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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2922

03/19/2012 Authored by Vogel, Torkelson, Shimanski, Hancock, Hackbarth and others

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance

1.1 A bill for an act  
1.2 relating to energy; utilities; modifying requirements pertaining to energy  
1.3 conservation; amending Minnesota Statutes 2010, section 216B.241, by adding  
1.4 subdivisions; repealing Minnesota Statutes 2010, section 216B.241, subdivisions  
1.5 1b, 1d, 1e, 1f, 1g, 2a, 2b, 2c, 3, 4, 5, 5a, 5b, 5c, 7, 8, 9; Minnesota Statutes 2011  
1.6 Supplement, section 216B.241, subdivisions 1, 1a, 1c, 2.

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

1.8 Section 1. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
1.9 subdivision to read:

1.10 Subd. 10. **Definitions.** For purposes of this section and section 216B.16, subdivision  
1.11 6b, the terms defined in this subdivision have the meanings given them.

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

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

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

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

1.18 (e) "Energy conservation improvement" means a project that results in energy  
1.19 efficiency or energy conservation. Energy conservation improvement may include waste  
1.20 heat recovery converted into electricity but does not include electric utility infrastructure  
1.21 projects approved by the commission under section 216B.1636.

1.22 (f) "Energy efficiency" means measures or programs, including energy conservation  
1.23 measures or programs, that target consumer behavior, equipment, processes, or devices  
1.24 designed to produce either an absolute decrease in consumption of electric energy or  
1.25 natural gas or a decrease in consumption of electric energy or natural gas on a per unit

2.1 of production basis without a reduction in the quality or level of service provided to  
2.2 the energy consumer.

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

2.8 (1) gas sales to:

2.9 (i) a large energy facility;

2.10 (ii) a large customer facility whose natural gas utility has been exempted by the  
2.11 commissioner under subdivision 11, with respect to natural gas sales made to the large  
2.12 customer facility; and

2.13 (iii) a commercial gas customer facility whose natural gas utility has been exempted  
2.14 by the commissioner under subdivision 11, with respect to natural gas sales made to  
2.15 the commercial gas customer facility; and

2.16 (2) electric sales to a large customer facility whose electric utility has been exempted  
2.17 by the commissioner under subdivision 11, with respect to electric sales made to the  
2.18 large customer facility.

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

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

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

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

3.1 (j) "Large energy facility" has the meaning given in section 216B.2421, subdivision  
 3.2 2, clause (1).

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

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

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

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

3.14 Sec. 2. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
 3.15 subdivision to read:

3.16 Subd. 11. **Investment, expenditure, and contribution; public utility.** (a) For  
 3.17 purposes of this subdivision and subdivision 15, "public utility" has the meaning given it  
 3.18 in section 216B.02, subdivision 4. Each public utility shall spend and invest for energy  
 3.19 conservation improvements under this subdivision and subdivision 15 the following  
 3.20 amounts:

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

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

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

3.28 For purposes of this paragraph, "gross operating revenues" do not include revenues  
 3.29 from large customer facilities exempted under paragraph (b), or from commercial gas  
 3.30 customers that are exempted under paragraph (c) or (e).

3.31 (b) The owner of a large customer facility may petition the commissioner to exempt  
 3.32 both electric and gas utilities serving the large customer facility from the investment and  
 3.33 expenditure requirements of paragraph (a) with respect to retail revenues attributable to  
 3.34 the large customer facility. The filing must include a discussion of the competitive or  
 3.35 economic pressures facing the owner of the facility and the efforts taken by the owner

