service shall adopt amendments to the energy code portion of the Minnesota building code to implement energy-efficient standards for new commercial buildings.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. ADOPTION OF ASHRAE/IES 90.1 STANDARD. The standards adopted under subdivision 1 must require energy efficiency at least as stringent as:

(1) the "minimum performance" standards for opaque building envelopes; and

(2) the January 1, 1992, standards for heating, ventilating and air conditioning, and water heating as proposed in ASHRAE/IES standard 90.1.

Subd. 3. LIGHTING STANDARDS. The standards adopted under subdivision 1 must be at least as stringent as lighting standards for new federal buildings (for 1993) in Code of Federal Regulations, title 10, section 435.103.

Sec. 6. Minnesota Statutes 1990, section 239.78, is amended to read:

239.78 INSPECTION FEES.

An inspection fee shall be charged on petroleum products when received by the distributor, and on petroleum products received and held for sale or use by any person when the petroleum products have not previously been received by a licensed distributor. The department shall adjust the inspection fee to recover A person who owns petroleum products held in storage at a pipeline terminal, river terminal, or refinery shall pay an inspection fee of 75 cents for every 1,000 gallons sold or withdrawn from the terminal or refinery storage. The revenue from the fee must cover the amount appropriated for petroleum product quality inspection expenses and the amount appropriated for the inspection and testing of petroleum product measuring devices as required by this chapter. The department shall review and adjust the inspection fee as required by section 16A.128, except the review of the fee shall occur annually on or before January 1.

The commissioner of revenue shall credit ~~the distributor~~ a person for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report in a manner approved by the department. The commissioner of revenue ~~is authorized to~~ may collect the inspection fees along with any taxes due under chapter 296.

Sec. 7. TRANSITIONAL SPENDING REQUIREMENTS.

Notwithstanding section 2, subdivisions 1a and 1b, a public utility, municipality, or cooperative electric association governed by one of those subdivisions that spends and invests less than those subdivisions require on conservation improvements shall increase its spending and investment in accordance with this section. The utility, municipality, or association shall:

(1) using its 1991 gross operating revenues, apply the applicable percentage required by subdivision 1a or 1b to determine what level of spending would have been required in 1991 had those subdivisions been in effect;

(2) subtract from the amount computed under clause (1) the actual amount

New language is indicated by underline, deletions by ~~strikeout~~.

spent by the utility, municipality, or association on conservation improvements in 1991; and

(3) in each of four years, beginning in 1992, increase its spending on energy conservation improvements by one-fourth of the remainder computed under clause (2).

After December 31, 1995, the utility, municipality, or association shall annually spend and invest the amount required by, and determined under, section 2, subdivision 1a or 1b, whichever applies.

Sec. 8. APPROPRIATION.

\$40,000 in fiscal year 1992 and \$40,000 in fiscal year 1993 are appropriated from the general fund to the commissioner of public service for administration and analysis of conservation improvement programs. The complement of the department of public service is increased by one position. The cost of this position shall be reimbursed through fees paid by public utilities.

\$1,000,000 is appropriated from the general fund to the energy and conservation account established in section 2, subdivision 2a, to be available until June 30, 1993, for programs administered by the commissioner of public service or other state agency to improve the energy efficiency of residential oil-fired heating plants in low-income households. * (This section was vetoed by the governor.)

ARTICLE 2

COLD WEATHER RULE

Section 1. [216B.097] COLD WEATHER RULE, COOPERATIVE AND MUNICIPAL UTILITIES.

Subdivision 1. APPLICATION; NOTICE TO RESIDENTIAL CUSTOMERS. (a) A municipal utility or a cooperative electric association must not disconnect the utility service of a residential customer if the disconnection affects the primary heat source for the residential unit when the following conditions are met:

(1) the disconnection would occur during the period between October 15 and April 15;

(2) the customer has declared inability to pay on forms provided by the utility;

(3) the household income of the customer is less than 185 percent of the federal poverty level, as documented by the customer to the utility; and

New language is indicated by underline, deletions by ~~strikeout~~.

(4) the customer's account is current for the billing period immediately prior to October 15 or the customer has entered into a payment schedule and is reasonably current with payments under the schedule.

(b) A municipal utility or a cooperative electric association must, between August 15 and October 15 of each year, notify all residential customers of the provisions of this section.

