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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4574

03/04/2024 Authored by Stephenson, Acomb, Hollins and Kraft
The bill was read for the first time and referred to the Committee on Climate and Energy Finance and Policy

1.1 A bill for an act
1.2 relating to energy; allowing public utilities providing electric service to propose
1.3 goals for efficient fuel-switching improvement achievements to the commissioner
1.4 of commerce; authorizing the commission to approve a financial incentive for
1.5 public utilities providing electric service to implement efficient fuel-switching
1.6 improvements; allowing recovery of certain advertising expenses of public utilities;
1.7 increasing utility research allowance to account for efficient fuel-switching and
1.8 load management investments; repealing a requirement that natural gas utilities
1.9 meet a certain threshold of energy efficiency savings to be eligible for a financial
1.10 incentive for efficient fuel-switching improvements; amending Minnesota Statutes
1.11 2022, sections 216B.16, subdivisions 6c, 8; 216B.2402, subdivisions 4, 10, by
1.12 adding a subdivision; 216B.2403, subdivisions 2, 3, 5, 8; 216B.241, subdivisions
1.13 1c, 2, 11, 12; 216B.2411, subdivision 1.

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

1.15 Section 1. Minnesota Statutes 2022, section 216B.16, subdivision 6c, is amended to read:

1.16 Subd. 6c. Incentive plan for energy conservation and efficient fuel-switching
1.17 improvement. (a) The commission may order public utilities to develop and submit for
1.18 commission approval incentive plans that describe the method of recovery and accounting
1.19 for utility conservation and efficient fuel-switching expenditures and savings. In developing
1.20 the incentive plans the commission shall ensure the effective involvement of interested
1.21 parties.

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

1.23 (1) whether the plan is likely to increase utility investment in cost-effective energy
1.24 conservation or efficient fuel switching;

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

2.1 (3) whether the plan links the incentive to the utility's performance in achieving
 2.2 cost-effective conservation or efficient fuel switching; and

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

2.4 (c) The commission may set rates to encourage the vigorous and effective implementation
 2.5 of utility conservation and efficient fuel-switching programs. The commission may:

2.6 (1) increase or decrease any otherwise allowed rate of return on net investment based
 2.7 upon the utility's skill, efforts, and success in ~~conserving~~ improving the efficient use of
 2.8 energy through energy conservation or efficient fuel switching;

2.9 (2) share between ratepayers and utilities the net savings resulting from energy
 2.10 conservation and efficient fuel-switching programs to the extent justified by the utility's
 2.11 skill, efforts, and success in ~~conserving~~ improving the efficient use of energy; and

2.12 (3) adopt any mechanism that satisfies the criteria of this subdivision, such that
 2.13 implementation of cost-effective conservation or efficient fuel switching is a preferred
 2.14 resource choice for the public utility considering the impact of conservation or efficient fuel
 2.15 switching on earnings of the public utility.

2.16 Sec. 2. Minnesota Statutes 2022, section 216B.16, subdivision 8, is amended to read:

2.17 Subd. 8. **Advertising expense.** (a) The commission shall disapprove the portion of any
 2.18 rate which makes an allowance directly or indirectly for expenses incurred by a public utility
 2.19 to provide a public advertisement which:

2.20 (1) is designed to influence or has the effect of influencing public attitudes toward
 2.21 legislation or proposed legislation, or toward a rule, proposed rule, authorization or proposed
 2.22 authorization of the Public Utilities Commission or other agency of government responsible
 2.23 for regulating a public utility;

2.24 (2) is designed to justify or otherwise support or defend a rate, proposed rate, practice
 2.25 or proposed practice of a public utility;

2.26 (3) is designed primarily to promote consumption of the services of the utility, excluding
 2.27 efficient fuel-switching programs approved under section 216B.241, subdivision 11, and a
 2.28 public utility's transportation electrification plan approved by the commission under section
 2.29 216B.1615, subdivision 3;

2.30 (4) is designed primarily to promote good will for the public utility or improve the
 2.31 utility's public image; or

3.1 (5) is designed to promote the use of nuclear power or to promote a nuclear waste storage
3.2 facility.

3.3 (b) The commission may approve a rate which makes an allowance for expenses incurred
3.4 by a public utility to disseminate information which:

3.5 (1) is designed to encourage ~~conservation~~ efficient use of energy supplies;

3.6 (2) is designed to promote safety; or

3.7 (3) is designed to inform and educate customers as to financial services made available
3.8 to them by the public utility.

3.9 (c) The commission shall not withhold approval of a rate because it makes an allowance
3.10 for expenses incurred by the utility to disseminate information about corporate affairs to its
3.11 owners.

3.12 Sec. 3. Minnesota Statutes 2022, section 216B.2402, is amended by adding a subdivision
3.13 to read:

3.14 Subd. 3a. **Data mining facility.** "Data mining facility" means all buildings, structures,
3.15 equipment, and installations at a single site where electricity is used primarily by computers
3.16 to process transactions involving digital currency not issued by a central authority.

