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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **1221**

February 22, 2007

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

March 27, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act  
 1.2 relating to energy; modifying provisions relating to energy efficiency,  
 1.3 conservation, savings, and audits; amending Minnesota Statutes 2006, sections  
 1.4 123B.65, subdivision 2; 216B.16, subdivisions 1, 6b; 216B.241; 216C.31;  
 1.5 471.345, subdivision 13; 504B.161, subdivision 1; proposing coding for  
 1.6 new law in Minnesota Statutes, chapter 216B; repealing Minnesota Statutes  
 1.7 2006, sections 216B.165; 216C.27; 216C.30, subdivision 5; Minnesota Rules,  
 1.8 parts 7635.0100; 7635.0110; 7635.0120; 7635.0130; 7635.0140; 7635.0150;  
 1.9 7635.0160; 7635.0170; 7635.0180; 7635.0200; 7635.0210; 7635.0220;  
 1.10 7635.0230; 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310;  
 1.11 7635.0320; 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420;  
 1.12 7635.0500; 7635.0510; 7635.0520; 7635.0530; 7635.0600; 7635.0610;  
 1.13 7635.0620; 7635.0630; 7635.0640; 7635.1000; 7635.1010; 7635.1020;  
 1.14 7635.1030; 7655.0100; 7655.0120; 7655.0200; 7655.0210; 7655.0220;  
 1.15 7655.0230; 7655.0240; 7655.0250; 7655.0260; 7655.0270; 7655.0280;  
 1.16 7655.0290; 7655.0300; 7655.0310; 7655.0320; 7655.0330; 7655.0400;  
 1.17 7655.0410; 7655.0420.

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

1.19 **ARTICLE 1**  
1.20 **ENERGY EFFICIENCY AND CONSERVATION**

1.21 Section 1. Minnesota Statutes 2006, section 216B.16, subdivision 1, is amended to read:

1.22 Subdivision 1. **Notice.** Unless the commission otherwise orders, no public utility  
 1.23 shall change a rate which has been duly established under this chapter, except upon 60  
 1.24 days' notice to the commission. The notice shall include statements of facts, expert  
 1.25 opinions, substantiating documents, and exhibits, supporting the change requested, and  
 1.26 state the change proposed to be made in the rates then in force and the time when the  
 1.27 modified rates will go into effect. If the filing utility does not have an approved energy  
 1.28 conservation improvement plan on file with the department, it shall also include in its  
 1.29 notice an energy conservation plan pursuant to section 216B.241. A filing utility subject to

2.1 rate regulation under section 216B.026 shall reference in its notice the energy conservation  
2.2 improvement plans of the generation and transmission cooperative providing energy  
2.3 conservation improvement programs to members of the filing utility pursuant to section  
2.4 216B.241. The filing utility shall give written notice, as approved by the commission, of  
2.5 the proposed change to the governing body of each municipality and county in the area  
2.6 affected. All proposed changes shall be shown by filing new schedules or shall be plainly  
2.7 indicated upon schedules on file and in force at the time.

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

2.9 Subd. 6b. **Energy conservation improvement.** (a) Except as otherwise provided  
2.10 in this subdivision, all investments and expenses of a public utility as defined in  
2.11 section 216B.241, subdivision 1, paragraph ~~(e)~~ (i), incurred in connection with energy  
2.12 conservation improvements shall be recognized and included by the commission in the  
2.13 determination of just and reasonable rates as if the investments and expenses were directly  
2.14 made or incurred by the utility in furnishing utility service.

2.15 (b) ~~After December 31, 1999,~~ Investments and expenses for energy conservation  
2.16 improvements shall not be included by the commission in the determination of (i) just and  
2.17 reasonable electric and gas rates for retail electric and gas service provided to large electric  
2.18 customer facilities that have been exempted by the commissioner of the department  
2.19 pursuant to section 216B.241, subdivision 1a, paragraph (b); or (ii) just and reasonable  
2.20 gas rates for large energy facilities. ~~However, no public utility shall be prevented from~~  
2.21 ~~recovering its investment in energy conservation improvements from all customers that~~  
2.22 ~~were made on or before December 31, 1999, in compliance with the requirements of~~  
2.23 ~~section 216B.241.~~

2.24 (c) The commission may permit a public utility to file rate schedules providing for  
2.25 annual recovery of the costs of energy conservation improvements. These rate schedules  
2.26 may be applicable to less than all the customers in a class of retail customers if necessary to  
2.27 reflect the ~~differing minimum spending~~ requirements of section 216B.241, ~~subdivision 1a.~~  
2.28 ~~After December 31, 1999,~~ The commission shall allow a public utility, without requiring  
2.29 a general rate filing under this section, to reduce the electric and gas rates applicable to  
2.30 large electric customer facilities that have been exempted by the commissioner of the  
2.31 department pursuant to section 216B.241, subdivision 1a, paragraph (b), and to reduce the  
2.32 gas rate applicable to a large energy facility by an amount that reflects the elimination  
2.33 of energy conservation improvement investments or expenditures for those facilities  
2.34 ~~required on or before December 31, 1999.~~ In the event that the commission has set  
2.35 electric or gas rates based on the use of an accounting methodology that results in the cost

3.1 of conservation improvements being recovered from utility customers over a period of  
3.2 years, the rate reduction may occur in a series of steps to coincide with the recovery of  
3.3 balances due to the utility for conservation improvements made by the utility on or before  
3.4 December 31, ~~1999~~ 2007.

