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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 436

January 29, 2007

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The bill was read for the first time and referred to the Committee on Finance

1.1 A bill for an act
 1.2 relating to energy; enacting the Next Generation Energy Act of 2007; establishing
 1.3 state energy policy goals for fossil fuel-use reduction and renewable energy use;
 1.4 providing for electric utility renewable energy obligations of 25 percent by 2025;
 1.5 establishing provisions to promote community energy development; providing
 1.6 for transition to an energy savings requirement for electric and natural gas
 1.7 utilities; enacting provisions to address climate change; providing for delegation
 1.8 to counties for permitting wind projects under 25 megawatts; amending
 1.9 Minnesota Statutes 2006, sections 123B.65, subdivision 2; 216B.16, subdivisions
 1.10 6b, 6c; 216B.1612, subdivision 2, by adding a subdivision; 216B.1691,
 1.11 subdivisions 1, 2, 3, by adding subdivisions; 216B.2426; 216B.243, subdivisions
 1.12 2, 3, 3a, 5; 216C.05; 216C.31; 471.345, subdivision 13; 504B.161, subdivision 1;
 1.13 proposing coding for new law in Minnesota Statutes, chapters 216B; 216C; 216F;
 1.14 repealing Minnesota Statutes 2006, sections 216B.165; 216B.241; 216B.2411;
 1.15 216C.27; 216C.30, subdivision 5; Minnesota Rules, parts 4635.0110; 4635.0130;
 1.16 7365.0210; 7635.0100; 7635.0120; 7635.0140; 7635.0150; 7635.0160;
 1.17 7635.0170; 7635.0180; 7635.0200; 7635.0210; 7635.0220; 7635.0230;
 1.18 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310; 7635.0320;
 1.19 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420; 7635.0500;
 1.20 7635.0510; 7635.0520; 7635.0530; 7635.0600; 7635.0610; 7635.0620;
 1.21 7635.0630; 7635.0640; 7635.1000; 7635.1010; 7635.1020; 7635.1030;
 1.22 7655.0100; 7655.0120; 7655.0200; 7655.0220; 7655.0230; 7655.0240;
 1.23 7655.0250; 7655.0260; 7655.0270; 7655.0280; 7655.0290; 7655.0300;
 1.24 7655.0310; 7655.0320; 7655.0330; 7655.0400; 7655.0410; 7655.0420.

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

1.26 **ARTICLE 1**
1.27 **GENERAL PROVISIONS**

1.28 Section 1. **TITLE.**

1.29 This act may be cited as the Next Generation Energy Act of 2007.

2.1 Sec. 2. Minnesota Statutes 2006, section 216C.05, is amended to read:

2.2 **216C.05 FINDINGS AND PURPOSE.**

2.3 Subdivision 1. **Energy planning.** The legislature finds and declares that continued
2.4 growth in demand for energy will cause severe social and economic dislocations, and that
2.5 the state has a vital interest in providing for: increased efficiency in energy consumption,
2.6 the development and use of renewable energy resources wherever possible, and the
2.7 creation of an effective energy forecasting, planning, and education program.

2.8 The legislature further finds and declares that the protection of life, safety, and
2.9 financial security for citizens during an energy crisis is of paramount importance.

2.10 Therefore, the legislature finds that it is in the public interest to review, analyze, and
2.11 encourage those energy programs that will minimize the need for annual increases in
2.12 fossil fuel consumption by 1990 and the need for additional electrical generating plants,
2.13 and provide for an optimum combination of energy sources consistent with environmental
2.14 protection and the protection of citizens.

2.15 The legislature intends to monitor, through energy policy planning and
2.16 implementation, the transition from historic growth in energy demand to a period when
2.17 demand for traditional fuels becomes stable and the supply of renewable energy resources
2.18 is readily available and adequately utilized.

2.19 Subd. 2. **Energy policy goals.** It is the energy policy of the state of Minnesota that:

2.20 (1) the per capita use of fossil fuel as an energy input be reduced by 15 percent by
2.21 the year 2015, through increased reliance on energy efficiency and renewable energy
2.22 alternatives; and

2.23 (2) 25 percent of the total energy used in the state be derived from renewable energy
2.24 resources by the year 2025.

2.25 **ARTICLE 2**

2.26 **RENEWABLE ENERGY**

2.27 Section 1. Minnesota Statutes 2006, section 216B.1691, subdivision 1, is amended to
2.28 read:

2.29 Subdivision 1. **Definitions.** (a) Unless otherwise specified in law, "eligible energy
2.30 technology" means an energy technology that:

2.31 (1) generates electricity from the following renewable energy sources: solar; wind;
2.32 hydroelectric with a capacity of less than ~~60~~ 100 megawatts; hydrogen, provided that
2.33 after January 1, 2010, the hydrogen must be generated from the resources listed in this
2.34 clause; or biomass, which includes an energy recovery facility used to capture the heat

3.1 value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid
3.2 waste as a primary fuel; and

3.3 (2) was not mandated by Laws 1994, chapter 641, or by commission order issued
3.4 pursuant to that chapter prior to August 1, 2001.

3.5 (b) "Electric utility" means a public utility providing electric service, a generation
3.6 and transmission cooperative electric association, or a municipal power agency.

3.7 (c) "Total retail electric sales" means the kilowatt-hours of electricity sold in a year
3.8 by an electric utility to retail customers of the electric utility or to a distribution utility for
3.9 distribution to the retail customers of the distribution utility.

3.10 Sec. 2. Minnesota Statutes 2006, section 216B.1691, subdivision 2, is amended to read:

3.11 Subd. 2. **Eligible Next generation renewable energy objectives.** (a) Each electric
3.12 utility shall make a good faith effort to generate or procure sufficient electricity generated
3.13 by an eligible energy technology to provide its retail consumers, or the retail customers of a
3.14 distribution utility to which the electric utility provides wholesale electric service, so that:

3.15 (1) ~~commencing in 2005~~ by 2010, at least ~~one ten~~ percent of the electric utility's total
3.16 retail electric sales is generated by eligible energy technologies; and

3.17 (2) the amount provided under clause (1) is increased by one percent of the utility's
3.18 total retail electric sales each year until 2025, with interim goals of 15 percent by 2015;
3.19 and 20 percent by 2020.

3.20 ~~(3) ten~~ These objectives apply to each individual electric utility and apply statewide,
3.21 so that by the end of 2025 and beyond, at least 25 percent of the electric energy provided
3.22 to retail customers in Minnesota is generated by eligible energy technologies.

3.23 (b) ~~Of the eligible energy technology generation required under paragraph (a);~~
3.24 ~~clauses (1) and (2), not less than 0.5 percent of the energy must be generated by biomass~~
3.25 ~~energy technologies, including an energy recovery facility used to capture the heat value~~
3.26 ~~of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste~~
3.27 ~~as a primary fuel, by 2005. By 2010, one percent of the eligible technology generation~~
3.28 ~~required under paragraph (a), clauses (1) and (2), shall be generated by biomass energy~~
3.29 ~~technologies. Notwithstanding subdivision 1, paragraph (a), clause (1):~~

3.30 (1) the commission may authorize an energy technology that generates electricity
3.31 from a hydroelectric resource with a capacity of 60 megawatts or greater as an eligible
3.32 energy technology for an individual electric utility if the commission finds that
3.33 authorization to be necessary to minimize an excessive rate impact on the utility's
3.34 customers under this section; and

4.1 (2) an energy recovery facility used to capture the heat value of mixed municipal
 4.2 solid waste or refuse-derived fuel from mixed municipal solid waste, with a power sales
 4.3 agreement in effect as of May 29, 2003, that terminates after December 31, 2010, does not
 4.4 qualify as an eligible energy technology unless the agreement provides for rate adjustment
 4.5 in the event the facility qualifies as a renewable energy source.

4.6 (c) ~~By June 1, 2004, and~~ As needed ~~thereafter~~, the commission shall issue an order
 4.7 detailing the criteria and standards by which it will measure an electric utility's efforts
 4.8 to meet the renewable energy objectives of this section to determine whether the utility
 4.9 is making the required good faith effort, taking into consideration the provisions of
 4.10 subdivision 7. In this order, the commission shall include criteria and standards that
 4.11 protect against undesirable impacts on the reliability of the utility's system and economic
 4.12 impacts on the utility's ratepayers and that consider technical feasibility.

4.13 ~~(d) In its order under paragraph (c), the commission shall provide for a weighted~~
 4.14 ~~scale of how energy produced by various eligible energy technologies shall count toward a~~
 4.15 ~~utility's objective. In establishing this scale, the commission shall consider the attributes~~
 4.16 ~~of various technologies and fuels, and shall establish a system that grants multiple credits~~
 4.17 ~~toward the objectives for those technologies and fuels the commission determines is in~~
 4.18 ~~the public interest to encourage.~~

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

4.20 Sec. 3. Minnesota Statutes 2006, section 216B.1691, subdivision 3, is amended to read:

4.21 **Subd. 3. Utility plans filed with commission.** (a) Each electric utility shall report
 4.22 on its plans, activities, and progress with regard to these objectives in its filings under
 4.23 section 216B.2422 or in a separate report submitted to the commission every two years,
 4.24 whichever is more frequent, demonstrating to the commission that the utility is making the
 4.25 required good faith effort. In its resource plan or a separate report, each electric utility
 4.26 shall provide a description of:

- 4.27 (1) the status of the utility's renewable energy mix relative to the good faith objective;
 4.28 (2) efforts taken to meet the objective;
 4.29 (3) any obstacles encountered or anticipated in meeting the objective; and
 4.30 (4) potential solutions to the obstacles.

4.31 (b) The commission shall review the compliance filings of each electric utility under
 4.32 paragraph (a), and make a determination as to whether the utility is in compliance with
 4.33 the requirements of this section. A utility that the commission has determined to have
 4.34 made the required good faith effort for the reporting period but that did not achieve the
 4.35 objective specified for that reporting period shall file a plan with the commission to make

5.1 up the balance of the objective for that reporting period. A utility that the commission has
5.2 determined has not made the required good faith effort for the reporting period is subject
5.3 to the penalty established under subdivision 8.

5.4 (c) The commissioner shall compile the information provided to the commission
5.5 under ~~paragraph~~ paragraphs (a) and (b), and report to the chairs of the house of
5.6 representatives and senate committees with jurisdiction over energy and environment
5.7 policy issues as to the progress of utilities in the state in increasing the amount of
5.8 renewable energy provided to retail customers, with any recommendations for regulatory
5.9 or legislative action, by January 15 of each odd-numbered year.