3.17 Sec. 4. Minnesota Statutes 2022, section 216B.2402, subdivision 4, is amended to read:

3.18 Subd. 4. **Efficient fuel-switching improvement.** "Efficient fuel-switching improvement"
3.19 means a project that:

3.20 (1) replaces a fuel used by a customer with electricity or natural gas delivered at retail
3.21 by a utility subject to section 216B.2403 or 216B.241;

3.22 (2) results in a net increase in the use of electricity or natural gas and a net decrease in
3.23 source energy consumption on a fuel-neutral basis;

3.24 (3) otherwise meets the criteria established for consumer-owned utilities in section
3.25 216B.2403, subdivision 8, and for public utilities under section 216B.241, subdivisions 11
3.26 and 12; and

3.27 (4) requires the installation of equipment that utilizes electricity or natural gas, resulting
3.28 in a reduction or elimination of the previous fuel used.

3.29 An efficient fuel-switching improvement is not an energy conservation improvement or
3.30 energy efficiency even if the efficient fuel-switching improvement results in a net reduction

4.1 in electricity or natural gas use. ~~An efficient fuel-switching improvement does not include,~~
 4.2 ~~and must not count toward any energy savings goal from, energy conservation improvements~~
 4.3 ~~when fuel switching would result in an increase of greenhouse gas emissions into the~~
 4.4 ~~atmosphere on an annual basis.~~

4.5 Sec. 5. Minnesota Statutes 2022, section 216B.2402, subdivision 10, is amended to read:

4.6 Subd. 10. **Gross annual retail energy sales.** "Gross annual retail energy sales" means
 4.7 a utility's annual electric sales to all Minnesota retail customers, or natural gas throughput
 4.8 to all retail customers, including natural gas transportation customers, on a utility's
 4.9 distribution system in Minnesota. Gross annual retail energy sales does not include:

4.10 (1) gas sales to:

4.11 (i) a large energy facility;

4.12 (ii) a large customer facility whose natural gas utility has been exempted by the
 4.13 commissioner under section 216B.241, subdivision 1a, paragraph (a), with respect to natural
 4.14 gas sales made to the large customer facility; and

4.15 (iii) a commercial gas customer facility whose natural gas utility has been exempted by
 4.16 the commissioner under section 216B.241, subdivision 1a, paragraph (b), with respect to
 4.17 natural gas sales made to the commercial gas customer facility;

4.18 (2) electric sales to:

4.19 (i) a large customer facility whose electric utility has been exempted by the commissioner
 4.20 under section 216B.241, subdivision 1a, paragraph (a), with respect to electric sales made
 4.21 to the large customer facility; ~~or~~ and

4.22 (ii) a data mining facility, if the facility:

4.23 (A) has provided a signed letter to the utility verifying the facility meets the definition
 4.24 of a data mining facility, as defined in subdivision 3a; and

4.25 (B) imposes a peak electrical demand on a consumer-owned utility's system equal to or
 4.26 greater than 40 percent of the peak electrical demand of the system, measured in the same
 4.27 manner as the utility that serves the customer facility measures electric demand for billing
 4.28 purposes; or

4.29 (3) the amount of electric sales prior to December 31, 2032, that are associated with a
 4.30 utility's program, rate, or tariff for electric vehicle charging based on a methodology and
 4.31 assumptions developed by the department in consultation with interested stakeholders no

5.1 later than December 31, 2021. After December 31, 2032, incremental sales to electric
5.2 vehicles must be included in calculating a public utility's gross annual retail sales.

5.3 Sec. 6. Minnesota Statutes 2022, section 216B.2403, subdivision 2, is amended to read:

5.4 Subd. 2. **Consumer-owned utility; energy-savings goal.** (a) Each individual
5.5 consumer-owned electric utility subject to this section has an annual energy-savings goal
5.6 equivalent to 1.5 percent of gross annual retail energy sales and each individual
5.7 consumer-owned natural gas utility subject to this section has an annual energy-savings
5.8 goal equivalent to one percent of gross annual retail energy sales, to be met with a minimum
5.9 of energy savings from energy conservation improvements equivalent to at least ~~0.95~~ 0.90
5.10 percent of the consumer-owned utility's gross annual retail energy sales. The balance of
5.11 energy savings toward the annual energy-savings goal may be achieved only by the following
5.12 consumer-owned utility activities:

5.13 (1) energy savings from additional energy conservation improvements;

5.14 (2) electric utility infrastructure projects, as defined in section 216B.1636, subdivision
5.15 1, that result in increased efficiency greater than would have occurred through normal
5.16 maintenance activity;

5.17 (3) net energy savings from efficient fuel-switching improvements that meet the criteria
5.18 under subdivision 8, which may contribute up to ~~0.55~~ 0.60 percent of the goal; or

5.19 (4) subject to department approval, demand-side natural gas or electric energy displaced
5.20 by use of waste heat recovered and used as thermal energy, including the recovered thermal
5.21 energy from a cogeneration or combined heat and power facility.

5.22 (b) The energy-savings goals specified in this section must be calculated based on
5.23 weather-normalized sales averaged over the most recent three years. A consumer-owned
5.24 utility may elect to carry forward energy savings in excess of 1.5 percent for a year to the
5.25 next three years, except that energy savings from electric utility infrastructure projects may
5.26 be carried forward for five years. A particular energy savings can only be used to meet one
5.27 year's goal.