3.5 Sec. 3. **[216B.1636] RECOVERY OF ELECTRIC UTILITY INFRASTRUCTURE**  
3.6 **COSTS.**

3.7 Subdivision 1. **Definitions.** (a) "Electric utility" means a public utility as defined in  
3.8 section 216B.02, subdivision 4, that furnishes electric service to retail customers.

3.9 (b) "Electric utility infrastructure costs" or "EUIC" means costs for electric utility  
3.10 infrastructure projects that were not included in the electric utility's rate base in its most  
3.11 recent general rate case.

3.12 (c) "Electric utility infrastructure projects" means projects that:

3.13 (1) replace or modify existing electric utility infrastructure, including utility-owned  
3.14 buildings, if the replacement or modification is shown to conserve energy or use energy  
3.15 more efficiently, consistent with section 216B.241, subdivision 1c; or

3.16 (2) conserve energy or use energy more efficiently by using waste heat recovery  
3.17 converted into electricity as defined in section 216B.241, subdivision 1, paragraph (n).

3.18 Subd. 2. **Filing.** (a) The commission may approve an electric utility's petition for  
3.19 a rate schedule to recover EUIC under this section. An electric utility may petition the  
3.20 commission to recover a rate of return, income taxes on the rate of return, incremental  
3.21 property taxes, if any, plus incremental depreciation expense associated with EUIC.

3.22 (b) The filing is subject to the following:

3.23 (1) an electric utility may submit a filing under this section no more than once  
3.24 per year; and

3.25 (2) an electric utility must file sufficient information to satisfy the commission  
3.26 regarding the proposed EUIC or be subject to denial by the commission, which  
3.27 information includes, but is not limited to:

3.28 (i) the location, description, and costs associated with the project;

3.29 (ii) evidence that the electric utility infrastructure project will conserve energy or use  
3.30 energy more efficiently than similar utility facilities currently used by the electric utility;

3.31 (iii) the proposed schedule for implementation;

3.32 (iv) a description of the costs, and salvage value, if any, associated with the existing  
3.33 infrastructure replaced or modified as a result of the project;

3.34 (v) the proposed rate design and an explanation of why the proposed rate design  
3.35 is in the public interest;

4.1 (vi) the magnitude and timing of any known future electric utility projects that the  
4.2 utility may seek to recover under this section;

4.3 (vii) the magnitude of EUIC in relation to the electric utility's base revenue as  
4.4 approved by the commission in the electric utility's most recent general rate case,  
4.5 exclusive of fuel cost adjustments;

4.6 (viii) the magnitude of EUIC in relation to the electric utility's capital expenditures  
4.7 since its most recent general rate case;

4.8 (ix) the amount of time since the utility last filed a general rate case and the utility's  
4.9 reasons for seeking recovery outside of a general rate case;

4.10 (x) documentation supporting the calculation of the EUIC; and

4.11 (xi) a cost and benefit analysis showing that the electric utility infrastructure project  
4.12 is in the public interest.

4.13 (c) Upon approval of the proposed projects and associated EUIC rate schedule, the  
4.14 utility may implement the electric utility infrastructure projects.

4.15 Subd. 3. **Commission authority; orders.** The commission may issue orders  
4.16 necessary to implement and administer this section.

4.17 **Sec. 4. [216B.2401] ENERGY CONSERVATION POLICY GOAL.**

4.18 It is the energy policy of the state of Minnesota to achieve annual energy savings  
4.19 equal to 1.5 percent of annual retail energy sales of electricity and natural gas directly  
4.20 through energy conservation improvement programs and rate design, and indirectly  
4.21 through energy codes and appliance standards, programs designed to transform the market  
4.22 or change consumer behavior, efficiency improvements to the utility infrastructure and  
4.23 system, and other efforts to promote energy efficiency and energy conservation.

4.24 **Sec. 5. Minnesota Statutes 2006, section 216B.241, is amended to read:**

4.25 **216B.241 ENERGY CONSERVATION IMPROVEMENT.**

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

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

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

4.30 (c) "Customer facility" means all buildings, structures, equipment, and installations  
4.31 at a single site.

4.32 (d) "Department" means the Department of Commerce.

5.1 (e) "Energy conservation" means demand-side management of energy supplies  
5.2 resulting in a net reduction in energy use. Load management that reduces overall energy  
5.3 use is energy conservation.

5.4 (f) "Energy conservation improvement" means a project that results in energy  
5.5 efficiency or energy conservation. Energy conservation improvement does not include  
5.6 waste heat recovery converted into electricity or electric utility infrastructure projects  
5.7 approved by the commission under section 216B.1636.

5.8 (g) "Energy efficiency" refers to measures or programs, including energy  
5.9 conservation measures or programs, that target consumer behavior, equipment, processes,  
5.10 or devices designed to produce either an absolute decrease in consumption of electric  
5.11 energy or natural gas or a decrease in consumption of electric energy or natural gas on a  
5.12 per unit of production basis without a reduction in the quality or level of service provided  
5.13 to the energy consumer.

5.14 ~~(g)~~ (h) "Gross annual retail energy sales" means annual electric sales to all retail  
5.15 customers in a utility's or association's Minnesota service territory or natural gas  
5.16 throughput to all retail customers, including natural gas transportation customers, on a  
5.17 utility's distribution system in Minnesota. For purposes of this section, gross annual  
5.18 retail energy sales exclude gas sales to a large energy facility and gas and electric sales  
5.19 to a large electric customer facility exempted by the commissioner under subdivision  
5.20 1a, paragraph (b).