5.10 Sec. 4. Minnesota Statutes 2006, section 216B.1691, is amended by adding a
5.11 subdivision to read:

5.12 Subd. 7. **Good faith effort.** For the purposes of this section, "good faith effort"
5.13 means that an electric utility subject to this section has taken all reasonable steps to meet
5.14 the renewable energy objective established in subdivision 2, while minimizing adverse
5.15 reliability and cost impacts to its Minnesota consumers. Evidence of that good faith
5.16 effort may include, but is not limited to:

5.17 (1) demonstrated commitment to a comprehensive and specific plan to meet the
5.18 renewable energy objective, detailing the steps to be taken to reach the renewable energy
5.19 objective, with an accompanying timetable. Each electric utility is responsible for
5.20 conducting sufficient advance planning to comply with this section;

5.21 (2) demonstrated financial commitments to build or to purchase energy or credits to
5.22 meet the renewable energy objective, including project financing, purchase and ordering
5.23 of equipment, and expenditures to hire construction firms if needed;

5.24 (3) demonstrated commitments to construction of physical infrastructure to meet the
5.25 renewable energy objective, including ordering equipment, hiring construction firms, and
5.26 contracting for construction sites;

5.27 (4) demonstrated legal and contractual commitments to purchase or build the
5.28 facilities to meet the renewable energy objective including, but not limited to, contracts for
5.29 sites on which to build; contracts for labor and equipment; arrangements for insurance and
5.30 liability; or, in the case of contracts for purchases to meet the renewable energy objective,
5.31 a negotiated power purchase agreement;

5.32 (5) demonstrated commitment to meet regulatory requirements in a timely fashion,
5.33 including all permitting and other regulatory obligations;

5.34 (6) demonstrated commitment to acquiring or building transmission access for
5.35 generation facilities to meet the renewable energy objective, including the initiation or

6.1 participation in transmission studies, construction of needed transmission infrastructure,
 6.2 or otherwise providing for interconnection and transmission service for those facilities;
 6.3 (7) demonstrated commitment to openness and transparency, including full public
 6.4 access to all nonproprietary information related to meeting the renewable energy
 6.5 objective; and

6.6 (8) demonstrated analysis of the technical feasibility and potential for negative
 6.7 impacts on reliability and rates for each project proposed to meet the utility's objective.

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

6.9 Sec. 5. Minnesota Statutes 2006, section 216B.1691, is amended by adding a
 6.10 subdivision to read:

6.11 **Subd. 8. Penalty for noncompliance.** If the commission finds that an electric utility
 6.12 has failed to make a good faith effort for the previous reporting period under subdivision
 6.13 3, the commission shall impose an administrative penalty of \$50 per megawatt-hour
 6.14 for the amount of eligible renewable energy generation the utility is in deficit. The
 6.15 commission may not impose a penalty on the electric utility if it finds that the utility's
 6.16 failure to meet the renewable energy objectives is due to circumstances outside of the
 6.17 utility's reasonable control, such as weather-related damage, mechanical failure, strikes,
 6.18 lockouts, and actions of a governmental authority that adversely affect the generation,
 6.19 transmission, or distribution of renewable energy from an eligible resource. Penalty
 6.20 payments under this subdivision must be deposited to the next generation energy fund
 6.21 established under section 216C.054.

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

6.23 Sec. 6. Minnesota Statutes 2006, section 216B.1691, is amended by adding a
 6.24 subdivision to read:

6.25 **Subd. 9. Compliance payment option.** In lieu of adding eligible energy resources
 6.26 or purchasing renewable credits to meet an electric utility's objectives under this section,
 6.27 a utility may petition the commission to make a compliance payment equal to the value
 6.28 of eligible energy resources necessary to meet that planning period's objective. The
 6.29 commission may approve the petition if it finds that a compliance payment would be in
 6.30 the best interest of the utility and its ratepayers. The commission may, by order, establish
 6.31 the amount of the payment based on the market price for renewable energy credits for the
 6.32 Midwest region. Payments under this subdivision must be deposited to the next generation
 6.33 energy fund established under section 216C.054.

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

7.2 Sec. 7. Minnesota Statutes 2006, section 216B.1691, is amended by adding a
7.3 subdivision to read:

7.4 **Subd. 10. Community energy projects.** (a) Each electric utility subject to this
7.5 section shall make a good faith effort to manage the power purchase agreements it enters
7.6 into after July 1, 2007, to satisfy the renewable energy objective in such a way that at
7.7 least 25 percent of the amounts paid out under those power purchase agreements, in
7.8 the aggregate, are distributed to Minnesota community investors, defined as qualifying
7.9 owners under section 216B.1612, subdivision 2, paragraph (c).

7.10 (b) The commission shall allow an electric utility to count one kilowatt-hour of
7.11 electricity generated by a community energy project and purchased directly by the utility
7.12 as 1.2 kilowatt-hours of electricity towards the utility's obligation under this section.

7.13 (c) For the purposes of this subdivision, community energy project has the meaning
7.14 given to it under section 216B.2426, subdivision 1, paragraph (b).

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

7.16 Sec. 8. **[216C.054] NEXT GENERATION ENERGY FUND.**

7.17 **Subdivision 1. Fund established.** A next generation energy fund is established
7.18 as an account in the state treasury. Earnings, such as interest, dividends, and any other
7.19 earnings arising from fund assets, must be credited to the fund.

7.20 **Subd. 2. Appropriation and expenditures.** Money in the fund is appropriated to
7.21 the commissioner of commerce, and may only be used:

7.22 (1) for amounts deposited to the fund under section 216B.1691, to encourage the
7.23 development of new renewable energy projects in the state; and

7.24 (2) for amounts deposited to the fund under section 216B.2412, subdivision 12, for
7.25 the purposes specified in that subdivision.

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

7.27 Sec. 9. **TRANSMISSION PLANNING AND DEVELOPMENT.**

7.28 **Subdivision 1. Transmission necessary to serve the next generation renewable**
7.29 **energy objective.** Transmission-owning utilities subject to Minnesota Statutes, section
7.30 216B.2425, shall analyze and identify specific transmission solutions for serving the
7.31 renewable energy resources necessary to comply with the expanded and accelerated
7.32 renewable energy objective under this article, with particular focus on the transmission

8.1 infrastructure needed by the year 2010. The utilities shall take into account the analysis
 8.2 being conducted under Minnesota Statutes, section 216B.2426, subdivision 3, and shall
 8.3 issue the analysis required under this subdivision in the November 1, 2007, filing under
 8.4 Minnesota Statutes, section 216B.2425.

8.5 Subd. 2. **Extra-high-voltage transmission for the Midwest.** In order to assist
 8.6 attaining the national goal of having 20 percent of the electricity used nationally come
 8.7 from wind energy resources, the transmission-owning utilities subject to Minnesota
 8.8 Statutes, section 216B.2425, shall participate in a transmission analysis to identify
 8.9 extra-high-voltage transmission solutions to transmit energy from 20,000 megawatts of
 8.10 new wind energy facilities located in the Midwest, and shall report their findings to the
 8.11 Public Utilities Commission by January 15, 2008.

8.12 **ARTICLE 3**

8.13 **COMMUNITY ENERGY**

8.14 Section 1. Minnesota Statutes 2006, section 216B.1612, subdivision 2, is amended to
 8.15 read:

8.16 Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given
 8.17 them in this subdivision.

8.18 (b) "C-BED tariff" or "tariff" means a community-based energy development tariff.

8.19 (c) "Qualifying owner" means:

8.20 (1) a Minnesota resident;

8.21 (2) a limited liability company that is organized under the laws of this state and that
 8.22 is made up of members who are Minnesota residents;

8.23 (3) a Minnesota nonprofit organization organized under chapter 317A;

8.24 (4) a Minnesota cooperative association organized under chapter 308A or 308B,
 8.25 other than a rural electric cooperative association or a generation and transmission
 8.26 cooperative;

8.27 (5) a Minnesota political subdivision or local government other than a municipal
 8.28 electric utility or municipal power agency, including, but not limited to, a county, statutory
 8.29 or home rule charter city, town, school district, or public or private higher education
 8.30 institution or any other local or regional governmental organization such as a board,
 8.31 commission, or association; or

8.32 (6) a tribal council.

8.33 (d) "Net present value rate" means a rate equal to the net present value of the
 8.34 nominal payments to a project divided by the total expected energy production of the
 8.35 project over the life of its power purchase agreement.

9.1 (e) "Standard reliability criteria" means:

9.2 (1) can be safely integrated into and operated within the utility's grid without causing
9.3 any adverse or unsafe consequences; and

9.4 (2) is consistent with the utility's resource needs as identified in its most recent
9.5 resource plan submitted under section 216B.2422.

9.6 (f) "Community-based energy project" or "C-BED project" means a ~~new~~
9.7 community-based wind energy project that became operational after July 1, 2005.

9.8 ~~(1) has No single qualifying owner owning of a C-BED project with more than~~
9.9 ~~two turbines may own more than 15 percent of a that C-BED project that consists of~~
9.10 ~~more than two turbines; or,~~

9.11 ~~(2) for C-BED projects of one or two turbines, is owned entirely by one or more~~
9.12 ~~qualifying owners, with at least 51 percent of the total financial benefits over the life of the~~
9.13 ~~project flowing to qualifying owners; and~~

9.14 ~~(3)~~ (g) "Community-based" means a project:

9.15 (1) in which at least 35 percent of the amount paid to the project under a utility
9.16 power purchase agreement over the term of the agreement goes to the qualified owners
9.17 directly or to the surrounding community in the form of management fees, service
9.18 contracts, taxes paid by the project to local units of government, easement lease payments,
9.19 and other revenues paid directly to qualified owners; and

9.20 (2) that has a resolution of support adopted by the county board of each county in
9.21 which the project is to be located, or in the case of a project located within the boundaries
9.22 of a reservation, the tribal council for that reservation.

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

9.24 Sec. 2. Minnesota Statutes 2006, section 216B.1612, is amended by adding a
9.25 subdivision to read:

9.26 **Subd. 8. Certification.** For the purposes of this section, section 216B.1691,
9.27 subdivision 10, and section 216B.2426, a project developer of a proposed project may
9.28 apply to the commissioner of commerce for an initial certification that the project meets
9.29 the criteria for a community energy project. The commissioner shall issue a decision
9.30 within 30 business days from the date all information necessary to make the determination
9.31 is received by the department. An initial certification by the commissioner is appealable
9.32 to the commission if the appeal is made within 14 business days. If no appeal is made
9.33 within that period, the initial certification becomes final.

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

10.1 Sec. 3. Minnesota Statutes 2006, section 216B.2426, is amended to read:

10.2 **216B.2426 COMMUNITY ENERGY PROJECTS; OPPORTUNITIES FOR**
 10.3 **DISTRIBUTED GENERATION, INTERCONNECTION.**

10.4 Subdivision 1. **Definitions.** (a) The definitions in this subdivision and in section
 10.5 216B.1612 apply to this section.

10.6 (b) "Community energy project" means a community-based energy project; or
 10.7 a community-based distributed generation facility of no more than ten megawatts of
 10.8 interconnected capacity that is an eligible energy technology other than wind.

10.9 (c) "Utility" or "utilities" includes entities defined in section 216B.1691, subdivision
 10.10 1, paragraph (b), subject to state renewable energy objectives.

10.11 Subd. 2. **Consideration in proceedings.** The commission shall ensure that
 10.12 opportunities for the installation of ~~distributed generation, as that term is defined in section~~
 10.13 ~~216B.169, subdivision 1, paragraph (c);~~ community energy projects are considered in
 10.14 any proceeding under section 216B.2422, 216B.2425, or 216B.243, and may, by order,
 10.15 establish standards and procedures to comply with this subdivision.

10.16 Subd. 3. **Statewide study of potential for community energy; assessment.** (a)
 10.17 Each electric utility subject to section 216B.1691 shall participate in a statewide study
 10.18 that identifies the potential for community energy projects that can be developed within
 10.19 each Minnesota electric transmission planning zone to serve retail electric customers
 10.20 within the state. This study must:

10.21 (1) identify the general location of each substation that has transformer secondary
 10.22 voltage of 34.5 kV or higher;

10.23 (2) identify the potential amount of capacity that could reasonably be developed at
 10.24 each substation identified in clause (1), considering wind resources, land use constraints,
 10.25 and other site-specific characteristics;

10.26 (3) identify enhancements to existing transformer and infrastructure needed to
 10.27 interconnect the projects of the capacity identified in clause (2) so as to optimize efficient
 10.28 use of existing infrastructure to meet the needs of community energy projects;

10.29 (4) identify community energy enhancement zones in geographic areas where the
 10.30 cumulative potential for community energy development is sufficiently great to justify the
 10.31 construction of transformer and transmission infrastructure enhancements in anticipation
 10.32 of future community energy projects;

10.33 (5) identify the transformer and infrastructure needs of community energy projects
 10.34 under subdivision 4;

11.1 (6) be conducted at a level of detail sufficient for project proposal development
 11.2 through certificate of need under section 216B.243, or the transmission planning priority
 11.3 process under section 216B.2425.