5.28 (c) A consumer-owned utility subject to this section is not required to make energy
5.29 conservation improvements that are not cost-effective, even if the improvement is necessary
5.30 to attain the energy-savings goal. A consumer-owned utility subject to this section must
5.31 make reasonable efforts to implement energy conservation improvements that exceed the
5.32 minimum level established under this subdivision if cost-effective opportunities and funding

6.1 are available, considering other potential investments the consumer-owned utility intends
6.2 to make to benefit customers during the term of the plan filed under subdivision 3.

6.3 ~~(d) Notwithstanding any provision to the contrary, until July 1, 2026, spending by a~~
6.4 ~~consumer-owned utility subject to this section on efficient fuel-switching improvements~~
6.5 ~~implemented to meet the annual energy savings goal under this section must not exceed~~
6.6 ~~0.55 percent per year, averaged over a three-year period, of the consumer-owned utility's~~
6.7 ~~gross annual retail energy sales.~~

6.8 Sec. 7. Minnesota Statutes 2022, section 216B.2403, subdivision 3, is amended to read:

6.9 **Subd. 3. Consumer-owned utility; energy conservation and optimization plans. (a)**
6.10 By June 1, 2022, and at least every three years thereafter, each consumer-owned utility must
6.11 file with the commissioner an energy conservation and optimization plan that describes the
6.12 programs for energy conservation, efficient fuel-switching, load management, and other
6.13 measures the consumer-owned utility intends to offer to achieve the utility's energy savings
6.14 goal.

6.15 (b) A plan's term may extend up to three years. A multiyear plan must identify the total
6.16 energy savings and energy savings resulting from energy conservation improvements that
6.17 are projected to be achieved in each year of the plan. A multiyear plan that does not, in each
6.18 year of the plan, meet both the minimum energy savings goal from energy conservation
6.19 improvements and the total energy savings goal of 1.5 percent, or lower goals adjusted by
6.20 the commissioner under paragraph (k), must:

6.21 (1) state why each goal is projected to be unmet; and

6.22 (2) demonstrate how the consumer-owned utility proposes to meet both goals on an
6.23 average basis over the duration of the plan.

6.24 (c) A plan filed under this subdivision must provide:

6.25 (1) for existing programs, an analysis of the cost-effectiveness of the consumer-owned
6.26 utility's programs offered under the plan, using a list of baseline energy- and capacity-savings
6.27 assumptions developed in consultation with the department; and

6.28 (2) for new programs, a preliminary analysis upon which the program will proceed, in
6.29 parallel with further development of assumptions and standards.

6.30 (d) The commissioner must evaluate a plan filed under this subdivision based on the
6.31 plan's likelihood to achieve the energy-savings goals established in subdivision 2. The
6.32 commissioner may make recommendations to a consumer-owned utility regarding ways to

7.1 increase the effectiveness of the consumer-owned utility's energy conservation activities
7.2 and programs under this subdivision. The commissioner may recommend that a
7.3 consumer-owned utility implement a cost-effective energy conservation or efficient
7.4 fuel-switching program, ~~including an energy conservation program~~ suggested by an ~~outside~~
7.5 ~~source such as~~ a political subdivision, nonprofit corporation, or community organization.

7.6 (e) Beginning June 1, 2023, and every June 1 thereafter, each consumer-owned utility
7.7 must file: (1) an annual update identifying the status of the plan filed under this subdivision,
7.8 including: (i) total expenditures and investments made to date under the plan; and (ii) any
7.9 intended changes to the plan; and (2) a summary of the annual energy-savings achievements
7.10 under a plan. An annual filing made in the last year of a plan must contain a new plan that
7.11 complies with this section.

7.12 (f) When evaluating the cost-effectiveness of a consumer-owned utility's energy
7.13 conservation programs, the consumer-owned utility and the commissioner must consider
7.14 the costs and benefits to ratepayers, the utility, participants, and society. The commissioner
7.15 must also consider the rate at which the consumer-owned utility is increasing energy savings
7.16 and expenditures on energy conservation, and lifetime energy savings and cumulative energy
7.17 savings.

7.18 (g) A consumer-owned utility may annually spend and invest up to ten percent of the
7.19 total amount spent and invested on energy conservation, efficient fuel-switching, or load
7.20 management improvements on research and development projects that meet the applicable
7.21 definition of energy conservation, efficient fuel-switching, or load management improvement.

7.22 (h) A generation and transmission cooperative electric association or municipal power
7.23 agency that provides energy services to consumer-owned utilities may file a plan under this
7.24 subdivision on behalf of the consumer-owned utilities to which the association or agency
7.25 provides energy services and may make investments, offer conservation programs, and
7.26 otherwise fulfill the energy-savings goals and reporting requirements of this subdivision
7.27 for those consumer-owned utilities on an aggregate basis.

7.28 (i) A consumer-owned utility is prohibited from spending for or investing in energy
7.29 conservation improvements that directly benefit a large energy facility or a large electric
7.30 customer facility the commissioner has exempted under section 216B.241, subdivision 1a.

7.31 (j) The energy conservation and optimization plan of a consumer-owned utility may
7.32 include activities to improve energy efficiency in the public schools served by the utility.
7.33 These activities may include programs to:

7.34 (1) increase the efficiency of the school's lighting and heating and cooling systems;

8.1 (2) recommission buildings;

8.2 (3) train building operators; and

8.3 (4) provide opportunities to educate students, teachers, and staff regarding energy
8.4 efficiency measures implemented at the school.