5.21 (i) "Investments and expenses of a public utility" includes the investments and  
5.22 expenses incurred by a public utility in connection with an energy conservation  
5.23 improvement, including but not limited to:

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

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

5.30 ~~(h)~~ (j) "Large electric customer facility" means a customer facility that imposes a  
5.31 peak electrical demand on an electric utility's system of not less than 20,000 kilowatts,  
5.32 measured in the same way as the utility that serves the customer facility measures  
5.33 electrical demand for billing purposes, and for which electric services are provided at  
5.34 retail on a single bill by a utility operating in the state.

5.35 ~~(i)~~ (k) "Large energy facility" has the meaning given it in section 216B.2421,  
5.36 subdivision 2, clause (1).

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

6.5           (m) "Low-income programs" means energy conservation improvement programs  
6.6 that directly serve the needs of low-income persons, including low-income renters.

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

6.11           Subd. 1a. **Investment, expenditure, and contribution; public utility.** (a) For  
6.12 purposes of this subdivision and subdivision 2, "public utility" has the meaning given it  
6.13 in section 216B.02, subdivision 4. Each public utility shall spend and invest for energy  
6.14 conservation improvements under this subdivision and subdivision 2 the following  
6.15 amounts:

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

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

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

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

6.26           (b) The owner of a large electric customer facility may petition the commissioner  
6.27 to exempt both electric and gas utilities serving the large energy customer facility from  
6.28 the investment and expenditure requirements of paragraph (a) with respect to retail  
6.29 revenues attributable to the facility. At a minimum, the petition must be supported by  
6.30 evidence relating to competitive or economic pressures on the customer and a showing  
6.31 by the customer of reasonable efforts to identify, evaluate, and implement cost-effective  
6.32 conservation improvements at the facility. If a petition is filed on or before October 1 of  
6.33 any year, the order of the commissioner to exempt revenues attributable to the facility can  
6.34 be effective no earlier than January 1 of the following year. The commissioner shall  
6.35 not grant an exemption if the commissioner determines that granting the exemption is  
6.36 contrary to the public interest. The commissioner may, after investigation, rescind any

7.1 exemption granted under this paragraph upon a determination that ~~cost-effective~~ the  
 7.2 customer is not continuing to make reasonable efforts to identify, evaluate, and implement  
 7.3 energy conservation improvements are available at the large electric customer facility.  
 7.4 ~~For the purposes of this paragraph, "cost-effective" means that the projected total cost of~~  
 7.5 ~~the energy conservation improvement at the large electric customer facility is less than~~  
 7.6 ~~the projected present value of the energy and demand savings resulting from the energy~~  
 7.7 ~~conservation improvement.~~ For the purposes of investigations by the commissioner under  
 7.8 this paragraph, the owner of any large electric customer facility shall, upon request,  
 7.9 provide the commissioner with updated information comparable to that originally supplied  
 7.10 in or with the owner's original petition under this paragraph.

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

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

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

7.22 ~~(e) Each utility shall determine what portion of the amount it sets aside for~~  
 7.23 ~~conservation improvement will be used for conservation improvements under subdivision~~  
 7.24 ~~2 and what portion it will contribute to the energy and conservation account established in~~  
 7.25 ~~subdivision 2a. A public utility may propose to the commissioner to designate that all~~  
 7.26 ~~or a portion of funds contributed to the account established in subdivision 2a be used~~  
 7.27 ~~for research and development projects that can best be implemented on a statewide~~  
 7.28 ~~basis. Contributions must be remitted to the commissioner by February 1 of each year.~~  
 7.29 ~~Nothing in this subdivision prohibits a public utility from spending or investing for energy~~  
 7.30 ~~conservation improvement more than required in this subdivision.~~

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

- 7.33 (1) a cooperative electric association that provides retail service to its members;  
 7.34 (2) a municipality that provides electric service to retail customers; and

8.1 (3) a municipality with ~~gross operating revenues in excess of \$5,000,000 from~~  
8.2 ~~sales of~~ more than 1,000,000,000 cubic feet in annual throughput sales to natural gas  
8.3 to retail customers.

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

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

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

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

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

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

8.30 (f) A generation and transmission cooperative electric association that provides  
8.31 energy services to cooperative electric associations that provide electric service at retail to  
8.32 consumers may invest in energy conservation improvements on behalf of the associations  
8.33 it serves and may fulfill the conservation, spending, reporting, and energy savings goals on  
8.34 an aggregate basis. A municipal power agency or other not-for-profit entity that provides  
8.35 energy service to municipal utilities that provide electric service at retail may invest in  
8.36 energy conservation improvements on behalf of the municipal utilities it serves and may

9.1 fulfill the conservation, spending, reporting, and energy savings goals on an aggregate  
9.2 basis, under an agreement between the municipal power agency or not-for-profit entity  
9.3 and each municipal utility for funding the investments.

