

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-EIGHTH LEGISLATURE**

**S.F. No. 1358**

(SENATE AUTHORS: SAXHAUG)

DATE	D-PG	OFFICIAL STATUS
03/13/2013	972	Introduction and first reading Referred to Environment and Energy

A bill for an act

1.1  
 1.2 relating to energy; modifying the way certain conservation investments are  
 1.3 counted toward a utility's conservation savings goal; setting a 2015 expiration date  
 1.4 for utility performance-based conservation savings goals; amending Minnesota  
 1.5 Statutes 2012, sections 216B.164, subdivision 3; 216B.241, subdivisions 1c, 2c.

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

1.7 Section 1. Minnesota Statutes 2012, section 216B.164, subdivision 3, is amended to  
 1.8 read:

1.9 Subd. 3. **Purchases; small facilities.** (a) For a qualifying facility having less than  
 1.10 40-kilowatt capacity, the customer shall be billed for the net energy supplied by the utility  
 1.11 according to the applicable rate schedule for sales to that class of customer. In the case  
 1.12 of net input into the utility system by a qualifying facility having less than 40-kilowatt  
 1.13 capacity, compensation to the customer shall be at a per kilowatt-hour rate determined  
 1.14 under paragraph (b) ~~or (c)~~.

1.15 (b) In setting rates, the commission shall consider the fixed distribution costs to the  
 1.16 utility not otherwise accounted for in the basic monthly charge and shall ensure that the  
 1.17 costs charged to the qualifying facility are not discriminatory in relation to the costs  
 1.18 charged to other customers of the utility. The commission shall set the rates for net  
 1.19 input into the utility system based on avoided costs as defined in the Code of Federal  
 1.20 Regulations, title 18, section 292.101, paragraph (b)(6), the factors listed in Code of  
 1.21 Federal Regulations, title 18, section 292.304, and all other relevant factors.

1.22 (c) ~~Notwithstanding any provision in this chapter to the contrary, a qualifying facility~~  
 1.23 ~~having less than 40-kilowatt capacity may elect that the compensation for net input by~~  
 1.24 ~~the qualifying facility into the utility system shall be at the average retail utility energy~~  
 1.25 ~~rate. "Average retail utility energy rate" is defined as the average of the retail energy rates,~~

2.1 ~~exclusive of special rates based on income, age, or energy conservation, according to the~~  
2.2 ~~applicable rate schedule of the utility for sales to that class of customer.~~

2.3 (d) If the qualifying facility is interconnected with a nongenerating utility which has  
2.4 a sole source contract with a municipal power agency or a generation and transmission  
2.5 utility, the nongenerating utility may elect to treat its purchase of any net input under this  
2.6 subdivision as being made on behalf of its supplier and shall be reimbursed by its supplier  
2.7 for any additional costs incurred in making the purchase. Qualifying facilities having  
2.8 less than 40-kilowatt capacity may, at the customer's option, elect to be governed by  
2.9 the provisions of subdivision 4.

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

2.11 Sec. 2. Minnesota Statutes 2012, section 216B.241, subdivision 1c, is amended to read:

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

2.15 (b) Each individual utility and association shall have an annual energy-savings  
2.16 goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the  
2.17 commissioner under paragraph (d). The savings goals must be calculated based on the  
2.18 most recent three-year weather-normalized average. A utility or association may elect to  
2.19 carry forward energy savings in excess of 1.5 percent for a year to the succeeding three  
2.20 calendar years, except that savings from electric utility infrastructure projects allowed  
2.21 under paragraph (d) may be carried forward for five years. A particular energy savings can  
2.22 be used only for one year's goal.

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

2.25 (d) In its energy conservation improvement plan filing, a utility or association may  
2.26 request the commissioner to adjust its annual energy-savings percentage goal based on  
2.27 its historical conservation investment experience, customer class makeup, load growth, a  
2.28 conservation potential study, or other factors the commissioner determines warrants an  
2.29 adjustment. The commissioner may not approve a plan of a public utility that provides for  
2.30 an annual energy-savings goal of less than one percent of gross annual retail energy sales  
2.31 from energy conservation improvements.

2.32 A utility or association may include in its energy conservation plan energy savings  
2.33 from electric utility infrastructure projects approved by the commission under section  
2.34 216B.1636 or waste heat recovery converted into electricity projects that may count as  
2.35 energy savings ~~in addition to a minimum energy-savings goal of at least one percent for~~

3.1 ~~energy conservation improvements~~. Electric utility infrastructure projects must result in  
3.2 increased energy efficiency greater than that which would have occurred through normal  
3.3 maintenance activity.

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

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

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

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

3.23 (i) This subdivision expires December 31, 2015.

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

3.25 Sec. 3. Minnesota Statutes 2012, section 216B.241, subdivision 2c, is amended to read:

3.26 Subd. 2c. **Performance incentives.** By December 31, 2008, the commission  
3.27 shall review any incentive plan for energy conservation improvement it has approved  
3.28 under section 216B.16, subdivision 6c, ~~and adjust the utility performance incentives to~~  
3.29 ~~recognize making progress toward and meeting the energy-savings goals established~~  
3.30 ~~in subdivision 1e.~~

3.31 **EFFECTIVE DATE.** This section is effective January 1, 2016.