4.1 to identify, evaluate, and implement energy conservation and efficiency improvements.  
4.2 A filing submitted on or before October 1 of any year must be approved within 90 days  
4.3 and become effective January 1 of the year following the filing, unless the commissioner  
4.4 finds that the owner of the large customer facility has failed to take reasonable measures  
4.5 to identify, evaluate, and implement energy conservation and efficiency improvements.  
4.6 If a facility qualifies as a large customer facility solely due to its peak electrical demand  
4.7 or annual natural gas usage, the exemption may be limited to the qualifying utility if  
4.8 the commissioner finds that the owner of the large customer facility has failed to take  
4.9 reasonable measures to identify, evaluate, and implement energy conservation and  
4.10 efficiency improvements with respect to the nonqualifying utility. Once an exemption is  
4.11 approved, the commissioner may request the owner of a large customer facility to submit,  
4.12 not more often than once every five years, a report demonstrating the large customer  
4.13 facility's ongoing commitment to energy conservation and efficiency improvement after  
4.14 the exemption filing. The commissioner may request such reports for up to ten years after  
4.15 the effective date of the exemption, unless the majority ownership of the large customer  
4.16 facility changes, in which case the commissioner may request additional reports for up to  
4.17 ten years after the change in ownership occurs. The commissioner may, within 180 days  
4.18 of receiving a report submitted under this paragraph, rescind any exemption granted under  
4.19 this paragraph upon a determination that the large customer facility is not continuing  
4.20 to make reasonable efforts to identify, evaluate, and implement energy conservation  
4.21 improvements. A large customer facility that is, under an order from the commissioner,  
4.22 exempt from the investment and expenditure requirements of paragraph (a) as of  
4.23 December 31, 2010, is not required to submit a report to retain its exempt status, except as  
4.24 otherwise provided in this paragraph with respect to ownership changes. No exempt large  
4.25 customer facility may participate in a utility conservation improvement program unless the  
4.26 owner of the facility submits a filing with the commissioner to withdraw its exemption.

4.27 (c) A commercial gas customer that is not a large customer facility and that  
4.28 purchases or acquires natural gas from a public utility having fewer than 600,000 natural  
4.29 gas customers in Minnesota may petition the commissioner to exempt gas utilities serving  
4.30 the commercial gas customer from the investment and expenditure requirements of  
4.31 paragraph (a) with respect to retail revenues attributable to the commercial gas customer.  
4.32 The petition must be supported by evidence demonstrating that the commercial gas  
4.33 customer has acquired or can reasonably acquire the capability to bypass use of the utility's  
4.34 gas distribution system by obtaining natural gas directly from a supplier not regulated by  
4.35 the commission. The commissioner shall grant the exemption if the commissioner finds  
4.36 that the petitioner has made the demonstration required by this paragraph.

5.1 (d) The commissioner may require investments or spending greater than the amounts  
5.2 required under this subdivision for a public utility whose most recent advance forecast  
5.3 required under section 216B.2422 or 216C.17 projects a peak demand deficit of 100  
5.4 megawatts or greater within five years under midrange forecast assumptions.

5.5 (e) A public utility or owner of a large customer facility may appeal a decision of  
5.6 the commissioner under paragraph (b), (c), or (d) to the commission under subdivision  
5.7 15. In reviewing a decision of the commissioner under paragraph (b), (c), or (d), the  
5.8 commission shall rescind the decision if it finds that the required investments or spending  
5.9 will: (1) not result in cost-effective energy conservation improvements; or (2) otherwise  
5.10 not be in the public interest.

5.11 Sec. 3. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
5.12 subdivision to read:

5.13 Subd. 12. **Conservation improvement by cooperative association or**  
5.14 **municipality.** (a) This subdivision applies to:

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

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

5.17 (3) a municipality with gross operating revenues in excess of \$5,000,000 from sales  
5.18 of natural gas to retail customers.

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

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

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

5.30 (c) Each municipality and cooperative electric association subject to this subdivision  
5.31 shall identify and implement energy conservation improvement spending and investments  
5.32 that are appropriate for the municipality or association, except that a municipality or  
5.33 association may not spend or invest for energy conservation improvements that directly  
5.34 benefit a large electric customer facility for which the commissioner has issued an  
5.35 exemption under subdivision 11, paragraph (b).