9.4 ~~(g) At least every four years, on a schedule determined by the commissioner, each~~  
9.5 ~~municipality or cooperative shall file an overview of its conservation improvement plan~~  
9.6 ~~with the commissioner. With this overview, Each municipality or cooperative shall file~~  
9.7 ~~energy conservation improvement plans by June 1 on a schedule determined by order~~  
9.8 ~~of the commissioner, but at least every three years. Plans received by June 1 must be~~  
9.9 ~~approved or approved as modified by the commissioner by December 1 of the same year.~~

9.10 The municipality or cooperative shall ~~also~~ provide an evaluation to the commissioner  
9.11 detailing its energy conservation improvement spending and investments for the previous  
9.12 period. The evaluation must briefly describe each conservation program and must specify  
9.13 the energy savings or increased efficiency in the use of energy within the service territory  
9.14 of the utility or association that is the result of the spending and investments. The  
9.15 evaluation must analyze the cost-effectiveness of the utility's or association's conservation  
9.16 programs, using a list of baseline energy and capacity savings assumptions developed  
9.17 in consultation with the department. The commissioner shall review each evaluation  
9.18 and make recommendations, where appropriate, to the municipality or association to  
9.19 increase the effectiveness of conservation improvement activities. ~~Up to three percent of~~  
9.20 ~~a utility's conservation spending obligation under this section may be used for program~~  
9.21 ~~pre-evaluation, testing, and monitoring and program evaluation. The overview and~~  
9.22 ~~evaluation filed by a municipality with less than 60,000,000 kilowatt-hours in annual~~  
9.23 ~~retail sales of electric service may consist of a letter from the governing board of the~~  
9.24 ~~municipal utility to the department providing the amount of annual conservation spending~~  
9.25 ~~required of that municipality and certifying that the required amount has been spent on~~  
9.26 ~~conservation programs pursuant to this subdivision.~~

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

9.33 ~~(i) As part of its spending for conservation improvement, a municipality or~~  
9.34 ~~association may contribute to the energy and conservation account. A municipality or~~  
9.35 ~~association may propose to the commissioner to designate that all or a portion of funds~~  
9.36 ~~contributed to the account be used for research and development projects that can best~~

10.1 ~~be implemented on a statewide basis. Any amount contributed must be remitted to the~~  
10.2 ~~commissioner by February 1 of each year.~~

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

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

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

10.15 ~~(b) Each individual utility and association shall have an annual energy-savings~~  
10.16 ~~goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the~~  
10.17 ~~commissioner under paragraph (d). The savings goals must be calculated based on the~~  
10.18 ~~most recent three-year weather normalized average.~~

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

10.21 ~~(d) In its energy conservation improvement plan filing, a utility or association may~~  
10.22 ~~request the commissioner to adjust its annual energy savings percentage goal based on~~  
10.23 ~~its historical conservation investment experience, customer class makeup, load growth,~~  
10.24 ~~a conservation potential study, or other factors the commissioner determines warrants~~  
10.25 ~~an adjustment. The commissioner may not approve a plan that provides for an annual~~  
10.26 ~~energy savings goal of less than one percent of gross annual retail energy sales from~~  
10.27 ~~energy conservation improvements. A utility or association may include in its energy~~  
10.28 ~~conservation plan energy savings from an electric utility infrastructure project or waste~~  
10.29 ~~heat recovery converted into electricity project approved by the commission under section~~  
10.30 ~~216B.1636 that may count as energy savings in addition to the minimum energy savings~~  
10.31 ~~goal of at least one percent for energy conservation improvements. Electric utility~~  
10.32 ~~infrastructure projects must result in increased energy efficiency greater than that which~~  
10.33 ~~would have occurred through normal maintenance activity.~~

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

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

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

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

11.17 Subd. 1d. ~~Cooperative conservation investment increase phase-in~~ Technical  
 11.18 assistance. ~~The increase in required conservation improvement expenditures by a~~  
 11.19 ~~cooperative electric association that results from the amendments in Laws 2001, chapter~~  
 11.20 ~~212, article 8, section 6, to subdivision 1b, paragraph (a), clause (1), must be phased~~  
 11.21 ~~in as follows:~~

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

11.26 The commissioner shall evaluate energy conservation improvement programs  
 11.27 on the basis of cost-effectiveness and the reliability of the technologies employed.  
 11.28 The commissioner shall, by order, establish, maintain, and update energy savings  
 11.29 assumptions that must be used when filing energy conservation improvement programs.  
 11.30 The commissioner shall establish an inventory of the most effective energy conservation  
 11.31 programs, techniques, and technologies, and encourage all Minnesota utilities to  
 11.32 implement them, where appropriate, in their service territories. The commissioner shall  
 11.33 describe these programs in sufficient detail to provide a utility reasonable guidance  
 11.34 concerning implementation. The commissioner shall prioritize the opportunities in  
 11.35 order of potential energy savings and in order of cost-effectiveness. The commissioner  
 11.36 may contract with a third party to carry out any of the commissioner's duties under

12.1 this subdivision, and to obtain technical assistance to evaluate the effectiveness of any  
12.2 conservation improvement program. The commissioner may assess up to \$800,000  
12.3 annually until June 30, 2009, and \$450,000 annually thereafter for the purposes of this  
12.4 subdivision. The assessments must be deposited into the energy and conservation account  
12.5 created under subdivision 2a. An assessment made under this subdivision is not subject to  
12.6 the cap on assessments provided by section 216B.62, or any other law.

12.7 Subd. 1e. **Applied research and development grants.** The commissioner may, by  
12.8 order, approve and make grants for applied research and development projects of general  
12.9 applicability that identify new technologies or strategies to maximize energy savings,  
12.10 improve the effectiveness of energy conservation programs, or document the carbon  
12.11 dioxide reductions from energy conservation programs. When approving projects, the  
12.12 commissioner shall consider proposals and comments from utilities and other interested  
12.13 parties. The commissioner may assess up to \$3,600,000 annually for the purposes of this  
12.14 subdivision. The assessments must be deposited into the energy and conservation account  
12.15 created under subdivision 2a. An assessment made under this subdivision is not subject to  
12.16 the cap on assessments provided by section 216B.62, or any other law.