11.4 (b) The utilities shall consult with a stakeholder group for each transmission
 11.5 planning zone to provide input into the scope and nature of the analysis and review
 11.6 results. The commission shall convene the stakeholder group for each planning zone and
 11.7 shall select and engage an independent engineering firm to provide technical support to
 11.8 the stakeholder groups.

11.9 (c) The utilities shall complete the initial study under this subdivision by November
 11.10 1, 2007, and the commission shall issue the results by January 1, 2008. Any enhancements
 11.11 identified must be submitted for certification in the biennial transmission plan filing, or
 11.12 submitted for approval under 216B.243 within six months of completion of the study.

11.13 (d) Thereafter, the utilities, utilizing input from the stakeholder groups, shall provide
 11.14 updates of this statewide study in the state's transmission planning processes under
 11.15 216B.2425. The report must include a system map showing the location and thermal
 11.16 megawatt loading rating of each of its facilities over 34.5 kV operating voltage, and also
 11.17 include a report on community energy projects and related transmission infrastructure
 11.18 constructed in the proceeding periods.

11.19 (e) Each utility subject to section 216B.1691 shall participate fully and in a timely
 11.20 manner in conducting the analysis, study, and report required in this subdivision, and the
 11.21 commission shall assess these utilities for the commission's costs incurred under this
 11.22 section. Amounts assessed under this paragraph are appropriated to the commission, and
 11.23 its biennial appropriation is increased by a like amount.

11.24 **Subd. 4 Interconnection of priority community energy projects.** (a) The
 11.25 commission shall initiate a proceeding and by an order issued by January 15, 2008, to
 11.26 establish a process to identify priority community energy projects of 25 megawatts of
 11.27 capacity or less, and establish standards to assure their prompt and orderly interconnection.
 11.28 This process must:

11.29 (1) identify as priority projects those community energy projects with completed
 11.30 power purchase agreements and demonstrations of financial feasibility;

11.31 (2) establish (i) a standard interconnection agreement that sets forth the contractual
 11.32 conditions under which a company and a customer agree that one or more facilities may
 11.33 be interconnected with the company's utility system, and (ii) a standard application form
 11.34 and process for interconnection and parallel operation with the utility system;

11.35 (3) set reasonable terms and conditions to ensure the reliable, safe, and efficient
 11.36 operation of interconnected equipment;

12.1 (4) assign interconnection costs of community energy projects to the distribution
 12.2 system owner to the maximum extent permitted by federal law, such costs not to exceed
 12.3 five percent of the total project costs;

12.4 (5) include provisions for expedited construction of interconnection facilities by
 12.5 utilities, and provision for damage payments to interconnecting projects if schedules
 12.6 are delayed; and

12.7 (6) provide for the expedited, low-cost, orderly, safe, and standardized
 12.8 interconnection of community energy project facilities including establishing a statewide
 12.9 two-tiered queue process that includes:

12.10 (i) a priority queue for projects with completed power purchase agreements and
 12.11 demonstrated financial feasibility; and

12.12 (ii) a preliminary queue that includes a feasibility analysis of each proposed project
 12.13 and allows projects in the preliminary queue with newly completed power purchase
 12.14 agreements to move to the bottom of the priority queue.

12.15 (b) Each utility shall identify transmission system enhancements required by
 12.16 priority community energy projects identified under this subdivision and submit those
 12.17 enhancements for permitting approval under section 216B.2425. These enhancements
 12.18 must be considered certified as priority projects under that section, or under section
 12.19 216B.243.

12.20 Subd. 5. **Costs recoverable.** Expenditures by utilities required to comply with this
 12.21 section, including any costs allocated under subdivision 4, paragraph (a), clause (5),
 12.22 are recoverable pursuant to 216B.1645.

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

12.24 **ARTICLE 4**

12.25 **DEMAND EFFICIENCY**

12.26 Section 1. Minnesota Statutes 2006, section 216B.16, subdivision 6b, is amended to
 12.27 read:

12.28 Subd. 6b. **Energy efficiency and conservation improvement.** (a) Except as
 12.29 otherwise provided in this subdivision, all investments and expenses of a public utility
 12.30 as defined in section ~~216B.241~~ 216B.2412, subdivision 1, paragraph (e), incurred in
 12.31 connection with energy efficiency and conservation improvements shall be recognized
 12.32 and included by the commission in the determination of just and reasonable rates as if
 12.33 the investments and expenses were directly made or incurred by the utility in furnishing
 12.34 utility service.

13.1 (b) ~~After December 31, 1999,~~ Investments and expenses for energy efficiency and
 13.2 conservation improvements shall not be included by the commission in the determination
 13.3 of just and reasonable electric and gas rates for retail electric and gas service provided
 13.4 to large electric customer facilities that have been exempted by the commissioner of the
 13.5 department pursuant to section ~~216B.241, subdivision 1a, paragraph (b)~~ 216B.2412,
 13.6 subdivision 2, paragraph (b). ~~However, no public utility shall be prevented from recovering~~
 13.7 ~~its investment in energy conservation improvements from all customers that were made on~~
 13.8 ~~or before December 31, 1999, in compliance with the requirements of section 216B.241.~~

13.9 (c) The commission may permit a public utility to file rate schedules providing
 13.10 for annual recovery of the costs of energy efficiency and conservation improvements.
 13.11 These rate schedules may be applicable to less than all the customers in a class of retail
 13.12 customers if necessary to reflect the differing ~~minimum spending~~ requirements of section
 13.13 ~~216B.241, subdivision 1a~~ 216B.2412, subdivision 3. ~~After December 31, 1999,~~ The
 13.14 commission shall allow a public utility, without requiring a general rate filing under this
 13.15 section, to reduce the electric and gas rates applicable to large electric customer facilities
 13.16 that have been exempted by the commissioner of the department pursuant to section
 13.17 ~~216B.241, subdivision 1a~~ 216B.2412, subdivision 2, paragraph (b), by an amount that
 13.18 reflects the elimination of energy efficiency and conservation improvement investments
 13.19 or expenditures for those facilities ~~required on or before December 31, 1999.~~ In the
 13.20 event that the commission has set electric or gas rates based on the use of an accounting
 13.21 methodology that results in the cost of conservation improvements being recovered from
 13.22 utility customers over a period of years, the rate reduction may occur in a series of steps to
 13.23 coincide with the recovery of balances due to the utility for conservation improvements
 13.24 made by the utility on or before December 31, 1999.

13.25 **EFFECTIVE DATE.** This section is effective July 1, 2008.

13.26 Sec. 2. Minnesota Statutes 2006, section 216B.16, subdivision 6c, is amended to read:

13.27 Subd. 6c. **Incentive plan for energy efficiency and conservation improvement.**

13.28 (a) The commission may order public utilities to develop and submit for commission
 13.29 approval incentive plans that describe the method of recovery and accounting for utility
 13.30 conservation expenditures and savings. In developing the incentive plans the commission
 13.31 shall ensure the effective involvement of interested parties.

13.32 (b) In approving incentive plans, the commission shall consider:

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

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

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

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

14.6 (c) The commission may set rates to encourage the vigorous and effective
14.7 implementation of utility energy efficiency and conservation programs. The commission
14.8 may:

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

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

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

14.15 **EFFECTIVE DATE.** This section is effective July 1, 2008.

14.16 Sec. 3. **[216B.2412] DEMAND EFFICIENCY PROGRAM.**

14.17 Subdivision 1. Definitions. For purposes of this section and section 216B.16,
14.18 subdivision 6b, the terms defined in this subdivision have the meanings given them.

14.19 (a) "Customer facility" means all buildings, structures, equipment, and installations
14.20 at a single site.

14.21 (b) "Energy conservation" means demand-side management of energy supplies
14.22 resulting in a net reduction in energy use. Load management that reduces overall energy
14.23 use is energy conservation.

14.24 (c) "Energy efficiency" means measures or programs, including energy conservation
14.25 measures or programs, that target consumer behavior, equipment, processes, or devices to
14.26 result in a decrease in consumption of electric energy or natural gas without a reduction in
14.27 the quality or level of service provided to the energy consumer.

14.28 (d) "Energy efficiency and conservation improvement" means a project that results
14.29 in energy efficiency or energy conservation.

14.30 (e) "Investments and expenses of a public utility" includes the investments and
14.31 expenses incurred by a public utility in connection with an energy efficiency and
14.32 conservation improvement, including but not limited to:

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

15.1 (2) the difference between the utility's cost of purchase or installation of energy
 15.2 efficiency and conservation improvements and any price charged by a public utility to a
 15.3 customer for such improvements.

15.4 (f) "Large electric customer facility" means a customer facility that imposes a
 15.5 peak electrical demand on an electric utility's system of not less than 20,000 kilowatts,
 15.6 measured in the same way as the utility that serves the customer facility measures
 15.7 electrical demand for billing purposes, and for which electric services are provided at
 15.8 retail on a single bill by a utility operating in the state.

15.9 (g) "Load management" means an activity, service, or technology to change the
 15.10 timing or the efficiency of a customer's use of energy that allows a utility or a customer to
 15.11 respond to wholesale market fluctuations or to reduce the overall demand for energy or
 15.12 capacity.

15.13 Subd. 2. **Applicability.** (a) This section applies to each:

15.14 (1) public utility;

15.15 (2) municipal utility that furnishes electric service in the state;

15.16 (3) municipal utility with more than 1,000,000,000 cubic feet in annual throughput
 15.17 sales from natural gas service provided in the state; and

15.18 (4) generation and transmission cooperative electric association that provides
 15.19 energy services to cooperative electric associations that provide electric service at retail
 15.20 to consumers in the state.

15.21 (b) The owner of a large electric customer facility may petition the commissioner
 15.22 to exempt both electric and gas utilities serving the large energy customer facility from
 15.23 the energy savings requirements of subdivision 3 with respect to retail sales attributable
 15.24 to the facility. At a minimum, the petition must be supported by evidence relating to
 15.25 competitive or economic pressures on the customer and a showing by the customer
 15.26 of reasonable efforts to identify, evaluate, and implement cost-effective conservation
 15.27 improvements at the facility. If a petition is filed on or before October 1 of any year, the
 15.28 order of the commissioner to exempt revenues attributable to the facility can be effective
 15.29 no earlier than January 1 of the following year. The commissioner shall not grant an
 15.30 exemption if the commissioner determines that granting the exemption is contrary to
 15.31 the public interest. The commissioner may, after investigation, rescind any exemption
 15.32 granted under this paragraph upon a determination that cost-effective energy efficiency
 15.33 and conservation improvements are available at the large electric customer facility. For
 15.34 the purposes of investigations by the commissioner under this paragraph, the owner of
 15.35 any large electric customer facility shall, upon request, provide the commissioner with

16.1 updated information comparable to that originally supplied in or with the owner's original
16.2 petition under this paragraph.