6.1 (d) Each municipality and cooperative electric association subject to this subdivision  
6.2 may spend and invest annually up to ten percent of the total amount required to be spent  
6.3 and invested on energy conservation improvements under this subdivision on research  
6.4 and development projects that meet the definition of energy conservation improvement in  
6.5 subdivision 10 and that are funded directly by the municipality or cooperative electric  
6.6 association.

6.7 (e) Load-management activities that do not reduce energy use but that increase the  
6.8 efficiency of the electric system may be used to meet 50 percent of the conservation  
6.9 investment and spending requirements of this subdivision.

6.10 (f) A generation and transmission cooperative electric association that provides  
6.11 energy services to cooperative electric associations that provide electric service at retail to  
6.12 consumers may invest in energy conservation improvements on behalf of the associations  
6.13 it serves and may fulfill the spending and reporting requirements of this section on an  
6.14 aggregate basis. A municipal power agency or other not-for-profit entity that provides  
6.15 energy service to municipal utilities that provide electric service at retail may invest in  
6.16 energy conservation improvements on behalf of the municipal utilities it serves and may  
6.17 fulfill the spending and reporting requirements of this section on an aggregate basis,  
6.18 under an agreement between the municipal power agency or not-for-profit entity and each  
6.19 municipal utility for funding the investments.

6.20 (g) At least every four years, on a schedule determined by the commissioner, each  
6.21 municipality or cooperative shall file an overview of its conservation improvement plan  
6.22 with the commissioner. With this overview, the municipality or cooperative shall also  
6.23 provide an evaluation to the commissioner detailing its energy conservation improvement  
6.24 spending and investments for the previous period. The evaluation must briefly describe  
6.25 each conservation program and must specify the energy savings or increased efficiency in  
6.26 the use of energy within the service territory of the utility or association that is the result of  
6.27 the spending and investments. The evaluation must analyze the cost-effectiveness of the  
6.28 utility's or association's conservation programs, using a list of baseline energy and capacity  
6.29 savings assumptions developed in consultation with the department. The commissioner  
6.30 shall review each evaluation and make recommendations, where appropriate, to the  
6.31 municipality or association to increase the effectiveness of conservation improvement  
6.32 activities. Up to three percent of a utility's conservation spending obligation under this  
6.33 section may be used for program pre-evaluation, testing, and monitoring and program  
6.34 evaluation. The overview and evaluation filed by a municipality with less than 60,000,000  
6.35 kilowatt-hours in annual retail sales of electric service may consist of a letter from the  
6.36 governing board of the municipal utility to the department providing the amount of annual

7.1 conservation spending required of that municipality and certifying that the required  
 7.2 amount has been spent on conservation programs under this subdivision.

7.3 (h) The commissioner shall also review each evaluation for whether a portion of the  
 7.4 money spent on residential conservation improvement programs is devoted to programs  
 7.5 that directly address the needs of renters and low-income persons unless an insufficient  
 7.6 number of appropriate programs are available. For the purposes of this subdivision and  
 7.7 subdivision 24, low-income means an income at or below 50 percent of the state median  
 7.8 income.

7.9 (i) As part of its spending for conservation improvement, a municipality or  
 7.10 association may contribute to the energy and conservation account. A municipality or  
 7.11 association may propose to the commissioner to designate that all or a portion of funds  
 7.12 contributed to the account be used for research and development projects that can best  
 7.13 be implemented on a statewide basis. Any amount contributed must be remitted to the  
 7.14 commissioner by February 1 of each year.

7.15 Sec. 4. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
 7.16 subdivision to read:

7.17 Subd. 13. **Report.** On an annual basis, the commissioner shall produce and  
 7.18 make publicly available a report on the annual energy savings achieved by the energy  
 7.19 conservation improvement programs for the two most recent years for which data is  
 7.20 available. The commissioner shall report on program performance both in the aggregate  
 7.21 and for each entity filing an energy conservation improvement plan for approval or review  
 7.22 by the commissioner.

