

STATE OF MINNESOTA

# Journal of the House

NINETY-SECOND SESSION — 2021

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FIFTY-EIGHTH DAY

SAINT PAUL, MINNESOTA, SATURDAY, MAY 15, 2021

The House of Representatives convened at 4:30 p.m. and was called to order by Samantha Vang, Speaker pro tempore.

Prayer was offered by the Reverend Sara E. Morse, Hazel Park United Church of Christ, St. Paul, Minnesota.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Acomb	Davnie	Hansen, R.	Lee	Nelson, N.	Schomacker
Agbaje	Demuth	Hanson, J.	Liebling	Neu Brindley	Schultz
Akland	Dettmer	Hassan	Lillie	Noor	Scott
Albright	Drazkowski	Hausman	Lippert	Novotny	Stephenson
Anderson	Ecklund	Heinrich	Lislegard	O'Driscoll	Sundin
Backer	Edelson	Heintzeman	Long	Olson, B.	Swedzinski
Bahner	Elkins	Her	Lucero	Olson, L.	Theis
Bahr	Erickson	Hertaus	Lueck	O'Neill	Torkelson
Baker	Feist	Hollins	Mariani	Pelowski	Urdahl
Becker-Finn	Fischer	Hornstein	Marquart	Petersburg	Vang
Bennett	Franke	Howard	Masin	Pfarr	Wazlawik
Berg	Franson	Huot	McDonald	Pierson	West
Bernardy	Frazier	Igo	Mekeland	Pinto	Winkler
Bierman	Frederick	Johnson	Miller	Poston	Wolgamott
Bliss	Freiberg	Jordan	Moller	Pryor	Xiong, J.
Boe	Garofalo	Jurgens	Moran	Quam	Xiong, T.
Boldon	Gomez	Keeler	Morrison	Raleigh	Youakim
Burkel	Green	Kiel	Mortensen	Rasmusson	Spk. Hortman
Carlson	Greenman	Klevorn	Mueller	Reyer	
Christensen	Grossell	Koegel	Munson	Richardson	
Daniels	Gruenhagen	Kotyza-Witthuhn	Murphy	Robbins	
Daudt	Haley	Koznick	Nash	Sandell	
Dauids	Hamilton	Kresha	Nelson, M.	Sandstede	

A quorum was present.

Thompson was excused until 5:45 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. There being no objection, further reading of the Journal was dispensed with and the Journal was approved as corrected by the Chief Clerk.

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**REPORTS OF STANDING COMMITTEES AND DIVISIONS**

Winkler from the Committee on Rules and Legislative Administration to which was referred:

Senate Concurrent Resolution No. 14, A Senate concurrent resolution relating to adjournment of the Senate and House of Representatives until 2022.

Reported the same back with the recommendation that the Senate concurrent resolution be adopted.

The report was adopted.

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House Files were introduced:

Haley introduced:

H. F. No. 2640, A bill for an act relating to state government; establishing a COVID-19 public health disaster response; terminating the peacetime emergency declared in Executive Order No. 20-01.

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

Frederick introduced:

H. F. No. 2641, A bill for an act relating to capital investment; appropriating money for water quality mitigation of the Minnesota River-Mankato watershed; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Capital Investment.

Burkel introduced:

H. F. No. 2642, A bill for an act relating to capital investment; appropriating money for Oslo area Red River flood mitigation project; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Capital Investment.

Davids introduced:

H. F. No. 2643, A bill for an act relating to taxation; individual income and corporate franchise; providing for conformity of federal paycheck protection program loan treatment and exclusion of certain unemployment compensation.

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

Schomacker introduced:

H. F. No. 2644, A bill for an act relating to health care; increasing the dispensing fee for prescription drugs in the medical assistance program; amending Minnesota Statutes 2020, section 256B.0625, subdivision 13e.

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

Schomacker introduced:

H. F. No. 2645, A bill for an act relating to capital investment; appropriating money for a sanitary sewer project in the city of Tyler; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Capital Investment.