16.3 (c) A generation and transmission cooperative electric association or public utility
16.4 -serving utilities with fewer than 500 aggregate retail customers in the state may petition
16.5 the commissioner for an exemption from this section. The commissioner shall grant an
16.6 exemption if the affected retail consumers in Minnesota have access to energy efficiency
16.7 and conservation programs provided by a utility or other entity under requirements of
16.8 another state.

16.9 Subd. 3. **Energy savings goals.** (a) The commissioner shall establish annual
16.10 energy savings goals for each utility and association listed in subdivision 2. Unless the
16.11 commissioner determines the goal is not in the public interest, the energy savings goals
16.12 for programs established under subdivision 4 must equal:

16.13 (1) at least 0.75 percent of gross annual retail energy sales by 2009;

16.14 (2) at least 1.0 percent of gross annual retail energy sales by 2010; and

16.15 (3) at least 1.5 percent of gross annual retail energy sales by 2012 and each year
16.16 thereafter.

16.17 (b) For a generation and transmission electric cooperative association, the goals
16.18 listed in paragraph (a) apply to each association's members' aggregate gross annual
16.19 retail energy sales.

16.20 (c) Municipal utilities may meet the energy savings goals established in paragraph
16.21 (a) on an aggregate basis through a municipal power agency, generation and transmission
16.22 electric cooperative association, or other not-for-profit entity. A municipal power agency,
16.23 generation and transmission electric cooperative association, or other not-for-profit entity
16.24 administering aggregate energy efficiency and conservation programs may invest in
16.25 energy efficiency and conservation improvements on behalf of the municipal utilities it
16.26 serves and shall fulfill the reporting and energy savings goals on an aggregate basis.

16.27 (d) The commissioner may require a public utility to make an energy efficiency and
16.28 conservation improvement investment or expenditure whenever the commissioner finds
16.29 that the improvement will result in energy savings at a total cost to the utility less than the
16.30 cost to the utility to produce or purchase an equivalent amount of new supply of energy.

16.31 Subd. 4. **Demand efficiency programs.** (a) Utilities and associations subject
16.32 to subdivision 2 shall file energy efficiency and conservation improvement plans by
16.33 June 1, on a schedule determined by order of the commissioner, but at least every four
16.34 years. Plans received by June 1 must be approved or approved as modified by the
16.35 commissioner by December 1 of that same year. The commissioner shall evaluate the
16.36 program on the basis of cost-effectiveness and the reliability of technologies employed.

17.1 The commissioner's order must provide to the extent practicable for a free choice, by
17.2 consumers participating in the program, of the device, method, material, or project
17.3 constituting the energy efficiency and conservation improvement and for a free choice of
17.4 the seller, installer, or contractor of the energy efficiency and conservation improvement;
17.5 provided that the device, method, material, or project seller, installer, or contractor is duly
17.6 licensed, certified, approved, or qualified.

17.7 (b) A utility or association subject to this section under subdivision 2, paragraph
17.8 (a), may not spend for or invest in energy efficiency and conservation improvements that
17.9 directly benefit a large electric customer facility for which the commissioner has issued an
17.10 exemption pursuant to subdivision 2, paragraph (b).

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

17.15 (d) The commissioner may, by order, establish a list of programs that may be
17.16 offered as energy efficiency and conservation improvements by a public utility, municipal
17.17 utility, cooperative electric association, or other entity providing energy efficiency and
17.18 conservation services pursuant to this section. The commissioner may, by order, change
17.19 this list to add or subtract programs as the commissioner determines is necessary to
17.20 promote efficient and effective conservation programs.

17.21 (e) The commissioner may, by order, establish energy savings assumptions for
17.22 energy efficiency and conservation improvements that must be used when filing programs
17.23 under this subdivision. The commissioner may contract with a third party to provide
17.24 technical assistance establishing these assumptions.

17.25 Subd. 5. **Manner of filing and service.** (a) If subject to section 216B.2412, as
17.26 of January 1, 2008, any public utility, generation and transmission cooperative electric
17.27 association, municipal power agency, cooperative electric association and municipal utility
17.28 shall submit filings to the department via the department's electronic filing system. The
17.29 commissioner may approve an exemption from this requirement in the event an affected
17.30 utility is unable to submit filings via the department's electronic filing system. All other
17.31 interested parties shall submit filings to the department via the department's electronic
17.32 filing system whenever practicable but may also file by personal delivery or by mail.

17.33 (b) Submission of a document to the department's electronic filing system constitutes
17.34 service on the department. When department rule requires service of a notice, order, or
17.35 other document by the department, utility, or interested party upon persons on a service
17.36 list maintained by the department, service may be made by personal delivery, mail, or

18.1 electronic service, except that electronic service may only be made upon persons on
18.2 the service list who have previously agreed in writing to accept electronic service at an
18.3 electronic address provided to the department for electronic service purposes.

18.4 Subd. 6. **Appeals.** (a) A utility, a political subdivision, a nonprofit or community
18.5 organization, the attorney general acting on behalf of consumers and small business
18.6 interests, the owner of a large electric customer facility, or a utility customer that is not
18.7 represented by the attorney general under section 8.33, may petition the commission to
18.8 modify or revoke a department decision under this section, and the commission may do so
18.9 if it determines that the commissioner's decision:

18.10 (1) will not result in cost-effective energy efficiency and conservation improvements;

18.11 (2) has a long-range negative effect on one or more classes of customers; or

18.12 (3) is otherwise not in the public interest.

18.13 (b) The commission shall reject a petition that, on its face, fails to make a reasonable
18.14 argument that a decision is not in the public interest.

18.15 Subd. 7. **Independent audit.** The commissioner shall order a public utility to
18.16 file annually the results of an independent audit of the utility's energy efficiency and
18.17 conservation improvement programs and expenditures performed by the department or an
18.18 auditor with experience in the provision of energy efficiency and conservation services
18.19 approved by the commissioner and chosen by the utility. The audit must specify the energy
18.20 savings or increased efficiency in the use of energy within the service territory of the
18.21 utility that is the result of the investments. The audit must evaluate the cost-effectiveness
18.22 of the utility's energy efficiency and conservation programs.

18.23 Subd. 8. **Ownership of energy efficiency and conservation improvement.** An
18.24 energy efficiency and conservation improvement made to or installed in a building in
18.25 accordance with this section, except systems owned by the utility and designed to turn
18.26 off, limit, or vary the delivery of energy, are the exclusive property of the owner of the
18.27 building except to the extent that the improvement is subjected to a security interest in
18.28 favor of the utility in case of a loan to the building owner. The utility has no liability
18.29 for loss, damage, or injury caused directly or indirectly by an energy efficiency and
18.30 conservation improvement except for negligence by the utility in the purchase, installation,
18.31 or modification of the product.

18.32 Subd. 9. **Low income programs.** The commissioner shall establish and
18.33 implement low-income energy efficiency and conservation programs. In establishing
18.34 low-income energy efficiency and conservation programs, the commissioner shall consult
18.35 political subdivisions, utilities, and nonprofit and community organizations, especially
18.36 organizations engaged in providing energy and weatherization assistance to low-income

19.1 persons. To the extent practicable, money collected under subdivision 12 for this purpose
 19.2 must serve low-income persons, including low-income renters, in the service territory of
 19.3 the utility or association providing the funds. The commissioner shall record and report
 19.4 expenditures and energy savings achieved as a result of low-income programs funded
 19.5 through this account. The commissioner may contract with a political subdivision, a
 19.6 nonprofit or community organization, a public utility, a municipality, or a cooperative
 19.7 electric association to implement its programs.

19.8 Subd. 10. **Demand efficiency research and development grants.** The
 19.9 commissioner may provide grants to any person to conduct research and development of
 19.10 energy efficiency and conservation improvements. In awarding research and development
 19.11 grants, the commissioner shall consult with an advisory group consisting of utilities,
 19.12 consumer advocates, and other interested parties.

19.13 Subd. 11. **Facilities demand efficiency.** (a) The Department of Administration
 19.14 and the Department of Commerce shall maintain and, as needed, revise the sustainable
 19.15 building guidelines developed under section 16B.325.

19.16 (b) The Department of Administration and the Department of Commerce shall
 19.17 maintain and update the benchmarking tool developed under Laws 2001, chapter 212,
 19.18 article 1, section 3, so that all public buildings can use the benchmarking tool to maintain
 19.19 energy usage information for the purposes of establishing energy efficiency benchmarks
 19.20 and tracking building performance and the results of energy efficiency and conservation
 19.21 improvements.

19.22 (c) The commissioner may provide grants to commercial building owners to
 19.23 facilitate energy efficiency and conservation improvements and professional engineering
 19.24 certification to reach the goal of 1,000 Energy Star-labeled commercial buildings in the
 19.25 state by 2010.

19.26 Subd. 12. **Demand efficiency account.** (a) A demand efficiency account is
 19.27 established within the next generation energy fund established under section 216C.054.
 19.28 Interest on money in the account accrues to the account.

19.29 (b) Subject to the limitations established in paragraph (c), the commissioner shall
 19.30 assess energy utilities for costs related to execution of subdivision 4, paragraph (e), and
 19.31 9, 10, and 11. The commissioner shall apportion the costs among all energy utilities in
 19.32 proportion to their respective gross operating revenues from sales of gas or electric service
 19.33 within the state during the last calendar year and shall then render a bill to each utility on a
 19.34 regular basis. For purposes of administrative efficiency, the commissioner shall assess
 19.35 energy utilities and issue bills in accordance with the billing and assessment procedures
 19.36 provided in section 216B.62, to the extent that these procedures do not conflict with this

20.1 subdivision. The amount of the bills rendered by the commissioner under this paragraph
20.2 must be paid by the energy utility into the demand efficiency account within the next
20.3 generation energy fund within 30 days from the date of billing and is appropriated to the
20.4 commissioner for the purposes of executing subdivisions 4, paragraph (e), 9, 10, and
20.5 11. All amounts assessed under this section are in addition to amounts appropriated to
20.6 the commissioner by other law.

20.7 (c) The commissioner may assess:

20.8 (1) an amount equal to 0.20 percent of the gross operating revenue from annual retail
20.9 sales of electricity and natural gas in the state for the purpose of providing low-income
20.10 energy efficiency programs under subdivision 9;

20.11 (2) up to \$3,500,000 annually to establish energy savings assumptions under
20.12 subdivision 4, paragraph (e), to provide grants for research and development of energy
20.13 efficiency and conservation improvements under subdivision 10 and grants promoting
20.14 Energy Star-labeled commercial buildings under subdivision 11, paragraph (c); and

20.15 (3) up to an additional \$500,000 annually to carry out subdivision 11, paragraphs
20.16 (a) and (b). The amount assessed under this clause is appropriated to the commissioner,
20.17 and some or all of the amount assessed may be transferred to the commissioner of
20.18 administration, for the purposes specified in subdivision 11, paragraphs (a) and (b), as
20.19 needed to implement those paragraphs.

20.20 Subd. 13. **Recovery of expenses.** The commission shall allow a utility to recover
20.21 expenses resulting from an energy efficiency and conservation improvement program
20.22 required by the department and contributions to the demand efficiency account, unless
20.23 the recovery would be inconsistent with a financial incentive proposal approved by the
20.24 commission. In addition, a utility may file annually or the Public Utilities Commission
20.25 may require the utility to file, and the commission may approve, rate schedules containing
20.26 provisions for the automatic adjustment of charges for utility service in direct relation
20.27 to changes in the expenses of the utility for real and personal property taxes, fees, and
20.28 permits, the amounts of which the utility cannot control. A public utility is eligible
20.29 to file for adjustment for real and personal property taxes, fees, and permits under this
20.30 subdivision only if, in the year previous to the year in which it files for adjustment, it has
20.31 saved an additional 0.15 percent over the amount specified in subdivision 3, excluding
20.32 large electric customer facilities for which the commissioner has issued an exemption
20.33 under subdivision 2, paragraph (b).