12.17 Subd. 1f. **Facilities energy efficiency.** (a) The Department of Administration  
12.18 and the Department of Commerce shall maintain and, as needed, revise the sustainable  
12.19 building design guidelines developed under section 16B.325.

12.20 (b) The Department of Administration and the Department of Commerce shall  
12.21 maintain and update the benchmarking tool developed under Laws 2001, chapter 212,  
12.22 article 1, section 3, so that all public buildings can use the benchmarking tool to maintain  
12.23 energy use information for the purposes of establishing energy efficiency benchmarks,  
12.24 tracking building performance and measuring the results of energy efficiency and  
12.25 conservation improvements.

12.26 (c) The commissioner shall require that utilities include in their conservation  
12.27 improvement plans programs that facilitate professional engineering verification to qualify  
12.28 a building as Energy Star-labeled or as Leadership in Energy and Environmental Design  
12.29 (LEED) certified. The state goal is to achieve certification of 1,000 commercial buildings  
12.30 as Energy Star-labeled, and 100 commercial buildings as LEED-certified by December  
12.31 31, 2010.

12.32 (d) The commissioner may assess up to \$500,000 annually for the purposes of this  
12.33 subdivision. The assessments must be deposited into the energy and conservation account  
12.34 created under subdivision 2a. An assessment made under this subdivision is not subject to  
12.35 the cap on assessments provided by section 216B.62, or any other law.

13.1 Subd. 2. **Programs.** (a) The commissioner may require public utilities to make  
 13.2 investments and expenditures in energy conservation improvements, explicitly setting  
 13.3 forth the interest rates, prices, and terms under which the improvements must be offered to  
 13.4 the customers. The required programs must cover no more than a ~~four-year~~ three-year  
 13.5 period. Public utilities shall file conservation improvement plans by June 1, on a schedule  
 13.6 determined by order of the commissioner, but at least every ~~four~~ three years. Plans  
 13.7 received by a public utility by June 1 must be approved or approved as modified by the  
 13.8 commissioner by December 1 of that same year. ~~The commissioner shall give special~~  
 13.9 ~~consideration and encouragement to programs that bring about significant net savings~~  
 13.10 ~~through the use of energy-efficient lighting.~~ The commissioner shall evaluate the program  
 13.11 on the basis of cost-effectiveness and the reliability of technologies employed. The  
 13.12 commissioner's order must provide to the extent practicable for a free choice, by consumers  
 13.13 participating in the program, of the device, method, material, or project constituting the  
 13.14 energy conservation improvement and for a free choice of the seller, installer, or contractor  
 13.15 of the energy conservation improvement, provided that the device, method, material, or  
 13.16 project seller, installer, or contractor is duly licensed, certified, approved, or qualified,  
 13.17 including under the residential conservation services program, where applicable.

13.18 (b) The commissioner may require a utility to make an energy conservation  
 13.19 improvement investment or expenditure whenever the commissioner finds that the  
 13.20 improvement will result in energy savings at a total cost to the utility less than the cost  
 13.21 to the utility to produce or purchase an equivalent amount of new supply of energy. The  
 13.22 commissioner shall nevertheless ensure that every public utility operate one or more  
 13.23 programs under periodic review by the department.

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

13.29 (d) A public utility may not spend for or invest in energy conservation improvements  
 13.30 that directly benefit a large energy facility or a large electric customer facility for which  
 13.31 the commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b). The  
 13.32 commissioner shall consider and may require a utility to undertake a program suggested  
 13.33 by an outside source, including a political subdivision ~~or~~, a nonprofit corporation, or  
 13.34 community organization.

13.35 ~~(e) The commissioner may, by order, establish a list of programs that may be~~  
 13.36 ~~offered as energy conservation improvements by a public utility, municipal utility,~~

14.1 ~~cooperative electric association, or other entity providing conservation services pursuant~~  
14.2 ~~to this section. The list of programs may include rebates for high-efficiency appliances,~~  
14.3 ~~rebates or subsidies for high-efficiency lamps, small business energy audits, and building~~  
14.4 ~~recommissioning. The commissioner may, by order, change this list to add or subtract~~  
14.5 ~~programs as the commissioner determines is necessary to promote efficient and effective~~  
14.6 ~~conservation programs.~~

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

14.13 ~~(g)~~ (e) A utility, a political subdivision, or a nonprofit or community organization  
14.14 that has suggested a program, the attorney general acting on behalf of consumers and  
14.15 small business interests, or a utility customer that has suggested a program and is not  
14.16 represented by the attorney general under section 8.33 may petition the commission to  
14.17 modify or revoke a department decision under this section, and the commission may do  
14.18 so if it determines that the program is not cost-effective, does not adequately address the  
14.19 residential conservation improvement needs of low-income persons, has a long-range  
14.20 negative effect on one or more classes of customers, or is otherwise not in the public  
14.21 interest. The commission shall reject a petition that, on its face, fails to make a reasonable  
14.22 argument that a program is not in the public interest.