Johnson introduced:

H. F. No. 2646, A bill for an act relating to public safety; modifying the police use of deadly force law; amending Minnesota Statutes 2020, section 609.066, subdivisions 1a, 2.

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy.

McDonald introduced:

H. F. No. 2647, A bill for an act relating to capital investment; appropriating money for a water treatment facility in Montrose; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Capital Investment.

Baker introduced:

H. F. No. 2648, A bill for an act relating to economic development; appropriating money for grants to individuals who are reemployed.

The bill was read for the first time and referred to the Committee on Workforce and Business Development Finance and Policy.

#### REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Winkler from the Committee on Rules and Legislative Administration, pursuant to rules 1.21 and 3.33, designated the following bills to be placed on the Calendar for the Day for Monday, May 17, 2021 and established a prefiling requirement for amendments offered to the following bills:

S. F. No. 519; and H. F. Nos. 337, 728 and 506.

Winkler moved that the House recess subject to the call of the Chair. The motion prevailed.

### RECESS

### RECONVENED

The House reconvened and was called to order by Speaker pro tempore Vang.

### CALENDAR FOR THE DAY

S. F. No. 1712, A bill for an act relating to retirement; temporarily extending the grandfather provision regarding actuarial assumptions used to compute an annuity in the unclassified state employees retirement plan; reducing the postretirement adjustment and eliminating the triggers that would increase the postretirement adjustment upon attainment of specified funding thresholds for the Judges Retirement Plan; revising eligibility for H-1b visa employees under the Minnesota State Retirement System and the Public Employees Retirement Association to comply with federal law and permitting the purchase of prior service credit; extending the time period for service credit for periods of military leave under the plans administered by the Public Employees Retirement Association; making changes of an administrative nature to the statutes applicable to the Public Employees Retirement Association and the St. Paul Teachers Retirement Fund Association; permitting the allocation of fire state aid between the Statewide Volunteer Firefighters Plan and municipalities; delaying an increase in the employee contribution rates by one year for the St. Paul Teachers Retirement Fund Association; making changes to the statutes applicable to volunteer firefighter relief associations recommended by the State Auditor's fire relief association working group; providing full vesting and distribution of accounts for firefighters assigned to the Nowthen fire station and revising applicable law to permit payment of fire state aid to Nowthen and midyear participation in the Statewide Volunteer Firefighter Plan; revising the deadline for bill drafting requests to commission staff from agencies and pension systems; mandating work groups on pension benefits for 911 telecommunicators and allocating firefighter supplemental state aid; increasing the benefit for a former Department of Labor and Industry employee who retired in reliance on erroneous benefit estimates; authorizing the transfer of service credit from the MSRS General Plan to the Correctional Plan for a Department of Human Services employee; making technical clarifications and corrections to retirement statutes; amending Minnesota Statutes 2020, sections 352.01, subdivision 2b; 352D.06, subdivision 1; 353.01, subdivisions 2b, 16, 28; 353.014, subdivision 4; 353.0162; 353.27, subdivision 12; 353.30, subdivisions 1a, 1b, 1c; 353.335; 353.34, subdivision 2; 353D.071, subdivisions 1, 2; 353E.02, subdivision 2; 354A.12, subdivision 1; 354A.31, subdivision 7; 356.415, subdivision 1f; 356.635, subdivision 1; 424A.001, by adding a subdivision; 424A.01, subdivision 2; 424A.014, subdivisions 1, 2; 424A.015, subdivision 7; 424A.016, subdivisions 4, 6; 424A.02, subdivision 3; 424A.05, subdivision 3b; 424A.10, subdivision 2; 424B.01, subdivisions 3a, 3b, 3d, 3g, 3h, 3i, 4a, 5b, 5c, by adding a subdivision; 424B.04, subdivision 3; 424B.13, subdivisions 2, 4, 5, 6, 8, 9, 10; 424B.22, subdivisions 1, 2, 3, 4, 5, 7, 8, 9, 10; 477B.01, subdivision 1; 477B.04, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 356B; 424B; 477B; repealing Minnesota Statutes 2020, section 356B.05; Laws 2020, chapter 108, article 14, section 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Acomb	Davnie	Hamilton	Kresha	Nelson, M.	Sandell
Agbaje	Demuth	Hansen, R.	Lee	Nelson, N.	Sandstede
Akland	Dettmer	Hanson, J.	Liebling	Neu Brindley	Schomacker
Albright	Drazkowski	Hassan	Lillie	Noor	Schultz
Anderson	Ecklund	Hausman	Lippert	Novotny	Scott
Backer	Edelson	Heinrich	Lislegard	O'Driscoll	Stephenson
Bahner	Elkins	Heintzeman	Long	Olson, B.	Sundin
Baker	Erickson	Her	Lucero	Olson, L.	Swedzinski
Becker-Finn	Feist	Hollins	Lueck	O'Neill	Theis
Bennett	Fischer	Hornstein	Mariani	Pelowski	Thompson
Berg	Franke	Howard	Marquart	Petersburg	Torkelson
Bernardy	Franson	Huot	Masin	Pfarr	Urdahl
Bierman	Frazier	Igo	McDonald	Pierson	Vang
Bliss	Frederick	Johnson	Mekeland	Pinto	Wazlawik
Boe	Freiberg	Jordan	Miller	Poston	West
Boldon	Garofalo	Jurgens	Moller	Pryor	Winkler
Burkel	Gomez	Keeler	Moran	Quam	Wolgamott
Carlson	Green	Kiel	Morrison	Raleigh	Xiong, J.
Christensen	Greenman	Klevorn	Mortensen	Rasmusson	Xiong, T.
Daniels	Grossell	Koegel	Mueller	Reyer	Youakim
Daudt	Gruenhagen	Kotyza-Witthuhn	Murphy	Richardson	Spk. Hortman
Davids	Haley	Koznick	Nash	Robbins	