Subd. 2. NOTICE TO RESIDENTIAL CUSTOMER FACING DISCONNECTION. Before disconnecting service to a residential customer during the period between October 15 and April 15, a municipal utility or cooperative electric association must provide the following information to a customer:

(1) a notice of proposed disconnection;

(2) a statement explaining the customer's rights and responsibilities;

(3) a list of local energy assistance providers;

(4) forms on which to declare inability to pay; and

(5) a statement explaining available time payment plans and other opportunities to secure continued utility service.

Subd. 3. RESTRICTIONS IF DISCONNECTION NECESSARY. (a) If a residential customer must be involuntarily disconnected between October 15 and April 15 for failure to comply with the provisions of subdivision 1, the disconnection must not occur on a Friday or on the day before a holiday. Further, the disconnection must not occur until at least 20 days after the notice required in subdivision 2 has been mailed to the customer or 15 days after the notice has been personally delivered to the customer.

(b) If a customer does not respond to a disconnection notice, the customer must not be disconnected until the utility investigates whether the residential unit is actually occupied. If the unit is found to be occupied, the utility must immediately inform the occupant of the provisions of this section. If the unit is unoccupied, the utility must give seven days' written notice of the proposed disconnection to the local energy assistance provider before making a disconnection.

(c) If, prior to disconnection, a customer appeals a notice of involuntary disconnection, as provided by the utility's established appeal procedure, the utility must not disconnect until the appeal is resolved.

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 3

ENERGY-EFFICIENT EXIT LIGHTING

Section 1. Minnesota Statutes 1990, section 16B.61, subdivision 3, is amended to read:

Subd. 3. **SPECIAL REQUIREMENTS.** (a) **SPACE FOR COMMUTER VANS.** The code must require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

(b) **SMOKE DETECTION DEVICES.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **DOORS IN NURSING HOMES AND HOSPITALS.** The state building code may not require that each door entering a sleeping or patient's room from a corridor in a nursing home or hospital with an approved complete standard automatic fire extinguishing system be constructed or maintained as self-closing or automatically closing.

(d) **CHILD CARE FACILITIES IN CHURCHES.** A licensed day care center serving fewer than 30 preschool age persons and which is located in a below ground space in a church building is exempt from the state building code requirement for a ground level exit when the center has more than two stairways to the ground level and its exit.

(e) **FAMILY AND GROUP FAMILY DAY CARE.** The commissioner of administration shall establish a task force to determine occupancy standards specific and appropriate to family and group family day care homes and to examine hindrances to establishing day care facilities in rural Minnesota. The task force must include representatives from rural and urban building code inspectors, rural and urban fire code inspectors, rural and urban county day care licensing units, rural and urban family and group family day care providers and consumers, child care advocacy groups, and the departments of administration, human services, and public safety.

By January 1, 1989, the commissioner of administration shall report the task force findings and recommendations to the appropriate legislative committees together with proposals for legislative action on the recommendations.

Until the legislature enacts legislation specifying appropriate standards, the definition of Group R-3 occupancies in the state building code applies to family and group family day care homes licensed by the department of human services under Minnesota Rules, chapter 9502.

New language is indicated by underline, deletions by ~~strikeout~~.

(f) **MINED UNDERGROUND SPACE.** Nothing in the state building codes shall prevent cities from adopting rules governing the excavation, construction, reconstruction, alteration, and repair of mined underground space pursuant to sections 469.135 to 469.141, or of associated facilities in the space once the space has been created, provided the intent of the building code to establish reasonable safeguards for health, safety, welfare, comfort, and security is maintained.

(g) **ENCLOSED STAIRWAYS.** No provision of the code or any appendix chapter of the code may require stairways of existing multiple dwelling buildings of two stories or less to be enclosed.

(h) **DOUBLE CYLINDER DEAD BOLT LOCKS.** No provision of the code or appendix chapter of the code may prohibit double cylinder dead bolt locks in existing single-family homes, townhouses, and first floor duplexes used exclusively as a residential dwelling. Any recommendation or promotion of double cylinder dead bolt locks must include a warning about their potential fire danger and procedures to minimize the danger.

(i) **RELOCATED RESIDENTIAL BUILDINGS.** A residential building relocated within or into a political subdivision of the state need not comply with the state energy code or section 326.371 provided that, where available, an energy audit is conducted on the relocated building.

(j) **AUTOMATIC GARAGE DOOR OPENING SYSTEMS.** The code must require all residential buildings as defined in section 325F.82 to comply with the provisions of sections 325F.82 and 325F.83.