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

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

14.35 Subd. 2a. **Energy and conservation account.** The energy and conservation  
14.36 account is established in the special revenue fund in the state treasury. The commissioner

15.1 must deposit money ~~contributed under subdivisions 1a and 1b~~ assessed or contributed  
15.2 under subdivisions 1d, 1e, 1f, and 7 in the energy and conservation account in the  
15.3 ~~general~~ special revenue fund. Money in the account is appropriated to the department  
15.4 for ~~programs designed to meet the energy conservation needs of low-income persons~~  
15.5 ~~and to make energy conservation improvements in areas not adequately served under~~  
15.6 ~~subdivision 2, including research and development projects included in the definition of~~  
15.7 ~~energy conservation improvement in subdivision 1~~ the purposes of subdivisions 1d, 1e,  
15.8 1f, and 7. Interest on money in the account accrues to the account. ~~Using information~~  
15.9 ~~collected under section 216C.02, subdivision 1, paragraph (b), the commissioner must,~~  
15.10 ~~to the extent possible, allocate enough money to programs for low-income persons to~~  
15.11 ~~assure that their needs are being adequately addressed. The commissioner must request~~  
15.12 ~~the commissioner of finance to transfer money from the account to the commissioner of~~  
15.13 ~~education for an energy conservation program for low-income persons. In establishing~~  
15.14 ~~programs, the commissioner must consult political subdivisions and nonprofit and~~  
15.15 ~~community organizations, especially organizations engaged in providing energy and~~  
15.16 ~~weatherization assistance to low-income persons. At least one program must address~~  
15.17 ~~the need for energy conservation improvements in areas in which a high percentage of~~  
15.18 ~~residents use fuel oil or propane to fuel their source of home heating. The commissioner~~  
15.19 ~~may contract with a political subdivision, a nonprofit or community organization, a public~~  
15.20 ~~utility, a municipality, or a cooperative electric association to implement its programs. The~~  
15.21 ~~commissioner may provide grants to any person to conduct research and development~~  
15.22 ~~projects in accordance with this section.~~

15.23 Subd. 2b. **Recovery of expenses.** The commission shall allow a utility to recover  
15.24 expenses resulting from a conservation improvement program required by the department  
15.25 and contributions and assessments to the energy and conservation account, unless the  
15.26 recovery would be inconsistent with a financial incentive proposal approved by the  
15.27 commission. The commission shall allow a cooperative electric association subject  
15.28 to rate regulation under section 216B.026, to recover expenses resulting from energy  
15.29 conservation improvement programs, load management programs, and assessments  
15.30 and contributions to the energy and conservation account unless the recovery would be  
15.31 inconsistent with a financial incentive proposal approved by the commission. In addition,  
15.32 a utility may file annually, or the Public Utilities Commission may require the utility  
15.33 to file, and the commission may approve, rate schedules containing provisions for the  
15.34 automatic adjustment of charges for utility service in direct relation to changes in the  
15.35 expenses of the utility for real and personal property taxes, fees, and permits, the amounts  
15.36 of which the utility cannot control. A public utility is eligible to file for adjustment for real

16.1 and personal property taxes, fees, and permits under this subdivision only if, in the year  
16.2 previous to the year in which it files for adjustment, it has spent or invested at least 1.75  
16.3 percent of its gross revenues from provision of electric service, excluding gross operating  
16.4 revenues from electric service provided in the state to large electric customer facilities for  
16.5 which the commissioner has issued an exemption under subdivision 1a, paragraph (b), and  
16.6 0.6 percent of its gross revenues from provision of gas service, excluding gross operating  
16.7 revenues from gas services provided in the state to large electric customer facilities for  
16.8 which the commissioner has issued an exemption under subdivision 1a, paragraph (b), for  
16.9 that year for energy conservation improvements under this section.

16.10 Subd. 2c. **Performance incentives.** By December 31, 2008, the commission shall  
16.11 review any incentive plan for energy conservation improvement it has approved under  
16.12 216B.16, subdivision 6c, and adjust the utility performance incentives to recognize making  
16.13 progress toward and meeting the energy savings goals established in subdivision 1c.

16.14 **Subd. 3. Ownership of energy conservation improvement.** An energy  
16.15 conservation improvement made to or installed in a building in accordance with this  
16.16 section, except systems owned by the utility and designed to turn off, limit, or vary the  
16.17 delivery of energy, are the exclusive property of the owner of the building except to the  
16.18 extent that the improvement is subjected to a security interest in favor of the utility in case  
16.19 of a loan to the building owner. The utility has no liability for loss, damage or injury  
16.20 caused directly or indirectly by an energy conservation improvement except for negligence  
16.21 by the utility in purchase, installation, or modification of the product.

16.22 **Subd. 4. Federal law prohibitions.** If investments by public utilities in energy  
16.23 conservation improvements are in any manner prohibited or restricted by federal law  
16.24 and there is a provision under which the prohibition or restriction may be waived, then  
16.25 the commission, the governor, or any other necessary state agency or officer shall take  
16.26 all necessary and appropriate steps to secure a waiver with respect to those public utility  
16.27 investments in energy conservation improvements included in this section.

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

16.34 (b) A public utility that provides electric service at retail to 200,000 or more  
16.35 customers shall establish, either directly or through contracts with other persons, including  
16.36 lamp manufacturers, distributors, wholesalers, and retailers and local government units, a

17.1 system to collect for delivery to a reclamation or recycling facility spent fluorescent and  
17.2 high-intensity discharge lamps from households and from small businesses as defined in  
17.3 section 645.445 that generate an average of fewer than ten spent lamps per year.