8.5 (k) A consumer-owned utility may request that the commissioner adjust the
8.6 consumer-owned utility's minimum goal for energy savings from energy conservation
8.7 improvements under subdivision 2, paragraph (a), for the duration of the plan filed under
8.8 this subdivision. The request must be made by January 1 of the year when the
8.9 consumer-owned utility must file a plan under this subdivision. The request must be based
8.10 on:

8.11 (1) historical energy conservation improvement program achievements;

8.12 (2) customer class makeup;

8.13 (3) projected load growth;

8.14 (4) an energy conservation potential study that estimates the amount of cost-effective
8.15 energy conservation potential that exists in the consumer-owned utility's service territory;

8.16 (5) the cost-effectiveness and quality of the energy conservation programs offered by
8.17 the consumer-owned utility; and

8.18 (6) other factors the commissioner and consumer-owned utility determine warrant an
8.19 adjustment.

8.20 The commissioner must adjust the energy savings goal to a level the commissioner determines
8.21 is supported by the record, but must not approve a minimum energy savings goal from
8.22 energy conservation improvements that is less than an average of 0.95 percent per year over
8.23 the consecutive years of the plan's duration, including the year the minimum energy savings
8.24 goal is adjusted.

8.25 (l) A consumer-owned utility filing a conservation and optimization plan that includes
8.26 an efficient fuel-switching program to achieve the utility's energy savings goal must, as part
8.27 of the filing, demonstrate by a comparison of greenhouse gas emissions between the fuels
8.28 that the requirements of subdivision 8 are met, ~~using a full fuel-cycle energy analysis.~~

8.29 Sec. 8. Minnesota Statutes 2022, section 216B.2403, subdivision 5, is amended to read:

8.30 Subd. 5. **Energy conservation programs for low-income households.** (a) A
8.31 consumer-owned utility subject to this section must provide energy conservation programs

9.1 to low-income households. The commissioner must evaluate a consumer-owned utility's
9.2 plans under this section by considering the consumer-owned utility's historic spending on
9.3 energy conservation programs directed to low-income households, the rate of customer
9.4 participation in and the energy savings resulting from those programs, and the number of
9.5 low-income persons residing in the consumer-owned utility's service territory. A municipal
9.6 utility that furnishes natural gas service must spend at least 0.2 percent of the municipal
9.7 utility's most recent three-year average gross operating revenue from residential customers
9.8 in Minnesota on energy conservation programs for low-income households. A
9.9 consumer-owned utility that furnishes electric service must spend at least 0.2 percent of the
9.10 consumer-owned utility's gross operating revenue from residential customers in Minnesota
9.11 on energy conservation programs for low-income households. The requirement under this
9.12 paragraph applies to each generation and transmission cooperative association's aggregate
9.13 gross operating revenue from the sale of electricity to residential customers in Minnesota
9.14 by all of the association's member distribution cooperatives.

9.15 (b) To meet all or part of the spending requirements of paragraph (a), a consumer-owned
9.16 utility may contribute money to the energy and conservation account established in section
9.17 216B.241, subdivision 2a. An energy conservation optimization plan must state the amount
9.18 of contributions the consumer-owned utility plans to make to the energy and conservation
9.19 account. Contributions to the account must be used for energy conservation programs serving
9.20 low-income households, including renters, located in the service area of the consumer-owned
9.21 utility making the contribution. Contributions must be remitted to the commissioner by
9.22 February 1 each year.

9.23 (c) The commissioner must establish energy conservation programs for low-income
9.24 households funded through contributions to the energy and conservation account under
9.25 paragraph (b). When establishing energy conservation programs for low-income households,
9.26 the commissioner must consult political subdivisions, utilities, and nonprofit and community
9.27 organizations, including organizations providing energy and weatherization assistance to
9.28 low-income households. The commissioner must record and report expenditures and energy
9.29 savings achieved as a result of energy conservation programs for low-income households
9.30 funded through the energy and conservation account in the report required under section
9.31 216B.241, subdivision 1c, paragraph (f). The commissioner may contract with a political
9.32 subdivision, nonprofit or community organization, public utility, municipality, or
9.33 consumer-owned utility to implement low-income programs funded through the energy and
9.34 conservation account.

10.1 (d) A consumer-owned utility may petition the commissioner to modify the required
10.2 spending under this subdivision if the consumer-owned utility and the commissioner were
10.3 unable to expend the amount required for three consecutive years.

10.4 (e) The commissioner must develop and establish guidelines for determining the eligibility
10.5 of multifamily buildings to participate in energy conservation programs provided to
10.6 low-income households. Notwithstanding the definition of low-income household in section
10.7 216B.2402, a consumer-owned utility or association may apply the most recent guidelines
10.8 published by the department for purposes of determining the eligibility of multifamily
10.9 buildings to participate in low-income programs. The commissioner must convene a
10.10 stakeholder group to review and update these guidelines by August 1, 2021, and at least
10.11 once every five years thereafter. The stakeholder group must include but is not limited to
10.12 representatives of public utilities; municipal electric or gas utilities; electric cooperative
10.13 associations; multifamily housing owners and developers; and low-income advocates.