7.23 Sec. 5. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
 7.24 subdivision to read:

7.25 Subd. 14. **Manner of filing and service.** (a) A public utility, generation and  
 7.26 transmission cooperative electric association, municipal power agency, cooperative  
 7.27 electric association, and municipal utility shall submit filings to the department via the  
 7.28 department's electronic filing system. The commissioner may approve an exemption  
 7.29 from this requirement in the event an affected utility or association is unable to submit  
 7.30 filings via the department's electronic filing system. All other interested parties shall  
 7.31 submit filings to the department via the department's electronic filing system whenever  
 7.32 practicable but may also file by personal delivery or by mail.

7.33 (b) Submission of a document to the department's electronic filing system constitutes  
 7.34 service on the department. Where department rule requires service of a notice, order, or

8.1 other document by the department, utility, association, or interested party upon persons on  
8.2 a service list maintained by the department, service may be made by personal delivery,  
8.3 mail, or electronic service, except that electronic service may only be made upon persons  
8.4 on the service list who have previously agreed in writing to accept electronic service at an  
8.5 electronic address provided to the department for electronic service purposes.

8.6 Sec. 6. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
8.7 subdivision to read:

8.8 Subd. 15. **Programs.** (a) The commissioner may require public utilities to make  
8.9 investments and expenditures in energy conservation improvements, explicitly setting  
8.10 forth the interest rates, prices, and terms under which the improvements must be offered to  
8.11 the customers. The required programs must cover no more than a four-year period. Public  
8.12 utilities shall file conservation improvement plans by June 1, on a schedule determined  
8.13 by order of the commissioner, but at least every four years. Plans received by a public  
8.14 utility by June 1 must be approved or approved as modified by the commissioner by  
8.15 December 1 of that same year. The commissioner shall give special consideration and  
8.16 encouragement to programs that bring about significant net savings through the use of  
8.17 energy-efficient lighting. The commissioner shall evaluate the program on the basis of  
8.18 cost-effectiveness and the reliability of technologies employed. The commissioner's order  
8.19 must provide to the extent practicable for a free choice, by consumers participating in the  
8.20 program, of the device, method, material, or project constituting the energy conservation  
8.21 improvement and for a free choice of the seller, installer, or contractor of the energy  
8.22 conservation improvement, provided that the device, method, material, or project seller,  
8.23 installer, or contractor is duly licensed, certified, approved, or qualified, including under  
8.24 the residential conservation services program, where applicable.

8.25 (b) Each public utility subject to subdivision 11 may spend and invest annually up to  
8.26 ten percent of the total amount required to be spent and invested on energy conservation  
8.27 improvements under this section by the utility on research and development projects  
8.28 that meet the definition of energy conservation improvement in subdivision 10 and that  
8.29 are funded directly by the public utility.

8.30 (c) A public utility may not spend for or invest in energy conservation improvements  
8.31 that directly benefit a large electric customer facility for which the commissioner has  
8.32 issued an exemption pursuant to subdivision 11, paragraph (b). The commissioner shall  
8.33 consider and may require a utility to undertake a program suggested by an outside source,  
8.34 including a political subdivision or a nonprofit or community organization.

9.1 (d) The commissioner may, by order, establish a list of programs that may be offered  
9.2 as energy conservation improvements by a public utility, municipal utility, cooperative  
9.3 electric association, or other entity providing conservation services under this section. The  
9.4 list of programs may include rebates for high-efficiency appliances, rebates or subsidies for  
9.5 high-efficiency lamps, small business energy audits, and building recommissioning. The  
9.6 commissioner may, by order, change this list to add or subtract programs the commissioner  
9.7 determines necessary to promote efficient and effective conservation programs.