20.34 **EFFECTIVE DATE.** This section is effective July 1, 2008, and applies to proposals
20.35 pending on that date.

21.1 Sec. 4. [216B.2413] DECOUPLING OF ENERGY SALES FROM REVENUES.

21.2 The commission may, by order, establish criteria and standards for decoupling, in
 21.3 whole or in part, energy sales by public utilities from the revenues of those utilities. The
 21.4 commission shall design the criteria and standards to mitigate the impact on the public
 21.5 utilities of the energy efficiency objectives under section 216B.2412 without adversely
 21.6 affecting utility ratepayers. Upon adoption of criteria and standards under this section,
 21.7 the commission may approve utility proposals for decoupling that are consistent with
 21.8 those criteria and standards.

21.9 Sec. 5. Minnesota Statutes 2006, section 216B.243, subdivision 3, is amended to read:

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

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

21.17 (2) the effect of existing or possible energy conservation programs under sections
 21.18 216C.05 to 216C.30 and this section or other federal or state legislation on long-term
 21.19 energy demand;

21.20 (3) the relationship of the proposed facility to overall state energy needs, as
 21.21 described in the most recent state energy policy and conservation report prepared under
 21.22 section 216C.18, or, in the case of a high-voltage transmission line, the relationship of the
 21.23 proposed line to regional energy needs, as presented in the transmission plan submitted
 21.24 under section 216B.2425;

21.25 (4) promotional activities that may have given rise to the demand for this facility;

21.26 (5) benefits of this facility, including its uses to protect or enhance environmental
 21.27 quality, and to increase reliability of energy supply in Minnesota and the region;

21.28 (6) possible alternatives for satisfying the energy demand or transmission needs
 21.29 including but not limited to potential for increased efficiency and upgrading of existing
 21.30 energy generation and transmission facilities, load-management programs, and distributed
 21.31 generation;

21.32 (7) the policies, rules, and regulations of other state and federal agencies and local
 21.33 governments;

21.34 (8) whether the applicant or applicants are in compliance with section 216B.2412,
 21.35 subdivision 3;

22.1 (9) any feasible combination of energy conservation improvements, required under
 22.2 section ~~216B.241~~ 216B.2412, that can (i) replace part or all of the energy to be provided
 22.3 by the proposed facility, and (ii) compete with it economically;

22.4 ~~(9)~~ (10) with respect to a high-voltage transmission line, the benefits of enhanced
 22.5 regional reliability, access, or deliverability to the extent these factors improve the
 22.6 robustness of the transmission system or lower costs for electric consumers in Minnesota;

22.7 ~~(10)~~ (11) whether the applicant or applicants are in compliance with applicable
 22.8 provisions of sections 216B.1691 and 216B.2425, subdivision 7, and have filed or will file
 22.9 by a date certain an application for certificate of need under this section or for certification
 22.10 as a priority electric transmission project under section 216B.2425 for any transmission
 22.11 facilities or upgrades identified under section 216B.2425, subdivision 7;

22.12 ~~(11)~~ (12) whether the applicant has made the demonstrations required under
 22.13 subdivision 3a; and

22.14 ~~(12)~~ (13) if the applicant is proposing a nonrenewable generating plant, the
 22.15 applicant's assessment of the risk of environmental costs and regulation on that proposed
 22.16 facility over the expected useful life of the plant, including a proposed means of allocating
 22.17 costs associated with that risk.

22.18 **EFFECTIVE DATE.** This section is effective July 1, 2008.

22.19 **Sec. 6. REVISOR'S INSTRUCTION.**

22.20 The revisor of statutes shall change all statutory references to all or parts of
 22.21 section 216B.241 wherever found in Minnesota Statutes and Minnesota Rules to section
 22.22 216B.2412.

22.23 **EFFECTIVE DATE.** This section is effective July 1, 2008.

22.24 **Sec. 7. REPEALER.**

22.25 Minnesota Statutes 2006, sections 216B.241; and 216B.2411, are repealed effective
 22.26 June 30, 2008.

22.27 **ARTICLE 5**

22.28 **CLIMATE CHANGE**

22.29 Section 1. Minnesota Statutes 2006, section 216B.243, subdivision 2, is amended to
 22.30 read:

22.31 Subd. 2. **Certificate required.** (a) No large energy facility shall may be sited or
 22.32 constructed in Minnesota and no nonrenewable resource power purchase agreement may

23.1 be entered into by an electric utility, without the issuance of a certificate of need by the
 23.2 commission pursuant to sections 216C.05 to 216C.30 and this section and consistent
 23.3 with the criteria for assessment of need.

23.4 (b) For the purposes of this section:

23.5 (1) "nonrenewable resource power purchase agreement" means power purchase
 23.6 agreement for 50 megawatts of capacity or more with a term exceeding five years from
 23.7 a generation facility powered by nonrenewable fuel; and

23.8 (2) "electric utility" has the meaning given to it in section 216B.38, subdivision 5.

23.9 **EFFECTIVE DATE.** This section is effective the day following final enactment
 23.10 and applies to proposals pending as of that date.

23.11 Sec. 2. Minnesota Statutes 2006, section 216B.243, subdivision 3a, is amended to read:

23.12 Subd. 3a. **Use of renewable resource.** (a) The commission may not issue a
 23.13 certificate of need under this section for:

23.14 (1) a large energy facility that:

23.15 (i) generates electric power by means of a nonrenewable energy source; ~~or that~~

23.16 (ii) transmits electric power generated by means of a nonrenewable energy source; ~~or~~

23.17 (2) a nonrenewable resource power purchase agreement, unless the applicant for the
 23.18 certificate has demonstrated to the commission's satisfaction that:

23.19 (i) the applicant has arranged to offset the carbon dioxide and other greenhouse gas
 23.20 emissions from the nonrenewable resource through:

23.21 (A) capture and geologic sequestration of those emissions;

23.22 (B) the purchase of greenhouse gas emission-reduction credits issued by a tracking
 23.23 and crediting organization approved by the commission; or

23.24 (C) another method approved by the commission after notice and opportunity to
 23.25 comment; and

23.26 (ii) it has explored the possibility of generating power by means of renewable energy
 23.27 sources and has demonstrated that the alternative selected is less expensive (, including
 23.28 environmental costs) ~~and the costs of compliance with item (i),~~ than power generated by a
 23.29 renewable energy source.

23.30 (b) For purposes of this subdivision, "renewable energy source" includes hydro,
 23.31 wind, solar, and geothermal energy and the use of trees or other vegetation as fuel.

23.32 **EFFECTIVE DATE.** This section is effective the day following final enactment
 23.33 and applies to proposals pending as of that date.

24.1 Sec. 3. Minnesota Statutes 2006, section 216B.243, subdivision 5, is amended to read:

24.2 Subd. 5. **Approval, denial, or modification.** (a) Within 12 months of the
 24.3 submission of an application, the commission shall approve or deny a certificate of need
 24.4 for the facility or power purchase agreement. Approval or denial of the certificate shall be
 24.5 accompanied by a statement of the reasons for the decision. Issuance of the certificate may
 24.6 be made contingent upon modifications required by the commission. If the commission
 24.7 has not issued an order on the application within the 12 months provided, the commission
 24.8 may extend the time period upon receiving the consent of the parties or on its own motion,
 24.9 for good cause, by issuing an order explaining the good cause justification for extension.

24.10 (b) The commission may modify proposals for nonrenewable projects or
 24.11 nonrenewable resource power purchase agreements applied for under this section to
 24.12 order the implementation of technically feasible, cost-effective energy conservation or
 24.13 renewable energy projects, including community energy projects, as determined under
 24.14 section 216B.2426, that are identified in the application review process.

24.15 **EFFECTIVE DATE.** This section is effective the day following final enactment
 24.16 and applies to proposals pending as of that date.

24.17 Sec. 4. **[216C.03] CLIMATE CHANGE; ENERGY PRODUCTION AND USE.**

24.18 Subdivision 1. **Climate change action plan.** The commissioner of commerce, on
 24.19 behalf of the executive branch and in coordination with the Pollution Control Agency and
 24.20 Departments of Natural Resources, Agriculture, Employment and Economic Development,
 24.21 and Transportation, shall identify and invite a nationally recognized independent expert
 24.22 entity to conduct a structured, broadly inclusive stakeholder-based review of potential
 24.23 policies and initiatives that can be implemented in Minnesota to reduce greenhouse gas
 24.24 emissions from activities in this state. The purpose of this effort is to identify, develop, and
 24.25 integrate a full range of state-level energy efficiency, renewable energy, and other climate
 24.26 change actions, across all economic sectors, regions, and energy uses in the state and
 24.27 develop a comprehensive climate action plan that also can provide substantial energy and
 24.28 emissions savings and related benefits for Minnesota's citizens. The end product of this
 24.29 technical, cost-benefit analysis should be a final report that includes a thorough inventory
 24.30 and forecast of Minnesota's greenhouse gas emissions, a series of individual policy
 24.31 recommendations across all sectors and types of activities, and recommended statewide
 24.32 goals for implementation. The commissioner of commerce shall coordinate the activities
 24.33 of the executive branch participation with this stakeholder process, and shall issue a
 24.34 Minnesota climate change action plan to the Minnesota Legislature by February 1, 2008.

25.1 Subd. 2. **Regional activities.** It shall be an executive branch responsibility to work
 25.2 with other states in the Midwest region to develop and implement a regional approach
 25.3 to reducing greenhouse gas emissions from activities in the region. The commissioner
 25.4 of commerce shall coordinate Minnesota's regional activities under this subdivision
 25.5 and report by February 1 of each year on the progress made and recommendations for
 25.6 further action.

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

25.8 **ARTICLE 6**

25.9 **WIND PROJECT PERMITTING**

25.10 **Section 1. [216F.015] SIZE DETERMINATION.**

25.11 (a) The total size of a combination of wind energy conversion systems for the
 25.12 purpose of determining jurisdictional siting authority under sections 216F.01 to 216F.07
 25.13 must be determined according to this section. The nameplate capacity of one wind energy
 25.14 conversion system must be combined with the nameplate capacity of any other wind
 25.15 energy conversion system that is:

25.16 (1) located within five miles of the wind energy conversion system;

25.17 (2) constructed within the same 12-month period as the wind energy conversion
 25.18 system; and

25.19 (3) exhibits characteristics of being a single development, including but not limited
 25.20 to ownership structure, an umbrella sales arrangement, shared interconnection, revenue
 25.21 sharing arrangements, and common debt or equity financing.

25.22 (b) Upon written request of a project developer, the commissioner of commerce shall
 25.23 provide an initial written determination under this section within 30 days of receipt of the
 25.24 request and information necessary to develop a determination. The commissioner shall
 25.25 prepare and make available the necessary forms and guidance for project developers to
 25.26 make a request for determination. In the case of a dispute, the chair of the Public Utilities
 25.27 Commission shall determine the total size of the system and shall draw all reasonable
 25.28 inferences in favor of combining the systems.

25.29 (c) An application for a permit for a wind energy conversion system from a county is
 25.30 not complete without a jurisdictional determination made pursuant to this section.