10.14 (f) Up to 15 percent of a consumer-owned utility's spending on low-income energy
10.15 conservation programs may be spent on preweatherization measures. A consumer-owned
10.16 utility is prohibited from claiming energy savings from preweatherization measures toward
10.17 the consumer-owned utility's energy savings goal.

10.18 (g) The commissioner must, by order, establish a list of preweatherization measures
10.19 eligible for inclusion in low-income energy conservation programs no later than March 15,
10.20 2022.

10.21 (h) A Healthy AIR (Asbestos Insulation Removal) account is established as a separate
10.22 account in the special revenue fund in the state treasury. A consumer-owned utility may
10.23 elect to contribute money to the Healthy AIR account to provide preweatherization measures
10.24 for households eligible for weatherization assistance from the state weatherization assistance
10.25 program in section 216C.264. Remediation activities must be executed in conjunction with
10.26 federal weatherization assistance program services. Money contributed to the account by a
10.27 consumer-owned utility counts toward: (1) the minimum low-income spending requirement
10.28 under paragraph (a); and (2) the cap on preweatherization measures under paragraph (f).
10.29 Money in the account is annually appropriated to the commissioner of commerce to pay for
10.30 Healthy AIR-related activities.

10.31 (i) Where a low-income household receives the household's primary heating fuel from
10.32 an entity other than a utility subject to section 216B.241, the consumer-owned utility
10.33 providing electric service to the household may meet all or part of the consumer-owned

11.1 utility's obligation under paragraph (a) through space and water heating energy conservation
 11.2 improvements and efficient fuel switching.

11.3 Sec. 9. Minnesota Statutes 2022, section 216B.2403, subdivision 8, is amended to read:

11.4 Subd. 8. **Criteria for efficient fuel-switching improvements.** (a) A fuel-switching
 11.5 improvement is deemed efficient if, applying the technical criteria established under section
 11.6 216B.241, subdivision 1d, paragraph (e), the improvement, relative to the fuel being
 11.7 displaced:

11.8 (1) results in a net reduction in the amount of source energy consumed for a particular
 11.9 use, measured on a fuel-neutral basis, using (i) the consumer-owned utility's or the utility's
 11.10 electricity supplier's annual system average efficiency, or (ii) if the utility elects, a seasonal,
 11.11 monthly, or more granular level of analysis for the electric utility system over the measure's
 11.12 life;

11.13 (2) results in a net reduction of statewide greenhouse gas emissions, as defined in section
 11.14 216H.01, subdivision 2, over the lifetime of the improvement. For an efficient fuel-switching
 11.15 improvement installed by an electric consumer-owned utility, the reduction in emissions
 11.16 must be measured ~~based on the hourly emissions profile of the consumer-owned utility or~~
 11.17 ~~the utility's electricity supplier, as reported in the most recent resource plan approved by~~
 11.18 ~~the commission under section 216B.2422. If the hourly emissions profile is not available,~~
 11.19 ~~the commissioner must develop a method consumer-owned utilities must use to estimate~~
 11.20 ~~that value~~ using (i) the consumer-owned utility's or the utility's electricity supplier's annual
 11.21 average emissions factor, or (ii) if the utility elects, the seasonal, monthly, or more granular
 11.22 level of analysis for the electric utility system over the measure's life; and

11.23 (3) is cost-effective, considering the costs and benefits from the perspective of the
 11.24 consumer-owned utility, participants, and society; ~~and~~.

11.25 ~~(4) is installed and operated in a manner that improves the consumer-owned utility's~~
 11.26 ~~system load factor.~~

11.27 (b) For purposes of this subdivision, "source energy" means the total amount of primary
 11.28 energy required to deliver energy services, adjusted for losses in generation, transmission,
 11.29 and distribution, and expressed on a fuel-neutral basis.

12.1 Sec. 10. Minnesota Statutes 2022, section 216B.241, subdivision 1c, is amended to read:

12.2 Subd. 1c. **Public utility; energy-saving goals.** (a) The commissioner shall establish
12.3 energy-saving goals for energy conservation improvements and shall evaluate an energy
12.4 conservation improvement program on how well it meets the goals set.

12.5 (b) A public utility providing electric service has an annual energy-savings goal equivalent
12.6 to 1.75 percent of gross annual retail energy sales unless modified by the commissioner
12.7 under paragraph (c). A public utility providing natural gas service has an annual
12.8 energy-savings goal equivalent to one percent of gross annual retail energy sales, which
12.9 cannot be lowered by the commissioner. The savings goals must be calculated based on the
12.10 most recent three-year weather-normalized average. A public utility providing electric
12.11 service may elect to carry forward energy savings in excess of 1.75 percent for a year to
12.12 the succeeding three calendar years, except that savings from electric utility infrastructure
12.13 projects allowed under paragraph (d) may be carried forward for five years. A public utility
12.14 providing natural gas service may elect to carry forward energy savings in excess of one
12.15 percent for a year to the succeeding three calendar years. A particular energy savings can
12.16 only be used to meet one year's goal.