9.8 (e) A utility, political subdivision, or nonprofit or community organization that  
9.9 has suggested a program, the attorney general acting on behalf of consumers and  
9.10 small business interests, or a utility customer that has suggested a program and is not  
9.11 represented by the attorney general under section 8.33 may petition the commission to  
9.12 modify or revoke a department decision under this section, and the commission may do  
9.13 so if it determines that the program is not cost-effective, does not adequately address the  
9.14 residential conservation improvement needs of low-income persons, has a long-range  
9.15 negative effect on one or more classes of customers, or is otherwise not in the public  
9.16 interest. The commission shall reject a petition that, on its face, fails to make a reasonable  
9.17 argument that a program is not in the public interest.

9.18 (f) The commissioner may order a public utility to include, with the filing of the  
9.19 utility's proposed conservation improvement plan under paragraph (a), the results of an  
9.20 independent audit of the utility's conservation improvement programs and expenditures  
9.21 performed by the department or an auditor with experience in the provision of energy  
9.22 conservation and energy efficiency services approved by the commissioner and chosen by  
9.23 the utility. The audit must specify the energy savings or increased efficiency in the use  
9.24 of energy within the service territory of the utility that is the result of the spending and  
9.25 investments. The audit must evaluate the cost-effectiveness of the utility's conservation  
9.26 programs.

9.27 (g) Up to three percent of a utility's conservation spending obligation under this  
9.28 section may be used for program pre-evaluation, testing, and monitoring and program  
9.29 audit and evaluation.

9.30 Sec. 7. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
9.31 subdivision to read:

9.32 Subd. 16. **Energy and conservation account.** The energy and conservation account  
9.33 is established in the special revenue fund in the state treasury. The commissioner must  
9.34 deposit money contributed under subdivisions 11 and 12 in the energy and conservation  
9.35 account in the special revenue fund. Money in the account is appropriated to the

10.1 department for programs designed to meet the energy conservation needs of low-income  
10.2 persons and to make energy conservation improvements in areas not adequately served  
10.3 under subdivision 15, including research and development projects included in the  
10.4 definition of energy conservation improvement in subdivision 10. Interest on money  
10.5 in the account accrues to the account. Using information collected under section  
10.6 216C.02, subdivision 1, paragraph (b), the commissioner must, to the extent possible,  
10.7 allocate enough money to programs for low-income persons to ensure that their needs  
10.8 are being adequately addressed. The commissioner must request the commissioner  
10.9 of finance to transfer money from the account to the commissioner of education for  
10.10 an energy conservation program for low-income persons. In establishing programs,  
10.11 the commissioner must consult political subdivisions and nonprofit and community  
10.12 organizations, especially organizations engaged in providing energy and weatherization  
10.13 assistance to low-income persons. At least one program must address the need for energy  
10.14 conservation improvements in areas in which a high percentage of residents use fuel  
10.15 oil or propane to fuel their source of home heating. The commissioner may contract  
10.16 with a political subdivision, a nonprofit or community organization, a public utility,  
10.17 a municipality, or a cooperative electric association to implement its programs. The  
10.18 commissioner may provide grants to any person to conduct research and development  
10.19 projects in accordance with this section.

10.20 Sec. 8. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
10.21 subdivision to read:

10.22 Subd. 17. **Recovery of expenses.** The commission shall allow a utility to recover  
10.23 expenses resulting from a conservation improvement program required by the department  
10.24 and contributions to the energy and conservation account, unless the recovery would  
10.25 be inconsistent with a financial incentive proposal approved by the commission. The  
10.26 commission shall allow a cooperative electric association subject to rate regulation under  
10.27 section 216B.026, to recover expenses resulting from energy conservation improvement  
10.28 programs, load-management programs, and assessments and contributions to the energy  
10.29 and conservation account unless the recovery would be inconsistent with a financial  
10.30 incentive proposal approved by the commission. In addition, a utility may file annually, or  
10.31 the Public Utilities Commission may require the utility to file, and the commission may  
10.32 approve, rate schedules containing provisions for the automatic adjustment of charges  
10.33 for utility service in direct relation to changes in the expenses of the utility for real  
10.34 and personal property taxes, fees, and permits, the amounts of which the utility cannot  
10.35 control. A public utility is eligible to file for adjustment for real and personal property