Those who voted in the negative were:

Bahr                      Munson

The bill was passed and its title agreed to.

H. F. No. 2360, A bill for an act relating to claims against the state; providing for the settlement of certain claims; appropriating money.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 79 yeas and 55 nays as follows:

Those who voted in the affirmative were:

Acomb	Carlson	Frazier	Hausman	Koegel	Mariani
Agbaje	Christensen	Frederick	Her	Kotyza-Witthuhn	Marquart
Backer	Davids	Freiberg	Hollins	Koznick	Masin
Bahner	Davnie	Garofalo	Hornstein	Lee	Miller
Becker-Finn	Ecklund	Gomez	Howard	Liebling	Moller
Berg	Edelson	Greenman	Huot	Lillie	Moran
Bernardy	Elkins	Hansen, R.	Jordan	Lippert	Morrison
Bierman	Feist	Hanson, J.	Keeler	Lislegard	Murphy
Boldon	Fischer	Hassan	Klevorn	Long	Nelson, M.

Noor	Pryor	Sandstede	Urdahl	Wolgamott
Olson, L.	Quam	Schultz	Vang	Xiong, J.
O'Neill	Reyer	Stephenson	Wazlawik	Xiong, T.
Pelowski	Richardson	Sundin	West	Youakim
Pinto	Sandell	Thompson	Winkler	Spk. Hortman

Those who voted in the negative were:

Akland	Daudt	Haley	Lucero	Novotny	Schomacker
Albright	Demuth	Hamilton	Lueck	O'Driscoll	Scott
Anderson	Dettmer	Heinrich	McDonald	Olson, B.	Swedzinski
Bahr	Drazkowski	Heintzeman	Mekeland	Petersburg	Theis
Baker	Erickson	Hertaus	Mortensen	Pfarr	Torkelson
Bennett	Franke	Igo	Mueller	Pierson	
Bliss	Franson	Johnson	Munson	Poston	
Boe	Green	Jurgens	Nash	Raleigh	
Burkel	Grossell	Kiel	Nelson, N.	Rasmusson	
Daniels	Gruenhagen	Kresha	Neu Brindley	Robbins	

The bill was passed and its title agreed to.