12.17 (c) In its energy conservation and optimization plan filing, a public utility may request
12.18 the commissioner to adjust its annual energy-savings percentage goal based on its historical
12.19 conservation investment experience, customer class makeup, load growth, a conservation
12.20 potential study, or other factors the commissioner determines warrants an adjustment.

12.21 (d) The commissioner may not approve a plan of a public utility that provides for an
12.22 annual energy-savings goal of less than one percent of gross annual retail energy sales from
12.23 energy conservation improvements.

12.24 The balance of the 1.75 percent annual energy savings goal may be achieved through
12.25 energy savings from:

12.26 (1) additional energy conservation improvements;

12.27 (2) electric utility infrastructure projects approved by the commission under section
12.28 216B.1636 that result in increased efficiency greater than would have occurred through
12.29 normal maintenance activity; or

12.30 (3) subject to department approval, demand-side natural gas or electric energy displaced
12.31 by use of waste heat recovered and used as thermal energy, including the recovered thermal
12.32 energy from a cogeneration or combined heat and power facility.

13.1 (e) A public utility is not required to make energy conservation investments to attain
 13.2 the energy-savings goals of this subdivision that are not cost-effective even if the investment
 13.3 is necessary to attain the energy-savings goals. For the purpose of this paragraph, in
 13.4 determining cost-effectiveness, the commissioner shall consider: (1) the costs and benefits
 13.5 to ratepayers, the utility, participants, and society; (2) the rate at which a public utility is
 13.6 increasing both its energy savings and its expenditures on energy conservation; and (3) the
 13.7 public utility's lifetime energy savings and cumulative energy savings.

13.8 (f) On an annual basis, the commissioner shall produce and make publicly available a
 13.9 report on the annual energy and capacity savings and estimated carbon dioxide reductions
 13.10 achieved by the programs under this section and section 216B.2403 for the two most recent
 13.11 years for which data is available. The report must also include information regarding any
 13.12 annual energy sales or generation capacity increases resulting from efficient fuel-switching
 13.13 improvements. The commissioner shall report on program performance both in the aggregate
 13.14 and for each entity filing an energy conservation improvement plan for approval or review
 13.15 by the commissioner, and must estimate progress made toward the statewide energy-savings
 13.16 goal under section 216B.2401.

13.17 ~~(g) Notwithstanding any provision to the contrary, until July 1, 2026, spending by a~~
 13.18 ~~public utility subject to this section on efficient fuel-switching improvements to meet energy~~
 13.19 ~~savings goals under this section must not exceed 0.35 percent per year, averaged over three~~
 13.20 ~~years, of the public utility's gross annual retail energy sales.~~

13.21 Sec. 11. Minnesota Statutes 2022, section 216B.241, subdivision 2, is amended to read:

13.22 Subd. 2. **Public utility; energy conservation and optimization plans.** (a) The
 13.23 commissioner may require a public utility to make investments and expenditures in energy
 13.24 conservation improvements, explicitly setting forth the interest rates, prices, and terms under
 13.25 which the improvements must be offered to the customers.

13.26 (b) A public utility shall file an energy conservation and optimization plan by June 1,
 13.27 on a schedule determined by order of the commissioner, but at least every three years. As
 13.28 provided in subdivisions 11 to 13, plans may include programs for efficient fuel-switching
 13.29 improvements and load management. An individual utility program may combine elements
 13.30 of energy conservation, load management, or efficient fuel-switching. The plan must estimate
 13.31 the lifetime energy savings and cumulative lifetime energy savings projected to be achieved
 13.32 under the plan. A plan filed by a public utility by June 1 must be approved or approved as
 13.33 modified by the commissioner by December 1 of that same year.

14.1 (c) The commissioner shall evaluate the plan on the basis of cost-effectiveness and the
14.2 reliability of technologies employed. The commissioner's order must provide to the extent
14.3 practicable for a free choice, by consumers participating in an energy conservation program,
14.4 of the device, method, material, or project constituting the energy conservation improvement
14.5 and for a free choice of the seller, installer, or contractor of the energy conservation
14.6 improvement, provided that the device, method, material, or project seller, installer, or
14.7 contractor is duly licensed, certified, approved, or qualified, including under the residential
14.8 conservation services program, where applicable.

14.9 (d) The commissioner may require a utility subject to subdivision 1c to make an energy
14.10 conservation improvement investment or expenditure whenever the commissioner finds
14.11 that the improvement will result in energy savings at a total cost to the utility less than the
14.12 cost to the utility to produce or purchase an equivalent amount of new supply of energy.

14.13 (e) Each public utility subject to this subdivision may spend and invest annually up to
14.14 ten percent of the total amount ~~spent and invested~~ that the public utility spends and invests
14.15 on energy conservation, efficient fuel-switching, or load management improvements under
14.16 this section ~~by the public utility~~ on research and development projects that meet the applicable
14.17 definition of energy conservation, efficient fuel-switching, or load management improvement.

14.18 (f) The commissioner shall consider and may require a public utility to undertake an
14.19 energy conservation or efficient fuel-switching, subject to the requirements of subdivisions
14.20 11 and 12, program suggested by ~~an outside source, including~~ a political subdivision, a
14.21 nonprofit corporation, or community organization. When approving a proposal under this
14.22 paragraph, the commissioner must consider the qualifications and experience of the entity
14.23 proposing the program and any other criteria the commissioner deems relevant.