(k) **EXIT SIGN ILLUMINATION.** The code must prohibit the use of incandescent bulbs, except for battery-powered back-up bulbs, in internally illuminated exit signs.

Sec. 2. Minnesota Statutes 1990, section 299F.011, is amended by adding a subdivision to read:

Subd. 4d. EXIT SIGN ILLUMINATION. The uniform fire code must prohibit the use of incandescent bulbs, except for battery-powered back-up bulbs, in internally illuminated exit signs.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective January 1, 1994, and apply to all internally illuminated exit signs in use on or after that date.

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 4

CERTIFICATE OF NEED PROCESS

Section 1. Minnesota Statutes 1990, section 216B.243, is amended by adding a subdivision to read:

Subd. 3a. USE OF RENEWABLE RESOURCES. The commission may not issue a certificate of need under this section for a large energy facility that generates electric power by means of a nonrenewable energy source, or that transmits electric power generated by means of a nonrenewable energy source, unless the applicant for the certificate has demonstrated to the commission's satisfaction that it has explored the possibility of generating power by means of renewable energy sources and has demonstrated that the alternative selected is less expensive (including environmental costs) than power generated by a renewable energy source. For purposes of this subdivision, "renewable energy source" includes hydro, wind, solar, and geothermal energy and the use of trees or other vegetation as fuel.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective for applications for certificates of need filed with the public utilities commission after July 31, 1991.

ARTICLE 5

ENERGY CONSERVATION: BUILDINGS

Section 1. Minnesota Statutes 1990, section 16B.32, is amended to read:

16B.32 ~~ALTERNATIVE ENERGY SOURCES USE.~~

Subdivision 1. ALTERNATIVE ENERGY SOURCES. Plans prepared by the commissioner for a new building or for a renovation of 50 percent or more of an existing building or its energy systems must include designs which use active and passive solar energy systems, earth sheltered construction, and other alternative energy sources where feasible.

Subd. 2. ENERGY CONSERVATION GOALS; EFFICIENCY PROGRAM. (a) The commissioner of administration in consultation with the department of public service, in cooperation with one or more public utilities or comprehensive energy services providers, may conduct a shared-savings program involving energy conservation expenditures of up to \$15,000,000 by July 1, 1996, on state-owned buildings. The public utility or energy services provider shall contract with appropriate state agencies to implement energy efficiency improvements in the selected buildings. A contract must require the public utility or energy services provider to include all energy efficiency improvements in

New language is indicated by underline, deletions by ~~strikeout~~.

selected buildings that are calculated to achieve a cost payback within ten years. The contract must require that the public utility or energy services provider be repaid solely from energy cost savings and only to the extent of energy cost savings. Repayments must be interest-free. The goal of the program in this paragraph is to demonstrate that through effective energy conservation the total energy consumption per square foot of state-owned and wholly state-leased buildings could be reduced by at least 25 percent, and climate control energy consumption per square foot could be reduced by at least 15 percent from consumption in the base year of 1990.

(b) The commissioner may exclude from the program of paragraph (a) a building in which energy conservation measures are carried out. "Energy conservation measures" means measures that are applied to a state building that improve energy efficiency and have a simple return of investment in five years or within the remaining period of a lease, whichever time is shorter, and involves energy conservation, conservation facilities, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit activities.

(c) By January 1, 1993, the commissioner shall submit to the legislature a report that includes:

(1) an energy use survey of new or added space state buildings occupy;

(2) a plan for conserving energy without undertaking any physical alterations of the space;

(3) recommendations for physical alterations that would enable the agency to conserve additional energy along with an estimate of the cost of the alterations; and

(4) recommendations for additional legislation needed to achieve the goal along with an estimate of any costs associated with the recommended legislation.

Sec. 2. BUILDING CODE REVIEW.

The commissioner of public service, in cooperation with the commissioner of administration, shall review the state building code and the energy conservation standards for public buildings in view of the state's projected long-range energy needs, the effect of conservation programs on those needs, and advances in technology with respect to weatherization and energy efficiency. The commissioner shall report to the energy and public utilities committee of the senate and the energy committee of the house of representatives by January 15, 1992, on the results of the review. The report must include:

(1) any recommendations for changes in the building code and the energy conservation standards to achieve greater conservation of energy;

(2) the direct effect of implementing the changes on the cost of construction and remodeling; and

New language is indicated by underline, deletions by ~~strikeout~~.

(3) an estimate of energy savings that would result in the changes, including an estimate of net costs when savings are deducted from any increased construction and remodeling costs.