H. F. No. 1671 was reported to the House.

#### LAY ON THE TABLE

Nelson, M., moved that H. F. No. 1671 be laid on the table. The motion prevailed.

S. F. No. 1047 was reported to the House.

Franson moved to amend S. F. No. 1047, the first engrossment, as follows:

Page 3, after line 3, insert:

"(3) the power purchase agreement must be executed by a not-for-profit entity. The entity must certify to the commission that no for-profit entity will benefit from the power purchase agreement;"

Renumber the clauses in sequence

A roll call was requested and properly seconded.

The question was taken on the Franson amendment and the roll was called. There were 64 yeas and 70 nays as follows:

Those who voted in the affirmative were:

Akland	Backer	Bennett	Burkel	Davids	Drazkowski
Albright	Bahr	Bliss	Daniels	Demuth	Erickson
Anderson	Baker	Boe	Daudt	Dettmer	Franke

Franson	Heintzeman	Lucero	Nash	Pfarr	Scott
Garofalo	Hertaus	Lueck	Nelson, N.	Pierson	Swedzinski
Green	Igo	McDonald	Neu Brindley	Poston	Theis
Grossell	Johnson	Mekeland	Novotny	Quam	Torkelson
Gruenhagen	Jurgens	Miller	O'Driscoll	Raleigh	Urdahl
Haley	Kiel	Mortensen	Olson, B.	Rasmusson	West
Hamilton	Koznick	Mueller	O'Neill	Robbins	
Heinrich	Kresha	Munson	Petersburg	Schomacker	

Those who voted in the negative were:

Acomb	Edelson	Hausman	Liebling	Nelson, M.	Sundin
Agbaje	Elkins	Her	Lillie	Noor	Thompson
Bahner	Feist	Hollins	Lippert	Olson, L.	Vang
Becker-Finn	Fischer	Hornstein	Lislegard	Pelowski	Wazlawik
Berg	Frazier	Howard	Long	Pinto	Winkler
Bernardy	Frederick	Huot	Mariani	Pryor	Wolgamott
Bierman	Freiberg	Jordan	Marquart	Reyer	Xiong, J.
Boldon	Gomez	Keeler	Masin	Richardson	Xiong, T.
Carlson	Greenman	Klevorn	Moller	Sandell	Youakim
Christensen	Hansen, R.	Koegel	Moran	Sandstede	Spk. Hortman
Davnie	Hanson, J.	Kotyza-Witthuhn	Morrison	Schultz	
Ecklund	Hassan	Lee	Murphy	Stephenson	

The motion did not prevail and the amendment was not adopted.

Swedzinski moved to amend S. F. No. 1047, the first engrossment, as follows:

Page 3, line 3, delete "\$98" and insert "\$80"

A roll call was requested and properly seconded.

The question was taken on the Swedzinski amendment and the roll was called. There were 64 yeas and 70 nays as follows:

Those who voted in the affirmative were:

Akland	Daudt	Gruenhagen	Kresha	Neu Brindley	Rasmusson
Albright	Davids	Haley	Lucero	Novotny	Robbins
Anderson	Demuth	Hamilton	Lueck	O'Driscoll	Schomacker
Backer	Dettmer	Heinrich	McDonald	Olson, B.	Scott
Bahr	Drazkowski	Heintzeman	Mekeland	O'Neill	Swedzinski
Baker	Erickson	Hertaus	Miller	Petersburg	Theis
Bennett	Franke	Igo	Mortensen	Pfarr	Torkelson
Bliss	Franson	Johnson	Mueller	Pierson	Urdahl
Boe	Garofalo	Jurgens	Munson	Poston	West
Burkel	Green	Kiel	Nash	Quam	
Daniels	Grossell	Koznick	Nelson, N.	Raleigh	

Those who voted in the negative were:

Acomb	Edelson	Hausman	Liebling	Nelson, M.	Sundin
Agbaje	Elkins	Her	Lillie	Noor	Thompson
Bahner	Feist	Hollins	Lippert	Olson, L.	Vang
Becker-Finn	Fischer	Hornstein	Lislegard	Pelowski	Wazlawik
Berg	Frazier	Howard	Long	Pinto	Winkler
Bernardy	Frederick	Huot	Mariani	Pryor	Wolgamott
Bierman	Freiberg	Jordan	Marquart	Reyer	Xiong, J.
Boldon	Gomez	Keeler	Masin	Richardson	Xiong, T.
Carlson	Greenman	Klevorn	Moller	Sandell	Youakim
Christensen	Hansen, R.	Koegel	Moran	Sandstede	Spk. Hortman
Davnie	Hanson, J.	Kotyza-Witthuhn	Morrison	Schultz	
Ecklund	Hassan	Lee	Murphy	Stephenson	

The motion did not prevail and the amendment was not adopted.

Swedzinski moved to amend S. F. No. 1047, the first engrossment, as follows:

Page 4, after line 21, insert:

"Sec. 3. **ASH WASTE STUDY.**

(a) Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph (j), \$50,000 in fiscal year 2022 is appropriated from the renewable development account established in Minnesota Statutes, section 116C.779, subdivision 1, to the commissioner of commerce for the purpose of completing a study that, at a minimum, addresses the following issues:

(1) the amount of wood waste generated from ash trees in Minnesota counties that have been designated as quarantined areas in Section IV of the Minnesota State Formal Quarantine for Emerald Ash Borer, issued by the commissioner of agriculture under Minnesota Statutes, section 18G.06, effective November 14, 2019, as amended;

(2) the amount of the wood waste in clause (1) that is utilized as biomass fuel by the St. Paul district heating cogeneration facility in St. Paul; and

(3) options for utilizing or disposing of the wood waste in clause (2) and the estimated costs of each option.

(b) No later than January 15, 2022, the study must be submitted to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy and environment.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

Speaker pro tempore Vang called Carlson to the Chair.

The question was taken on the Swedzinski amendment and the roll was called. There were 63 yeas and 71 nays as follows:

Those who voted in the affirmative were:

Akland	Daudt	Gruenhagen	Lucero	Novotny	Robbins
Albright	Davids	Haley	Lueck	O'Driscoll	Schomacker
Anderson	Demuth	Hamilton	McDonald	Olson, B.	Scott
Backer	Dettmer	Heinrich	Mekeland	O'Neill	Swedzinski
Bahr	Drazkowski	Heintzeman	Miller	Petersburg	Theis
Baker	Erickson	Igo	Mortensen	Pfarr	Torkelson
Bennett	Franke	Johnson	Mueller	Pierson	Urdahl
Bliss	Franson	Jurgens	Munson	Poston	West
Boe	Garofalo	Kiel	Nash	Quam	
Burkel	Green	Koznick	Nelson, N.	Raleigh	
Daniels	Grossell	Kresha	Neu Brindley	Rasmusson	

Those who voted in the negative were:

Acomb	Edelson	Hausman	Lee	Murphy	Stephenson
Agbaje	Elkins	Her	Liebling	Nelson, M.	Sundin
Bahner	Feist	Hertaus	Lillie	Noor	Thompson
Becker-Finn	Fischer	Hollins	Lippert	Olson, L.	Vang
Berg	Frazier	Hornstein	Lislegard	Pelowski	Wazlawik
Bernardy	Frederick	Howard	Long	Pinto	Winkler
Bierman	Freiberg	Huot	Mariani	Pryor	Wolgammott
Boldon	Gomez	Jordan	Marquart	Reyer	Xiong, J.
Carlson	Greenman	Keeler	Masin	Richardson	Xiong, T.
Christensen	Hansen, R.	Klevorn	Moller	Sandell	Youakim
Davnie	Hanson, J.	Koegel	Moran	Sandstede	Spk. Hortman
Ecklund	Hassan	Kotyza-Witthuhn	Morrison	Schultz	

The motion did not prevail and the amendment was not adopted.