14.24 (g) A public utility, a political subdivision, or a nonprofit or community organization
14.25 that has suggested an energy conservation program, the attorney general acting on behalf
14.26 of consumers and small business interests, or a public utility customer that has suggested
14.27 an energy conservation program and is not represented by the attorney general under section
14.28 8.33 may petition the commission to modify or revoke a department decision under this
14.29 section, and the commission may do so if it determines that the energy conservation program
14.30 is not cost-effective, does not adequately address the residential conservation improvement
14.31 needs of low-income persons, has a long-range negative effect on one or more classes of
14.32 customers, or is otherwise not in the public interest. The commission shall reject a petition
14.33 that, on its face, fails to make a reasonable argument that an energy conservation program
14.34 is not in the public interest.

15.1 (h) The commissioner may order a public utility to include, with the filing of the public
 15.2 utility's annual status report, the results of an independent audit of the public utility's
 15.3 conservation improvement programs and expenditures performed by the department or an
 15.4 auditor with experience in the provision of energy conservation and energy efficiency
 15.5 services approved by the commissioner and chosen by the public utility. The audit must
 15.6 specify the energy savings or increased efficiency in the use of energy within the service
 15.7 territory of the public utility that is the result of the public utility's spending and investments.
 15.8 The audit must evaluate the cost-effectiveness of the public utility's conservation programs.

15.9 (i) The energy conservation and optimization plan of each public utility subject to this
 15.10 section must include activities to improve energy efficiency in public schools served by the
 15.11 utility. As applicable to each public utility, at a minimum the activities must include programs
 15.12 to increase the efficiency of the school's lighting and heating and cooling systems, and to
 15.13 provide for building recommissioning, building operator training, and opportunities to
 15.14 educate students, teachers, and staff regarding energy efficiency measures implemented at
 15.15 the school.

15.16 (j) The commissioner may require investments or spending greater than the amounts
 15.17 proposed in a plan filed under this subdivision or section 216C.17 for a public utility whose
 15.18 most recent advanced forecast required under section 216B.2422 projects a peak demand
 15.19 deficit of 100 megawatts or more within five years under midrange forecast assumptions.

15.20 (k) A public utility filing a conservation and optimization plan that includes an efficient
 15.21 fuel-switching program ~~to achieve the utility's energy savings goal~~ must, as part of the filing,
 15.22 ~~demonstrate by a comparison of greenhouse gas emissions between the fuels that the~~
 15.23 ~~requirements of subdivisions 11 or 12 are met, as applicable, using a full fuel-cycle energy~~
 15.24 ~~analysis.~~

15.25 Sec. 12. Minnesota Statutes 2022, section 216B.241, subdivision 11, is amended to read:

15.26 Subd. 11. **Programs for efficient fuel-switching improvements; electric utilities.** (a)
 15.27 A public utility providing electric service at retail may include in the plan required under
 15.28 subdivision 2 a proposed goal for efficient fuel-switching improvements that the utility
 15.29 expects to achieve under the plan and the programs to implement efficient fuel-switching
 15.30 improvements or combinations of energy conservation improvements, fuel-switching
 15.31 improvements, and load management. For each program, the public utility must provide a
 15.32 proposed budget, an analysis of the program's cost-effectiveness, and estimated net energy
 15.33 and demand savings.

16.1 (b) The department may approve proposed programs for efficient fuel-switching
 16.2 improvements if the department determines the improvements meet the requirements of
 16.3 paragraph (d). ~~For fuel-switching improvements that require the deployment of electric~~
 16.4 ~~technologies, the department must also consider whether the fuel-switching improvement~~
 16.5 ~~can be operated in a manner that facilitates the integration of variable renewable energy~~
 16.6 ~~into the electric system. The net benefits from an efficient fuel-switching improvement that~~
 16.7 ~~is integrated with an energy efficiency program approved under this section may be counted~~
 16.8 ~~toward the net benefits of the energy efficiency program, if the department determines the~~
 16.9 ~~primary purpose and effect of the program is energy efficiency.~~

16.10 (c) A public utility may file a rate schedule with the commission that provides for annual
 16.11 cost recovery of reasonable and prudent costs to implement and promote efficient
 16.12 fuel-switching programs. The utility, department, or other entity may propose, and the
 16.13 commission may not approve, modify, or reject, a proposal for a financial incentive to
 16.14 encourage efficient fuel-switching programs operated by a public utility providing electric
 16.15 service approved under this subdivision. When making a decision on the financial incentive
 16.16 proposal, the commission must apply the considerations established in section 216B.16,
 16.17 subdivision 6c, paragraphs (b) and (c).