25.31 **Sec. 2. [216F.08] DELEGATION TO COUNTIES.**

25.32 Subdivision 1. **Counties; processing of applications for LWECs site permits.**

25.33 (a) Any Minnesota county board may, by resolution and upon written notice to the Public

26.1 Utilities Commission, assume responsibility for processing applications for permits
26.2 required under this chapter for LWECS with a combined nameplate capacity of less
26.3 than 25,000 kilowatts. The responsibility for permit application processing, if assumed
26.4 by a county, may be delegated by the county board to any appropriate county officer
26.5 or employee. Processing by a county must be done in accordance with procedures and
26.6 processes established under chapter 394.

26.7 (b) For the purposes of this subdivision, the term "processing" includes:

26.8 (1) the distribution to applicants of application and determination forms provided
26.9 by the commission;

26.10 (2) the receipt and examination of completed application forms, and the certification,
26.11 in writing, to the commission either (i) that the LWECS for which a permit was issued by
26.12 the county will comply with applicable rules and standards, or (ii) if the facility will not
26.13 comply, the respects in which a variance was required for the issuance of a permit; and

26.14 (3) rendering to applicants, upon request, assistance for the proper completion of
26.15 an application.

26.16 (c) A county board that exercises its option under paragraph (a) and assumes
26.17 responsibility for processing applications for permits for LWECS within its borders
26.18 is responsible for issuing, denying, modifying, imposing conditions upon, or revoking
26.19 permits pursuant to the provisions of this section or rules adopted pursuant to this section.
26.20 The action of the county board with regard to that permit application is final, subject
26.21 to appeal as provided in section 394.27.

26.22 (d) In adopting and enforcing rules or standards under this subdivision, the
26.23 commission and the commissioner shall cooperate closely with the delegated county
26.24 and other governmental agencies.

26.25 (e) The commission shall work with counties and wind developers to notify and
26.26 educate stakeholders with regard to rules or standards under this section at the time such
26.27 rules or standards are being developed and adopted and at least every two years thereafter.

26.28 (f) The commission shall, by order, develop general permit standards to cover
26.29 requirements of site permits for LWECS pursuant to this section. These general permit
26.30 standards shall apply both to permits issued by counties and to permits issued by the
26.31 commission directly for LWECS with a combined nameplate capacity of less than 25,000
26.32 kilowatts. The order shall outline minimum standards necessary to ensure the protection
26.33 of human health and safety and wind resources on adjacent land. The initial order shall
26.34 contain standards that are consistent with the general provisions of wind permits issued by
26.35 the commission in the five years prior to enactment of this provision.

27.1 (g) The commission and the commissioner of commerce shall provide technical
 27.2 assistance to a delegated county with respect to the processing of LWECS site permit
 27.3 applications by that county.

27.4 (h) A county may adopt by ordinance standards for LWECS that are more stringent
 27.5 than standards in commission rules or in the general permit standards. The commission, in
 27.6 considering a permit for LWECS in a county that has adopted more stringent standards,
 27.7 shall incorporate and apply those more stringent standards, unless the commission finds
 27.8 there is good cause not to do so.

27.9 **Subd. 2. Notice of application for LWECS site permits; public participation.**

27.10 (a) A person who applies to a county board for a permit to construct or expand an LWECS
 27.11 under this section shall follow the same notification requirements as applicants seeking
 27.12 a permit from the commission.

27.13 (b) The county board shall provide for public participation commensurate with that
 27.14 afforded the public through the commission permitting process.

27.15 **Subd. 3. Wind turbine database.** Any county assuming responsibility for
 27.16 processing applications under this section shall provide the commission with an inventory
 27.17 of all permitted LWECS in a format suitable for incorporation into a statewide wind
 27.18 turbine database.

27.19 **EFFECTIVE DATE.** This section is effective January 15, 2008.

27.20 **ARTICLE 7**

27.21 **MISCELLANEOUS PROVISIONS**

27.22 Section 1. Minnesota Statutes 2006, section 123B.65, subdivision 2, is amended to read:

27.23 **Subd. 2. Energy efficiency contract.** (a) Notwithstanding any law to the contrary,
 27.24 a school district may enter into a guaranteed energy savings contract with a qualified
 27.25 provider to significantly reduce energy or operating costs.

27.26 (b) Before entering into a contract under this subdivision, the board shall comply
 27.27 with clauses (1) to (5).

27.28 (1) The board must seek proposals from multiple qualified providers by publishing
 27.29 notice of the proposed guaranteed energy savings contract in the board's official newspaper
 27.30 and in other publications if the board determines that additional publication is necessary to
 27.31 notify multiple qualified providers.

27.32 (2) The school board must select the qualified provider that best meets the needs of
 27.33 the board. The board must provide public notice of the meeting at which it will select the
 27.34 qualified provider.

28.1 (3) The contract between the board and the qualified provider must describe the
 28.2 methods that will be used to calculate the costs of the contract and the operational and
 28.3 energy savings attributable to the contract.

28.4 (4) The qualified provider shall issue a report to the board giving a description of all
 28.5 costs of installations, modifications, or remodeling, including costs of design, engineering,
 28.6 installation, maintenance, repairs, or debt service, and giving detailed calculations of the
 28.7 amounts by which energy or operating costs will be reduced and the projected payback
 28.8 schedule in years.

28.9 (5) The board must provide published notice of the meeting in which it proposes to
 28.10 award the contract, the names of the parties to the proposed contract, and the contract's
 28.11 purpose.

28.12 (c) The board must provide a copy of any contract entered into under paragraph (a)
 28.13 to the commissioner within 30 days of the effective date of the contract.

28.14 Sec. 2. Minnesota Statutes 2006, section 216C.31, is amended to read:

28.15 **216C.31 ENERGY AUDIT PROGRAMS.**

28.16 The commissioner shall develop ~~and administer~~ state programs of energy audits of
 28.17 residential and commercial buildings including ~~those required by United States Code, title~~
 28.18 ~~42, sections 8211 to 8222 and sections 8281 to 8284. The commissioner shall continue~~
 28.19 ~~to administer the residential energy audit program as originally established under the~~
 28.20 ~~provisions of United States Code, title 42, sections 8211 to 8222; through July 1, 1986~~
 28.21 ~~irrespective of any prior expiration date provided in United States Code, title 42, section~~
 28.22 ~~8216. The commissioner may approve temporary programs if they are likely to result~~
 28.23 ~~in the installation of as many conservation measures as would have been installed had~~
 28.24 ~~the utility met the requirements of United States Code, title 42, sections 8211 to 8222.~~
 28.25 ~~The Consumer Services Division and the attorney general may release information on~~
 28.26 ~~consumer comments about the operation of the program to the commissioner~~ the training
 28.27 and qualifications necessary for the auditing of residential and commercial buildings under
 28.28 the auspices of a program created under section 216B.2412.

28.29 Sec. 3. Minnesota Statutes 2006, section 471.345, subdivision 13, is amended to read:

28.30 Subd. 13. **Energy efficiency projects.** The following definitions apply to this
 28.31 subdivision.

28.32 (a) "Energy conservation measure" means a training program or facility alteration
 28.33 designed to reduce energy consumption or operating costs and includes:

28.34 (1) insulation of the building structure and systems within the building;

29.1 (2) storm windows and doors, caulking or weatherstripping, multiglazed windows
29.2 and doors, heat absorbing or heat reflective glazed and coated window and door
29.3 systems, additional glazing, reductions in glass area, and other window and door system
29.4 modifications that reduce energy consumption;

29.5 (3) automatic energy control systems;

29.6 (4) heating, ventilating, or air conditioning system modifications or replacements;

29.7 (5) replacement or modifications of lighting fixtures to increase the energy efficiency
29.8 of the lighting system without increasing the overall illumination of a facility, unless an
29.9 increase in illumination is necessary to conform to the applicable state or local building
29.10 code for the lighting system after the proposed modifications are made;

29.11 (6) energy recovery systems;

29.12 (7) cogeneration systems that produce steam or forms of energy such as heat, as well
29.13 as electricity, for use primarily within a building or complex of buildings;

29.14 (8) energy conservation measures that provide long-term operating cost reductions.

29.15 (b) "Guaranteed energy savings contract" means a contract for the evaluation
29.16 and recommendations of energy conservation measures, and for one or more energy
29.17 conservation measures. The contract must provide that all payments, except obligations
29.18 on termination of the contract before its expiration, are to be made over time, but not to
29.19 exceed 15 years from the date of final installation, and the savings are guaranteed to the
29.20 extent necessary to make payments for the systems.

29.21 (c) "Qualified provider" means a person or business experienced in the design,
29.22 implementation, and installation of energy conservation measures. A qualified provider
29.23 to whom the contract is awarded shall give a sufficient bond to the municipality for its
29.24 faithful performance.

29.25 Notwithstanding any law to the contrary, a municipality may enter into a guaranteed
29.26 energy savings contract with a qualified provider to significantly reduce energy or
29.27 operating costs.

29.28 Before entering into a contract under this subdivision, the municipality shall provide
29.29 published notice of the meeting in which it proposes to award the contract, the names of
29.30 the parties to the proposed contract, and the contract's purpose.

29.31 Before installation of equipment, modification, or remodeling, the qualified provider
29.32 shall first issue a report, summarizing estimates of all costs of installations, modifications,
29.33 or remodeling, including costs of design, engineering, installation, maintenance, repairs,
29.34 or debt service, and estimates of the amounts by which energy or operating costs will be
29.35 reduced.

30.1 A guaranteed energy savings contract that includes a written guarantee that savings
 30.2 will meet or exceed the cost of energy conservation measures is not subject to competitive
 30.3 bidding requirements of section 471.345 or other law or city charter. The contract is
 30.4 not subject to section 123B.52.

30.5 A municipality may enter into a guaranteed energy savings contract with a qualified
 30.6 provider if, after review of the report, it finds that the amount it would spend on the energy
 30.7 conservation measures recommended in the report is not likely to exceed the amount
 30.8 to be saved in energy and operation costs over 15 years from the date of installation if
 30.9 the recommendations in the report were followed, and the qualified provider provides a
 30.10 written guarantee that the energy or operating cost savings will meet or exceed the costs
 30.11 of the system. The guaranteed energy savings contract may provide for payments over
 30.12 a period of time, not to exceed 15 years.

30.13 A municipality may enter into an installment payment contract for the purchase and
 30.14 installation of energy conservation measures. The contract must provide for payments
 30.15 of not less than 1/15 of the price to be paid within two years from the date of the first
 30.16 operation, and the remaining costs to be paid monthly, not to exceed a 15-year term from
 30.17 the date of the first operation.

30.18 A municipality entering into a guaranteed energy savings contract shall provide a
 30.19 copy of the contract to the commissioner of the Department of Commerce within 30
 30.20 days of the effective date of the contract.

30.21 Guaranteed energy savings contracts may extend beyond the fiscal year in which
 30.22 they become effective. The municipality shall include in its annual appropriations measure
 30.23 for each later fiscal year any amounts payable under guaranteed energy savings contracts
 30.24 during the year. Failure of a municipality to make such an appropriation does not affect
 30.25 the validity of the guaranteed energy savings contract or the municipality's obligations
 30.26 under the contracts.