11.1 taxes, fees, and permits under this subdivision only if, in the year previous to the year in  
 11.2 which it files for adjustment, it has spent or invested at least 1.75 percent of its gross  
 11.3 revenues from provision of electric service, excluding gross operating revenues from  
 11.4 electric service provided in the state to large electric customer facilities for which the  
 11.5 commissioner has issued an exemption under subdivision 11, paragraph (b), and 0.6  
 11.6 percent of its gross revenues from provision of gas service, excluding gross operating  
 11.7 revenues from gas services provided in the state to large electric customer facilities for  
 11.8 which the commissioner has issued an exemption under subdivision 11, paragraph (b), for  
 11.9 that year for energy conservation improvements under this section.

11.10 Sec. 9. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
 11.11 subdivision to read:

11.12 Subd. 18. **Ownership of energy conservation improvement.** An energy  
 11.13 conservation improvement made to or installed in a building in accordance with this  
 11.14 section, except systems owned by the utility and designed to turn off, limit, or vary the  
 11.15 delivery of energy, are the exclusive property of the owner of the building except to the  
 11.16 extent that the improvement is subjected to a security interest in favor of the utility in  
 11.17 case of a loan to the building owner. The utility has no liability for loss, damage, or  
 11.18 injury caused directly or indirectly by an energy conservation improvement except for  
 11.19 negligence by the utility in purchase, installation, or modification of the product.

11.20 Sec. 10. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
 11.21 subdivision to read:

11.22 Subd. 19. **Federal law prohibitions.** If investments by public utilities in energy  
 11.23 conservation improvements are in any manner prohibited or restricted by federal law  
 11.24 and there is a provision under which the prohibition or restriction may be waived, then  
 11.25 the commission, the governor, or any other necessary state agency or officer shall take  
 11.26 all necessary and appropriate steps to secure a waiver with respect to those public utility  
 11.27 investments in energy conservation improvements included in this section.

11.28 Sec. 11. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
 11.29 subdivision to read:

11.30 Subd. 20. **Efficient lighting program.** (a) Each public utility, cooperative electric  
 11.31 association, and municipal utility that provides electric service to retail customers shall  
 11.32 include as part of its conservation improvement activities a program to strongly encourage  
 11.33 the use of fluorescent and high-intensity discharge lamps. The program must include at

12.1 least a public information campaign to encourage use of the lamps and proper management  
12.2 of spent lamps by all customer classifications.

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

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

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

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

12.27 (f) If a public utility, cooperative electric association, or municipal utility contracts  
12.28 with a local government unit to provide a collection system under this subdivision,  
12.29 the contract must provide for payment to the local government unit of all the unit's  
12.30 incremental costs of collecting and managing spent lamps.

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

12.34 Sec. 12. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
12.35 subdivision to read:

13.1 Subd. 21. **Qualifying solar energy project.** A utility or association may include  
 13.2 in its conservation plan programs for the installation of qualifying solar energy projects  
 13.3 as defined by section 216B.2411 to the extent of the spending allowed for generation  
 13.4 projects by section 216B.2411.

13.5 Sec. 13. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
 13.6 subdivision to read:

13.7 Subd. 22. **Biomethane purchases.** (a) A natural gas utility may include in its  
 13.8 conservation plan purchases of biomethane, and may use up to five percent of the total  
 13.9 amount to be spent on energy conservation improvements under this section for that  
 13.10 purpose. The cost-effectiveness of biomethane purchases may be determined by a  
 13.11 different standard than for other energy conservation improvements under this section if  
 13.12 the commissioner determines that doing so is in the public interest in order to encourage  
 13.13 biomethane purchases.

13.14 (b) For the purposes of this subdivision, "biomethane" means biogas produced  
 13.15 through anaerobic digestion of biomass, gasification of biomass, or other effective  
 13.16 conversion processes, that is cleaned and purified into biomethane that meets natural gas  
 13.17 utility quality specifications for use in a natural gas utility distribution system.