16.18 (d) A fuel-switching improvement is deemed efficient if, applying the technical criteria
 16.19 established under section 216B.241, subdivision 1d, paragraph (e), the improvement meets
 16.20 the following criteria, relative to the fuel that is being displaced:

16.21 (1) results in a net reduction in the amount of source energy consumed for a particular
 16.22 use, measured on a fuel-neutral basis, using (i) the utility's annual system average efficiency,
 16.23 or (ii) if the utility elects, a seasonal, monthly, or more granular level of analysis for the
 16.24 electric utility system over the measure's life;

16.25 (2) results in a net reduction of statewide greenhouse gas emissions as defined in section
 16.26 216H.01, subdivision 2, over the lifetime of the improvement. For an efficient fuel-switching
 16.27 improvement installed by an electric utility, the reduction in emissions must be measured
 16.28 ~~based on the hourly emission profile of the electric utility, using the hourly emissions profile~~
 16.29 ~~in the most recent resource plan approved by the commission under section 216B.2422~~
 16.30 using (i) the utility's annual average emissions factor, or (ii) if the utility elects, the seasonal,
 16.31 monthly or more granular level of analysis, for the electric utility system over the measure's
 16.32 life; and

16.33 (3) is cost-effective, considering the costs and benefits from the perspective of the utility,
 16.34 participants, and society; ~~and.~~

17.1 ~~(4) is installed and operated in a manner that improves the utility's system load factor.~~

17.2 (e) For purposes of this subdivision, "source energy" means the total amount of primary
17.3 energy required to deliver energy services, adjusted for losses in generation, transmission,
17.4 and distribution, and expressed on a fuel-neutral basis.

17.5 Sec. 13. Minnesota Statutes 2022, section 216B.241, subdivision 12, is amended to read:

17.6 Subd. 12. **Programs for efficient fuel-switching improvements; natural gas**
17.7 **utilities.** (a) As part of a public utility's plan filed under subdivision 2, a public utility that
17.8 provides natural gas service to Minnesota retail customers may propose one or more programs
17.9 to install electric technologies that reduce the consumption of natural gas by the utility's
17.10 retail customers as an energy conservation improvement. The commissioner may approve
17.11 a proposed program if the commissioner, applying the technical criteria developed under
17.12 section 216B.241, subdivision 1d, paragraph (e), determines that:

17.13 (1) the electric technology to be installed meets the criteria established under section
17.14 216B.241, subdivision 11, paragraph (d), clauses (1) and (2); and

17.15 (2) the program is cost-effective, considering the costs and benefits to ratepayers, the
17.16 utility, participants, and society.

17.17 (b) If a program is approved by the commission under this subdivision, the public utility
17.18 may count the program's energy savings toward its energy savings goal under section
17.19 216B.241, subdivision 1c. Notwithstanding section 216B.2402, subdivision 4, efficient
17.20 fuel-switching achieved through programs approved under this subdivision is energy
17.21 conservation.

17.22 (c) A public utility may file rate schedules with the commission that provide annual
17.23 cost-recovery for programs approved by the department under this subdivision, including
17.24 reasonable and prudent costs to implement and promote the programs.

17.25 (d) The commission may approve, modify, or reject a proposal made by the department
17.26 or a utility for an incentive plan to encourage efficient fuel-switching programs approved
17.27 under this subdivision, applying the considerations established under section 216B.16,
17.28 subdivision 6c, paragraphs (b) and (c). The commission may approve a financial incentive
17.29 mechanism that is calculated based on the combined energy savings and net benefits that
17.30 the commission has determined have been achieved by a program approved under this
17.31 subdivision, provided the commission determines that the financial incentive mechanism
17.32 is in the ratepayers' interest.

18.1 ~~(e) A public utility is not eligible for a financial incentive for an efficient fuel-switching~~
 18.2 ~~program under this subdivision in any year in which the utility achieves energy savings~~
 18.3 ~~below one percent of gross annual retail energy sales, excluding savings achieved through~~
 18.4 ~~fuel-switching programs.~~

18.5 Sec. 14. Minnesota Statutes 2022, section 216B.2411, subdivision 1, is amended to read:

18.6 Subdivision 1. **Generation projects.** (a) Any ~~municipality or rural electric association~~
 18.7 ~~providing electric service and subject to section 216B.241 may, and each~~ public utility may,
 18.8 use five percent of the total amount to be spent on energy conservation improvements under
 18.9 section 216B.241, on:

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

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

18.18 (3) projects in Minnesota to install a qualifying solar energy project as defined in
 18.19 subdivision 2.

18.20 (b) A ~~municipality, rural electric association, or~~ public utility that offers a program to
 18.21 customers to promote installing qualifying solar energy projects may request authority from
 18.22 the commissioner to exceed the five percent limit in paragraph (a), but not to exceed ten
 18.23 percent, to meet customer demand for installation of qualifying solar energy projects. In
 18.24 considering this request, the commissioner shall consider customer interest in qualifying
 18.25 solar energy and the impact on other customers. ~~A municipality, rural electric association,~~
 18.26 ~~or public utility may not participate in a qualifying solar energy project on a property unless~~
 18.27 ~~it is provided evidence that all reasonable cost-effective conservation investments have~~
 18.28 ~~previously been made to the property.~~

18.29 (c) A consumer-owned utility that offers projects under this section is not subject to the
 18.30 five percent limit in paragraph (a).

18.31 (d) A consumer-owned utility or a public utility is prohibited from participating in a
 18.32 qualifying solar energy project on a property unless the public utility is provided evidence

19.1 that all reasonable cost-effective conservation investments have previously been made to
19.2 the property.

19.3 ~~(e)~~ (e) For a ~~municipality, rural electric association,~~ consumer-owned or public utility,
19.4 projects under this section must be considered energy conservation improvements as defined
19.5 in section 216B.241.