30.27 Sec. 4. Minnesota Statutes 2006, section 504B.161, subdivision 1, is amended to read:

30.28 Subdivision 1. **Requirements.** In every lease or license of residential premises, the
 30.29 landlord or licensor covenants:

30.30 (1) that the premises and all common areas are fit for the use intended by the parties;
 30.31 (2) to keep the premises in reasonable repair during the term of the lease or license,
 30.32 except when the disrepair has been caused by the willful, malicious, or irresponsible
 30.33 conduct of the tenant or licensee or a person under the direction or control of the tenant or
 30.34 licensee; and

31.1 (3) to make the premises reasonably energy efficient by installing such measures
 31.2 as weatherstripping, caulking, storm windows, and storm doors, and to maintain the
 31.3 premises in compliance with the applicable health and safety laws of the state, including
 31.4 the weatherstripping, caulking, storm window, and storm door energy efficiency standards
 31.5 for renter-occupied residences prescribed by section 216C.27, subdivisions 1 and 3, and of
 31.6 the local units of government where the premises are located during the term of the lease
 31.7 or license, except when violation of the health and safety laws has been caused by the
 31.8 willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the
 31.9 direction or control of the tenant or licensee.

31.10 The parties to a lease or license of residential premises may not waive or modify the
 31.11 covenants imposed by this section.

31.12 **Sec. 5. REPEALER.**

31.13 Minnesota Statutes 2006, sections 216B.165; 216C.27; and 216C.30, subdivision 5,
 31.14 and Minnesota Rules, parts 4635.0110; 4635.0130; 7365.0210; 7635.0100; 7635.0120;
 31.15 7635.0140; 7635.0150; 7635.0160; 7635.0170; 7635.0180; 7635.0200; 7635.0210;
 31.16 7635.0220; 7635.0230; 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310;
 31.17 7635.0320; 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420; 7635.0500;
 31.18 7635.0510; 7635.0520; 7635.0530; 7635.0600; 7635.0610; 7635.0620; 7635.0630;
 31.19 7635.0640; 7635.1000; 7635.1010; 7635.1020; 7635.1030; 7655.0100; 7655.0120;
 31.20 7655.0200; 7655.0220; 7655.0230; 7655.0240; 7655.0250; 7655.0260; 7655.0270;
 31.21 7655.0280; 7655.0290; 7655.0300; 7655.0310; 7655.0320; 7655.0330; 7655.0400;
 31.22 7655.0410; and 7655.0420, are repealed effective July 1, 2007.

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ARTICLE 1	GENERAL PROVISIONS	Page.Ln 1.26
ARTICLE 2	RENEWABLE ENERGY	Page.Ln 2.25
ARTICLE 3	COMMUNITY ENERGY	Page.Ln 8.12
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ARTICLE 5	CLIMATE CHANGE	Page.Ln 22.27
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216B.165 ENERGY AUDIT.

Subdivision 1. **Residential property; fee; treatment of expenses.** A customer who asks a public utility to perform an energy audit of the customer's residence pursuant to United States Code, title 42, section 8211 et seq. shall pay no more than \$10 of the administrative and general expenses associated with the audit. The remainder of the administrative and general expenses of operating a program of energy audits pursuant to United States Code, title 42, section 8211 et seq., including those associated with program audits, list distribution, customer billing services, arranging services and postinstallation inspections shall be treated as current operating expenses of providing utility service and shall be charged to all ratepayers of the public utility in the same manner as other current operating expenses of providing utility service.

Subd. 2. **Rental property; energy standards.** All audits performed pursuant to United States Code, title 42, section 8211 et seq. of residences which are required by section 216C.27, subdivision 3, to comply with energy efficiency standards shall include a separate list of those improvements to the residence which are required to bring the residence into compliance with section 216C.27, subdivision 3, and a statement describing remedies available to tenants for violations.

216B.241 ENERGY CONSERVATION IMPROVEMENT.

Subdivision 1. **Definitions.** For purposes of this section and section 216B.16, subdivision 6b, the terms defined in this subdivision have the meanings given them.

- (a) "Commission" means the Public Utilities Commission.
- (b) "Commissioner" means the commissioner of commerce.
- (c) "Customer facility" means all buildings, structures, equipment, and installations at a single site.
- (d) "Department" means the Department of Commerce.
- (e) "Energy conservation" means demand-side management of energy supplies resulting in a net reduction in energy use. Load management that reduces overall energy use is energy conservation.
- (f) "Energy conservation improvement" means a project that results in energy conservation.
- (g) "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.
- (h) "Large electric customer facility" means a customer facility that imposes a peak electrical demand on an electric utility's system of not less than 20,000 kilowatts, measured in the same way as the utility that serves the customer facility measures electrical demand for billing purposes, and for which electric services are provided at retail on a single bill by a utility operating in the state.

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

Subd. 1a. **Investment, expenditure, and contribution; public utility.** (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, 0.5 percent of its gross operating revenues from service provided in the state;
- (2) for a utility that furnishes electric service, 1.5 percent of its gross operating revenues from service provided in the state; and
- (3) for a utility that furnishes electric service and that operates a nuclear-powered electric generating plant within the state, two percent of its gross operating revenues from service provided in the state.

For purposes of this paragraph (a), "gross operating revenues" do not include revenues from large electric customer facilities exempted by the commissioner under paragraph (b).

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(b) The owner of a large electric customer facility may petition the commissioner to exempt both electric and gas utilities serving the large energy customer facility from the investment and expenditure requirements of paragraph (a) with respect to retail revenues attributable to the facility. At a minimum, the petition must be supported by evidence relating to competitive or economic pressures on the customer and a showing by the customer of reasonable efforts to identify, evaluate, and implement cost-effective conservation improvements at the facility. If a petition is filed on or before October 1 of any year, the order of the commissioner to exempt revenues attributable to the facility can be effective no earlier than January 1 of the following year. The commissioner shall not grant an exemption if the commissioner determines that granting the exemption is contrary to the public interest. The commissioner may, after investigation, rescind any exemption granted under this paragraph upon a determination that cost-effective energy conservation improvements are available at the large electric customer facility. For the purposes of this paragraph, "cost-effective" means that the projected total cost of the energy conservation improvement at the large electric customer facility is less than the projected present value of the energy and demand savings resulting from the energy conservation improvement. For the purposes of investigations by the commissioner under this paragraph, the owner of any large electric customer facility shall, upon request, provide the commissioner with updated information comparable to that originally supplied in or with the owner's original petition under this paragraph.

(c) 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 216B.2422 or 216C.17 projects a peak demand deficit of 100 megawatts or greater within five years under midrange forecast assumptions.

(d) A public utility or owner of a large electric customer facility may appeal a decision of the commissioner under paragraph (b) or (c) to the commission under subdivision 2. In reviewing a decision of the commissioner under paragraph (b) or (c), the commission shall rescind the decision if it finds that the required investments or spending will:

- (1) not result in cost-effective energy conservation improvements; or
- (2) otherwise not be in the public interest.

(e) 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. A public utility may propose to the commissioner to designate that all or a portion of funds contributed to the account established in subdivision 2a be used for research and development projects that can best be implemented on a statewide basis. Contributions must be remitted to the commissioner 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.

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

- (1) a cooperative electric association that provides retail service to its members;
- (2) a municipality that provides electric service to retail customers; and
- (3) a municipality with 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, 0.5 percent of its gross operating revenues from the sale of gas and 1.5 percent of its gross operating revenues from the sale of electricity, excluding gross operating revenues from electric and gas service provided in the state to large electric customer facilities; and
- (2) for a cooperative electric association, 1.5 percent of its gross operating revenues from service provided in the state, excluding gross operating revenues from service provided in the state to large electric customer facilities indirectly through a distribution cooperative electric association.

(c) Each municipality and cooperative electric association subject to this subdivision shall identify and implement energy conservation improvement spending and investments that are appropriate for the municipality or association, except that a municipality or association may not spend or invest for energy conservation improvements that directly benefit a large electric customer facility for which the commissioner has issued an exemption under subdivision 1a, paragraph (b).

(d) Each municipality and cooperative electric association subject to this subdivision may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this subdivision on research and development

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projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the municipality or cooperative electric association.

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

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

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

(h) The commissioner shall also review each evaluation for whether a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons unless an insufficient number of appropriate programs are available. For the purposes of this subdivision and subdivision 2, "low-income" means an income at or below 50 percent of the state median income.

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

(j) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system. This paragraph expires July 1, 2007.

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

Subd. 1d. Cooperative conservation investment increase phase-in. The increase in required conservation improvement expenditures by a cooperative electric association that results from the amendments in Laws 2001, chapter 212, article 8, section 6, to subdivision 1b, paragraph (a), clause (1), must be phased in as follows:

- (1) at least 25 percent shall be effective in year 2002;
- (2) at least 50 percent shall be effective in year 2003;
- (3) at least 75 percent shall be effective in year 2004; and
- (4) all of the increase shall be effective in year 2005 and thereafter.

Subd. 2. Programs. (a) The commissioner may 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 must be offered to the customers. The required programs must cover no more than a four-year period. Public utilities shall file conservation improvement plans by June 1, on a schedule determined by order of the commissioner, but at least every four years. Plans received by a public utility by June 1 must be approved or approved as modified by the commissioner by December 1 of that same year.

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The commissioner shall give special consideration and encouragement to programs that bring about significant net savings through the use of energy-efficient lighting. The commissioner shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The commissioner's order must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, material, or project 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, or project seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable.

(b) The commissioner may require a utility to make an energy conservation improvement investment or expenditure whenever the 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 commissioner shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department.

(c) Each public utility subject to subdivision 1a may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this section by the utility on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the public utility.

(d) A public utility may not spend for or invest in energy conservation improvements that directly benefit a large electric customer facility for which the commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b). The 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.

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

(f) The commissioner shall ensure that a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons, in proportion to the amount the utility has historically spent on such programs based on the most recent three-year average relative to the utility's total conservation spending under this section, unless an insufficient number of appropriate programs are available.

(g) A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, the attorney general acting on behalf of consumers and small business interests, or a utility customer that has suggested a program and is not represented by the attorney general under section 8.33 may petition the commission to modify or revoke a department decision under this section, and the commission may do so if it determines that the program is not cost-effective, does not adequately address the residential conservation improvement needs of low-income persons, has a long-range negative effect on one or more classes of customers, or is otherwise not in the public interest. 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.

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

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

Subd. 2a. **Energy and conservation account.** The commissioner must 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, including research and development projects included in the definition of energy conservation improvement in subdivision 1. Interest on

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money in the account accrues to the account. Using information collected under section 216C.02, subdivision 1, paragraph (b), the commissioner must, to the extent possible, allocate enough money to programs for low-income persons to assure that their needs are being adequately addressed. The commissioner must request the commissioner of finance to transfer money from the account to the commissioner of education for an energy conservation program for low-income persons. In establishing programs, the commissioner must 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. The commissioner may provide grants to any person to conduct research and development projects in accordance with this section.

Subd. 2b. Recovery of expenses. 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, excluding gross operating revenues from electric service provided in the state to large electric customer facilities for which the commissioner has issued an exemption under subdivision 1a, paragraph (b), and 0.6 percent of its gross revenues from provision of gas service, excluding gross operating revenues from gas services provided in the state to large electric customer facilities for which the commissioner has issued an exemption under subdivision 1a, paragraph (b), for that year for energy conservation improvements under this section.

Subd. 3. Ownership of energy conservation improvement. An energy conservation improvement made to or installed in a building in accordance with this section, except systems owned by the utility and designed to turn off, limit, or vary the delivery of energy, are the exclusive property of the owner of the building except 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 has no liability for loss, damage or injury caused directly or indirectly by 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 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.