13.18 Sec. 14. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
 13.19 subdivision to read:

13.20 Subd. 23. **Large solar electric generating plant.** (a) For the purpose of this  
 13.21 subdivision:

13.22 (1) "project" means a solar electric generation project consisting of arrays of solar  
 13.23 photovoltaic cells with a capacity of up to two megawatts located on the site of a closed  
 13.24 landfill in Olmsted County owned by the Minnesota Pollution Control Agency; and

13.25 (2) "cooperative electric association" means a generation and transmission  
 13.26 cooperative electric association that has a member distribution cooperative association to  
 13.27 which it provides wholesale electric service in whose service territory a project is located.

13.28 (b) A cooperative electric association may elect to count all of its purchases of  
 13.29 electric energy from a project toward its energy objective or standard under section  
 13.30 216B.1691.

13.31 (c) A cooperative electric association may include in its conservation plan purchases  
 13.32 of electric energy from a project.

14.1 Sec. 15. Minnesota Statutes 2010, section 216B.241, is amended by adding a  
14.2 subdivision to read:

14.3 Subd. 24. **Low-income programs.** (a) The commissioner shall ensure that each  
14.4 utility and association provides low-income programs. When approving spending  
14.5 goals for low-income programs, the commissioner shall consider historic spending and  
14.6 participation levels and the number of low-income persons residing in the utility's service  
14.7 territory. A utility that furnishes gas service must spend at least 0.2 percent of its gross  
14.8 operating revenue from residential customers in the state on low-income programs. A  
14.9 utility or association that furnishes electric service must spend at least 0.2 percent of its  
14.10 gross operating revenue from residential customers in the state on low-income programs.  
14.11 For a generation and transmission cooperative association, this requirement shall apply to  
14.12 each association's members' aggregate gross operating revenue from sale of electricity to  
14.13 residential customers in the state.

14.14 (b) To meet the requirements of paragraph (a), a utility or association may contribute  
14.15 money to the energy and conservation account. An energy conservation improvement plan  
14.16 must state the amount, if any, of low-income energy conservation improvement funds the  
14.17 utility or association will contribute to the energy and conservation account. Contributions  
14.18 must be remitted to the commissioner by February 1 of each year.

14.19 (c) The commissioner shall establish low-income programs to utilize money  
14.20 contributed to the energy and conservation account under paragraph (b). In establishing  
14.21 low-income programs, the commissioner shall consult political subdivisions, utilities, and  
14.22 nonprofit and community organizations, especially organizations engaged in providing  
14.23 energy and weatherization assistance to low-income persons. Money contributed to  
14.24 the energy and conservation account under paragraph (b) must provide programs for  
14.25 low-income persons, including low-income renters, in the service territory of the  
14.26 utility or association providing the money. The commissioner shall record and report  
14.27 expenditures and energy savings achieved as a result of low-income programs funded  
14.28 through the energy and conservation account in the report required under subdivision 13.  
14.29 The commissioner may contract with a political subdivision, nonprofit or community  
14.30 organization, public utility, municipality, or cooperative electric association to implement  
14.31 low-income programs funded through the energy and conservation account.

14.32 (d) A utility or association may petition the commissioner to modify its required  
14.33 spending under paragraph (a) if the utility or association and the commissioner have been  
14.34 unable to expend the amount required under paragraph (a) for three consecutive years.

14.35 Sec. 16. **REPEALER.**

- 15.1            (a) Minnesota Statutes 2010, section 216B.241, subdivisions 1b, 1d, 1e, 1f, 1g, 2a,  
15.2 2b, 2c, 3, 4, 5, 5a, 5b, 5c, 7, 8, and 9, are repealed.
- 15.3            (b) Minnesota Statutes 2011 Supplement, section 216B.241, subdivisions 1, 1a,  
15.4 1c, and 2, are repealed.