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

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

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

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

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

17.29 **Subd. 6. Renewable energy research.** (a) A public utility that owns a nuclear  
17.30 generation facility in the state shall spend five percent of the total amount that utility  
17.31 is required to spend under this section to support basic and applied research and  
17.32 demonstration activities at the University of Minnesota Initiative for Renewable Energy  
17.33 and the Environment for the development of renewable energy sources and technologies.  
17.34 The utility shall transfer the required amount to the University of Minnesota on or before  
17.35 July 1 of each year and that annual amount shall be deducted from the amount of money the

18.1 utility is required to spend under this section. The University of Minnesota shall transfer  
18.2 at least ten percent of these funds to at least one rural campus or experiment station.

18.3 (b) Research funded under this subdivision shall include:

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

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

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

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

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

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

18.17 (d) This subdivision expires June 30, 2008.

18.18 Subd. 7. **Low-income programs.** (a) The commissioner shall ensure that each  
18.19 utility and association provides low-income programs. When approving spending and  
18.20 energy savings goals for low-income programs, the commissioner shall consider historic  
18.21 spending and participation levels, energy savings for low-income programs, and the  
18.22 number of low-income persons residing in the utility's service territory. A utility that  
18.23 furnishes gas service must spend at least 0.2 percent of its gross operating revenue from  
18.24 residential customers in the state on low-income programs. A utility or association that  
18.25 furnishes electric service must spend at least 0.1 percent of its gross operating revenue  
18.26 from residential customers in the state on low-income programs. For a generation and  
18.27 transmission cooperative association, this requirement shall apply to each association's  
18.28 members' aggregate gross operating revenue from sale of electricity to residential  
18.29 customers in the state. Beginning in 2010, a utility or association that furnishes electric  
18.30 service must spend 0.2 percent of its gross operating revenue from residential customers  
18.31 in the state on low-income programs.

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

19.1 (c) The commissioner shall establish low-income programs to utilize funds  
19.2 contributed to the energy and conservation account under paragraph (b). In establishing  
19.3 low-income programs, the commissioner shall consult political subdivisions, utilities, and  
19.4 nonprofit and community organizations, especially organizations engaged in providing  
19.5 energy and weatherization assistance to low-income persons. Money contributed to  
19.6 the energy and conservation account under paragraph (b) must provide programs for  
19.7 low-income persons, including low-income renters, in the service territory of the utility or  
19.8 association providing the funds. The commissioner shall record and report expenditures  
19.9 and energy savings achieved as a result of low-income programs funded through the  
19.10 energy and conservation account in the report required under subdivision 1c, paragraph  
19.11 (g). The commissioner may contract with a political subdivision, nonprofit or community  
19.12 organization, public utility, municipality, or cooperative electric association to implement  
19.13 low-income programs funded through the energy and conservation account.

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

19.17 Subd. 8. **Assessment.** The commission or department may assess utilities subject to  
19.18 this section in proportion to their respective gross operating revenue from sales of gas or  
19.19 electric service within the state during the last calendar year to carry out the purposes of  
19.20 subdivisions 1d, 1e, and 1f. Those assessments are not subject to the cap on assessments  
19.21 provided by section 216B.62, or any other law.

19.22 **Sec. 6. [216B.2412] DECOUPLING OF ENERGY SALES FROM REVENUES.**

19.23 Subdivision 1. **Definition and purpose.** For the purpose of this section,  
19.24 "decoupling" means a regulatory tool designed to separate a utility's revenue from changes  
19.25 in energy sales. The purpose of decoupling is to reduce a utility's disincentive to promote  
19.26 energy efficiency.

19.27 Subd. 2. **Decoupling criteria.** The commission shall, by order, establish criteria  
19.28 and standards for decoupling. The commission shall design the criteria and standards to  
19.29 mitigate the impact on public utilities of the energy savings goals under section 216B.241  
19.30 without adversely affecting utility ratepayers. In designing the criteria, the commission  
19.31 shall consider energy efficiency, weather, and cost of capital, among other factors.

19.32 Subd. 3. **Pilot programs.** The commission shall allow one or more rate-regulated  
19.33 utilities to participate in a pilot program to assess the merits of a rate-decoupling strategy  
19.34 to promote energy efficiency and conservation. Each pilot program must utilize the  
19.35 criteria and standards established in subdivision 2 and be designed to determine whether

20.1 a rate-decoupling strategy achieves energy savings. On or before a date established by  
20.2 the commission, the commission shall require electric and gas utilities that intend to  
20.3 implement a decoupling program to file a decoupling pilot plan which shall be approved  
20.4 or approved as modified by the commission. A pilot program may not exceed three years  
20.5 in length. Any extension beyond three years can only be approved in a general rate case,  
20.6 unless that decoupling program was previously approved as part of a general rate case.  
20.7 The commission shall report on the programs annually to the chairs of the house of  
20.8 representatives and senate committees with primary jurisdiction over energy policy.

20.9 Sec. 7. **REVISOR'S INSTRUCTION.**

20.10 The revisor of statutes shall change the reference to "section 216B.241, subdivision  
20.11 1, paragraph (i)" found in section 216B.2411, subdivision 1, to read "section 216B.241,  
20.12 subdivision 1."

20.13 Sec. 8. **EFFECTIVE DATE.**

20.14 This article is effective July 1, 2007.

20.15 **ARTICLE 2**

20.16 **MISCELLANEOUS**

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

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

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

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

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

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

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

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

21.9 (c) The board must provide a copy of any contract entered into under paragraph (a)  
21.10 and the report provided under paragraph (b), clause (4), to the commissioner of commerce  
21.11 within 30 days of the effective date of the contract.