Subd. 5. Efficient lighting program. (a) Each public utility, cooperative electric association, and municipal utility that provides electric service to retail customers shall include as part of its conservation improvement activities a program to strongly encourage the use of fluorescent and high-intensity discharge lamps. The program must include at least a public information campaign to encourage use of the lamps and proper management of spent lamps by all customer classifications.

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

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

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

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

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

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

Subd. 6. Renewable energy research. (a) A public utility that owns a nuclear generation facility in the state shall spend five percent of the total amount that utility is required to spend under this section to support basic and applied research and demonstration activities at the University of Minnesota Initiative for Renewable Energy and the Environment for the development of renewable energy sources and technologies. The utility shall transfer the required amount to the University of Minnesota on or before July 1 of each year and that annual amount shall be deducted from the amount of money the utility is required to spend under this section. The University of Minnesota shall transfer at least ten percent of these funds to at least one rural campus or experiment station.

(b) Research funded under this subdivision shall include:

(1) development of environmentally sound production, distribution, and use of energy, chemicals, and materials from renewable sources;

(2) processing and utilization of agricultural and forestry plant products and other bio-based, renewable sources as a substitute for fossil-fuel-based energy, chemicals, and materials using a variety of means including biocatalysis, biorefining, and fermentation;

(3) conversion of state wind resources to hydrogen for energy storage and transportation to areas of energy demand;

(4) improvements in scalable hydrogen fuel cell technologies; and

(5) production of hydrogen from bio-based, renewable sources; and sequestration of carbon.

(c) Notwithstanding other law to the contrary, the utility may, but is not required to, spend more than two percent of its gross operating revenues from service provided in this state under this section or section 216B.2411.

(d) This subdivision expires June 30, 2008.

216B.2411 DISTRIBUTED ENERGY RESOURCES.

Subdivision 1. Generation projects. (a) Any municipality or rural electric association providing electric service and subject to section 216B.241 that is meeting the objectives under section 216B.1691 may, and each public utility may, use five percent of the total amount to be spent on energy conservation improvements under section 216B.241, on:

(1) projects in Minnesota to construct an electric generating facility that utilizes eligible renewable energy sources as defined in subdivision 2, such as methane or other combustible gases derived from the processing of plant or animal wastes, biomass fuels such as short-rotation woody or fibrous agricultural crops, or other renewable fuel, as its primary fuel source; or

(2) projects in Minnesota to install a distributed generation facility of ten megawatts or less of interconnected capacity that is fueled by natural gas, renewable fuels, or another similarly clean fuel.

(b) For public utilities, as defined under section 216B.02, subdivision 4, projects under this section must be considered energy conservation improvements as defined in section 216B.241. For cooperative electric associations and municipal utilities, projects under this section must be considered load-management activities described in section 216B.241, subdivision 1, paragraph (i).

Subd. 2. Definitions. (a) For the purposes of this section, the terms defined in this subdivision and section 216B.241, subdivision 1, have the meanings given them.

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(b) "Eligible renewable energy sources" means fuels and technologies to generate electricity through the use of any of the resources listed in section 216B.1691, subdivision 1, paragraph (a), clause (1), except that the term "biomass" has the meaning provided under paragraph (c).

(c) "Biomass" includes:

- (1) methane or other combustible gases derived from the processing of plant or animal material;
- (2) alternative fuels derived from soybean and other agricultural plant oils or animal fats;
- (3) combustion of barley hulls, corn, soy-based products, or other agricultural products;
- (4) wood residue from the wood products industry in Minnesota or other wood products such as short-rotation woody or fibrous agricultural crops; and
- (5) landfill gas, mixed municipal solid waste, and refuse-derived fuel from mixed municipal solid waste.

Subd. 3. **Other provisions.** (a) Electricity generated by a facility constructed with funds provided under this section and using an eligible renewable energy source may be counted toward the renewable energy objectives in section 216B.1691, subject to the provisions of that section.

(b) Two or more entities may pool resources under this section to provide assistance jointly to proposed eligible renewable energy projects. The entities shall negotiate and agree among themselves for allocation of benefits associated with a project, such as the ability to count energy generated by a project toward a utility's renewable energy objectives under section 216B.1691. The entities shall provide a summary of the allocation of benefits to the commissioner. A utility may spend funds under this section for projects in Minnesota that are outside the service territory of the utility.

216C.27 ENERGY CONSERVATION IN EXISTING RESIDENCE.

Subdivision 1. **Rules.** The commissioner shall adopt rules containing minimum energy efficiency standards for existing residences. The standards shall be appropriate for evaluation of the energy efficiency of each major type of residential housing including, but not limited to, one- to four-family dwellings, apartment buildings, manufactured homes, condominium buildings, and type of ownership. The standards shall be economically feasible in that the resultant savings in energy procurement costs, based on current and projected average residential energy costs in Minnesota as certified by the commissioner in the State Register, will exceed the cost of the energy-conserving requirements amortized over the ten-year period subsequent to the incurring of the cost. The costs computed under this section and section 16B.61, subdivision 8, shall include reasonable inflation and interest factors. Subject to the provisions of subdivision 4, with respect to low-rent housing which is owned by a public housing authority or a housing and redevelopment authority as described in chapter 462, compliance with the standards established by the commissioner shall be determined based upon audits conducted by or on behalf of the housing and redevelopment authority or the public housing authority in conformance with the requirements of Code of Federal Regulations, title 24, sections 965.301 to 965.310. Audits which are conducted by individuals other than employees of the housing and redevelopment authority or the public housing authority shall be conducted by evaluators who are certified pursuant to subdivision 6 or section 216C.31. The determination of the economic feasibility of implementation of the standards in low-rent housing shall be made in accordance with the procedures established by the United States Department of Housing and Urban Development to implement Code of Federal Regulations, title 24, sections 965.301 to 965.310.

Subd. 2. **Definitions.** For the purposes of subdivisions 3 to 7, the following terms shall have the meanings given them.

(a) "Residence" means any dwelling for habitation either seasonally, meaning all or a portion of the months of November through April, or permanently by one or more persons. A residence may be part of a multidwelling or multipurpose building, but shall not include buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools, and other buildings used for educational purposes, or correctional institutions. A manufactured home as defined in section 168.011, subdivision 8, shall be a residence for purposes of this section.

(b) "Applicable energy efficiency standards" means those standards established under subdivision 1 which are not shown to be economically infeasible for the building in question.

Subd. 3. **Energy conservation for rental property.** Effective January 1, 1980, all residences constructed prior to January 1, 1976, which are renter-occupied during all or a portion of the months of November through April shall be in compliance with standards pursuant to subdivision 1 pertaining to caulking and weatherstripping of exterior joints and sealing of other openings in the building envelope. Effective July 1, 1983, all residences which are renter-occupied

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during all or a portion of the months of November through April shall be in compliance with all applicable energy efficiency standards.

Subd. 4. **Inspection.** The commissioner shall conduct inspections on a random basis for compliance with the provisions of subdivision 3. The commissioner may authorize a municipality, with its consent, to conduct the inspections within the municipality's jurisdiction, or to otherwise enforce the provisions of subdivision 3. Any municipality which conducts an inspection or other enforcement program shall have authority under all subdivisions of section 216C.30 to enforce the provisions of subdivision 3; provided that 100 percent of the penalties for violation of subdivision 3 shall be paid to the municipality. With respect to low-rent housing owned by a public housing authority or a housing and redevelopment authority described in sections 469.001 to 469.047, the commissioner or the municipality which conducts the inspection shall submit the results of the inspection to the housing and redevelopment authority or the public housing authority for review. If the housing and redevelopment authority or the public housing authority does not concur in the findings of the commissioner or the municipality, then the housing and redevelopment authority or the public housing authority and the commissioner or the municipality shall select a mutually acceptable independent third party or panel of experts knowledgeable in the area of energy conservation. The results of the inspection, the conclusions of the commissioner or the municipality as to compliance with the standards established pursuant to subdivision 1, and the basis for such conclusions, and the position of the housing and redevelopment authority or the public housing authority and the basis for such position shall be submitted to the independent third party or panel for a determination of the specific energy conservation measures which must be completed for compliance with the standards established pursuant to subdivision 1. The costs of the independent third party or panel shall be paid equally by the housing and redevelopment authority or the public housing authority and the commissioner or the municipality.

Subd. 5. **Enforcement after inspection.** If the commissioner determines, after an inspection conducted by or on behalf of the department, that a renter-occupied residence is not in compliance with the standards prescribed pursuant to subdivision 1, the commissioner may issue to the owner of the renter-occupied residence or the owner's agent a determination of noncompliance and may commence a contested case proceeding under sections 14.57 to 14.62. The determination shall (1) specify the reasons for the determination, (2) include a copy of the inspection report, (3) state the actions that must be taken to bring the residence into compliance with the standards, (4) state that if the residence is not brought into compliance with the standards within 90 days following the date of the determination, a contested case proceeding will be commenced, and (5) specify a fine that will be assessed upon the conclusion of the contested case proceeding in the absence of a showing of good cause in that proceeding. The contested case proceeding hearing shall be held in the county in which the renter-occupied residence is located. Notwithstanding the provisions of sections 14.50 and 14.61, the administrative law judge in the contested case proceeding shall make findings of fact and conclusions of law and issue a decision, and if the administrative law judge decides that the residence is not in compliance with the standards, the administrative law judge shall enter an order directing the owner to take such affirmative action as in the judgment of the administrative law judge will effectuate the purposes of this section and section 16B.61, subdivision 8.

Subd. 6. **Fines for noncompliance; exception.** If the administrative law judge issues a decision, following a contested case proceeding commenced pursuant to subdivision 4a, that a renter-occupied residence is not in compliance with the standards prescribed pursuant to subdivision 1 and that the owner of the renter-occupied residence has not proven a good cause, as defined by rule adopted by the commissioner, for failure to comply with the standards prescribed pursuant to subdivision 1, the administrative law judge shall assess a fine against the owner in accordance with a schedule of fines adopted by the commissioner by rule. This subdivision shall not apply in the case of low-rent housing owned by a public housing authority or a housing and redevelopment authority as defined in section 469.002.

Subd. 7. **Building evaluator.** The commissioner shall certify evaluators in each county of the state who are qualified to determine the compliance of a residence with applicable energy efficiency standards. The commissioner shall, by rule pursuant to chapter 14, adopt standards for the certification and performance of evaluators and set a fee for the certification of evaluators which is sufficient to cover the ongoing costs of the program once it is established. The commissioner shall encourage the certification of existing groups of trained municipal personnel and qualified individuals from community-based organizations and public service organizations. Each certified evaluator shall, on request of the owner, inspect any residence and report the degree to which it complies with applicable energy efficiency standards established pursuant to subdivision 1. The inspections shall be made within 30 days of the request. The commissioner shall enter into an agreement with the Board of Trustees of the Minnesota State Colleges and

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Universities for the provision of evaluator training at institutions that offer the technical training. The commissioner may contract with the board to reduce the training costs to the students. The commissioner may eliminate the examination fee for persons seeking upgraded certificates. The commissioner may also establish requirements for continuing education, periodic recertification, and revocation of certification for evaluators.

216C.30 ENFORCEMENT; PENALTIES, REMEDIES.

Subd. 5. **Remedies additional for health or safety violation.** For purposes of sections 504B.161 and 504B.185 and 504B.381 to 504B.471, the weatherstripping, caulking, storm window, and storm door energy efficiency standards for renter-occupied residences prescribed by section 216C.27, subdivisions 1 and 3, are health and safety standards and the penalties and remedies provided in this section are in addition to and do not limit remedies otherwise available to tenants of renter-occupied residences.