Sec. 3. **REPEALER.**

Section 1, subdivision 2, is repealed effective July 1, 1995.

Sec. 4. **EFFECTIVE DATE.**

Section 1 is effective May 1, 1991.

ARTICLE 6

FINANCIAL INCENTIVES

Section 1. Minnesota Statutes 1990, section 216B.16, is amended by adding a subdivision to read:

Subd. 6c. INCENTIVE PLANS FOR ENERGY CONSERVATION IMPROVEMENTS. (a) The commission may order public utilities to develop and submit for commission approval incentive plans that describe the method of recovery and accounting for utility conservation expenditures and savings. In developing the incentive plans the commission shall ensure the effective involvement of interested parties.

In approving incentive plans, the commission shall consider:

(1) whether the plan is likely to increase utility investment in cost-effective energy conservation;

(2) whether the plan is compatible with the interest of utility ratepayers and other interested parties;

(3) whether the plan links the incentive to the utility's performance in achieving cost-effective conservation; and

(4) whether the plan is in conflict with other provisions of this chapter.

(b) The commission may set rates to encourage the vigorous and effective implementation of utility conservation programs. The commission may:

(1) increase or decrease any otherwise allowed rate of return on net investment based upon the utility's skill, efforts, and success in conserving energy;

(2) share between ratepayers and utilities the net savings resulting from energy conservation programs to the extent justified by the utility's skill, efforts, and success in conserving energy; and

(3) compensate the utility for earnings lost as a result of its conservation programs.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1990, section 216B.243, subdivision 3, is amended to read:

Subd. 3. No proposed large energy facility shall be certified for construction unless the applicant can show that demand for electricity cannot be met more cost effectively through energy conservation and load-management measures and unless the applicant has otherwise justified its need. In assessing need, the commission shall evaluate:

(1) The accuracy of the long-range energy demand forecasts on which the necessity for the facility is based;

(2) The effect of existing or possible energy conservation programs under sections 216C.05 to 216C.30 and this section or other federal or state legislation on long-term energy demand;

(3) The relationship of the proposed facility to overall state energy needs, as described in the most recent state energy policy and conservation report prepared ~~pursuant to~~ under section 216C.18;

(4) Promotional activities ~~which~~ that may have given rise to the demand for this facility;

(5) Socially beneficial uses of the output of this facility, including its uses to protect or enhance environmental quality;

(6) The effects of the facility in inducing future development;

(7) Possible alternatives for satisfying the energy demand including but not limited to potential for increased efficiency of existing energy generation facilities;

(8) The policies, rules, and regulations of other state and federal agencies and local governments; and

(9) Any feasible combination of energy conservation improvements, required by the commission ~~pursuant to~~ under section 216B.241, that can ~~(a)~~ (i) replace part or all of the energy to be provided by the proposed facility, and ~~(b)~~ (ii) compete with it economically.

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 7

STUDIES

Section 1. STUDY; PHOTOVOLTAIC DEVICES.

The commissioner of public service shall conduct a study of the potential market within the state for photovoltaic devices. The study shall focus on applications where photovoltaics, with and without energy storage, cost less than conventional means of supplying energy and power for those applications. The commissioner shall submit the report to the appropriate committees of the legislature by January 15, 1992. * (This section was vetoed by the governor.)

Sec. 2. STUDY; CARBON EMISSIONS TAX.

The commissioner of public service shall conduct a study to evaluate the need for, and the impact of, a carbon emissions tax ranging from \$1 to \$75 per ton of carbon emissions. The study shall consider the effect of the tax on the sources and use of energy in the state and on the economy of the state. The commissioner shall submit the report to the appropriate committees of the legislature by January 15, 1992. * (This section was vetoed by the governor.)

Sec. 3. LANDFILL GAS RECOVERY.

The public utilities commission shall examine the economic and technical aspects of the process by which a qualified facility could use methane gas from qualified landfills to produce electricity for sale to electric utilities under Minnesota Statutes, section 216B.164. If the commission determines that use of that technology should be encouraged, but that changes in relevant statutes are necessary to accomplish that end, it shall recommend appropriate statutory changes to the legislature by January 15, 1992.

Sec. 4. APPROPRIATION.

\$55,000 is appropriated from the general fund to the commissioner of public service to cover costs associated with the studies required by sections 1 and 2. * (This section was vetoed by the governor.)

Presented to the governor May 24, 1991

Signed by the governor May 28, 1991, 8:55 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.