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

21.13 **216C.31 ENERGY AUDIT PROGRAMS.**

21.14 The commissioner shall develop ~~and administer~~ state programs of energy audits of  
21.15 residential and commercial buildings including ~~those required by United States Code, title~~  
21.16 ~~42, sections 8211 to 8222 and sections 8281 to 8284. The commissioner shall continue~~  
21.17 ~~to administer the residential energy audit program as originally established under the~~  
21.18 ~~provisions of United States Code, title 42, sections 8211 to 8222; through July 1, 1986~~  
21.19 ~~irrespective of any prior expiration date provided in United States Code, title 42, section~~  
21.20 ~~8216. The commissioner may approve temporary programs if they are likely to result~~  
21.21 ~~in the installation of as many conservation measures as would have been installed had~~  
21.22 ~~the utility met the requirements of United States Code, title 42, sections 8211 to 8222.~~  
21.23 ~~The Consumer Services Division and the attorney general may release information on~~  
21.24 ~~consumer comments about the operation of the program to the commissioner the training~~  
21.25 and qualifications necessary for the auditing of residential and commercial buildings under  
21.26 the auspices of a program created under section 216B.2412.

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

21.28 Subd. 13. **Energy efficiency projects.** The following definitions apply to this  
21.29 subdivision.

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

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

21.33 (2) storm windows and doors, caulking or weatherstripping, multiglazed windows  
21.34 and doors, heat absorbing or heat reflective glazed and coated window and door

22.1 systems, additional glazing, reductions in glass area, and other window and door system  
22.2 modifications that reduce energy consumption;

22.3 (3) automatic energy control systems;

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

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

22.9 (6) energy recovery systems;

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

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

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

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

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

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

22.29 Before installation of equipment, modification, or remodeling, the qualified provider  
22.30 shall first issue a report, summarizing estimates of all costs of installations, modifications,  
22.31 or remodeling, including costs of design, engineering, installation, maintenance, repairs,  
22.32 or debt service, and estimates of the amounts by which energy or operating costs will be  
22.33 reduced.

22.34 A guaranteed energy savings contract that includes a written guarantee that savings  
22.35 will meet or exceed the cost of energy conservation measures is not subject to competitive

23.1 bidding requirements of section 471.345 or other law or city charter. The contract is  
23.2 not subject to section 123B.52.

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

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

23.16 A municipality entering into a guaranteed energy savings contract shall provide a  
23.17 copy of the contract and the report from the qualified provider to the commissioner of  
23.18 commerce within 30 days of the effective date of the contract.

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

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

23.26 Subdivision 1. **Requirements.** (a) In every lease or license of residential premises,  
23.27 the landlord or licensor covenants:

23.28 (1) that the premises and all common areas are fit for the use intended by the parties;

23.29 (2) to keep the premises in reasonable repair during the term of the lease or license,  
23.30 except when the disrepair has been caused by the willful, malicious, or irresponsible  
23.31 conduct of the tenant or licensee or a person under the direction or control of the tenant or  
23.32 licensee; ~~and~~

23.33 (3) to make the premises reasonably energy efficient by installing weatherstripping,  
23.34 caulking, storm windows, and storm doors when any such measure will result in energy  
23.35 procurement cost savings, based on current and projected average residential energy costs

24.1 in Minnesota, that will exceed the cost of implementing that measure, including interest,  
 24.2 amortized over the ten-year period following the incurring of the cost; and

24.3 (4) to maintain the premises in compliance with the applicable health and safety  
 24.4 laws of the state, including the weatherstripping, caulking, storm window, and storm door  
 24.5 energy efficiency standards for renter-occupied residences prescribed by section 216C.27,  
 24.6 subdivisions 1 and 3, and of the local units of government where the premises are located  
 24.7 during the term of the lease or license, except when violation of the health and safety  
 24.8 laws has been caused by the willful, malicious, or irresponsible conduct of the tenant or  
 24.9 licensee or a person under the direction or control of the tenant or licensee.

24.10 (b) The parties to a lease or license of residential premises may not waive or modify  
 24.11 the covenants imposed by this section.

24.12 **Sec. 5. REPEALER.**

24.13 Minnesota Statutes 2006, sections 216B.165; 216C.27; and 216C.30, subdivision 5,  
 24.14 and Minnesota Rules, parts 7635.0100; 7635.0110; 7635.0120; 7635.0130; 7635.0140;  
 24.15 7635.0150; 7635.0160; 7635.0170; 7635.0180; 7635.0200; 7635.0210; 7635.0220;  
 24.16 7635.0230; 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310; 7635.0320;  
 24.17 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420; 7635.0500; 7635.0510;  
 24.18 7635.0520; 7635.0530; 7635.0600; 7635.0610; 7635.0620; 7635.0630; 7635.0640;  
 24.19 7635.1000; 7635.1010; 7635.1020; 7635.1030; 7655.0100; 7655.0120; 7655.0200;  
 24.20 7655.0210; 7655.0220; 7655.0230; 7655.0240; 7655.0250; 7655.0260; 7655.0270;  
 24.21 7655.0280; 7655.0290; 7655.0300; 7655.0310; 7655.0320; 7655.0330; 7655.0400;  
 24.22 7655.0410; and 7655.0420, are repealed, effective July 1, 2007.

24.23 **Sec. 6. EFFECTIVE DATE.**

24.24 This article is effective July 1, 2007.

**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.

**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 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

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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 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

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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.