S. F. No. 1047, A bill for an act relating to energy; authorizing a power purchase agreement for certain electric cogeneration activities; amending Minnesota Statutes 2020, section 216B.2424, by adding subdivisions.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 87 yeas and 46 nays as follows:

Those who voted in the affirmative were:

Acomb	Berg	Ecklund	Garofalo	Hertaus	Koegel
Agbaje	Bernardy	Edelson	Gomez	Hollins	Kotyza-Witthuhn
Akland	Bierman	Elkins	Greenman	Hornstein	Koznick
Albright	Boe	Feist	Hansen, R.	Howard	Lee
Anderson	Boldon	Fischer	Hanson, J.	Huot	Liebling
Bahner	Carlson	Franke	Hassan	Jordan	Lillie
Baker	Christensen	Frazier	Hausman	Jurgens	Lippert
Becker-Finn	Davids	Frederick	Heintzeman	Keeler	Lislegard
Bennett	Davnie	Freiberg	Her	Klevorn	Long

Mariani	Murphy	Pfarr	Sandell	Urdahl	Xiong, T.
Marquart	Nelson, M.	Pinto	Sandstede	Vang	Youakim
Masin	Noor	Poston	Schultz	Wazlawik	Spk. Hortman
Moller	Olson, L.	Pryor	Stephenson	Winkler	
Moran	O'Neill	Reyer	Sundin	Wolgamott	
Morrison	Petersburg	Richardson	Thompson	Xiong, J.	

Those who voted in the negative were:

Backer	Drazkowski	Heinrich	Mekeland	Novotny	Schomacker
Bahr	Erickson	Igo	Miller	O'Driscoll	Scott
Bliss	Franson	Johnson	Mortensen	Olson, B.	Swedzinski
Burkel	Green	Kiel	Mueller	Pierson	Theis
Daniels	Grossell	Kresha	Munson	Quam	Torkelson
Daudt	Gruenhagen	Lucero	Nash	Raleigh	West
Demuth	Haley	Lueck	Nelson, N.	Rasmusson	
Dettmer	Hamilton	McDonald	Neu Brindley	Robbins	

The bill was passed and its title agreed to.

S. F. No. 1354 was reported to the House.

#### LAY ON THE TABLE

Winkler moved that S. F. No. 1354 be laid on the table. The motion prevailed.

The following Conference Committee Report was received:

#### CONFERENCE COMMITTEE REPORT ON H. F. No. 164

A bill for an act relating to energy; establishing the Energy Conservation and Optimization Act of 2021; amending Minnesota Statutes 2020, sections 216B.2401; 216B.241, subdivisions 1a, 1c, 1d, 1f, 1g, 2, 2b, 3, 5, 7, 8, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 216B; repealing Minnesota Statutes 2020, section 216B.241, subdivisions 1, 1b, 2c, 4, 10.

May 14, 2021

The Honorable Melissa Hortman  
Speaker of the House of Representatives

The Honorable Jeremy R. Miller  
President of the Senate

We, the undersigned conferees for H. F. No. 164 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 164 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **TITLE.**

Sections 2 to 18 may be cited as the "Energy Conservation and Optimization Act of 2021."

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

Sec. 2. Minnesota Statutes 2020, section 216B.2401, is amended to read:

**216B.2401 ENERGY SAVINGS AND OPTIMIZATION POLICY GOAL.**

(a) The legislature finds that energy savings are an energy resource, and that cost-effective energy savings are preferred over all other energy resources. In addition, the legislature finds that optimizing the timing and method used by energy consumers to manage energy use provides significant benefits to the consumers and to the utility system as a whole. The legislature further finds that cost-effective energy savings and load management programs should be procured systematically and aggressively in order to reduce utility costs for businesses and residents, improve the competitiveness and profitability of businesses, create more energy-related jobs, reduce the economic burden of fuel imports, and reduce pollution and emissions that cause climate change. Therefore, it is the energy policy of the state of Minnesota to achieve annual energy savings equal equivalent to at least ~~1.5~~ 2.5 percent of annual retail energy sales of electricity and natural gas through ~~cost-effective energy conservation improvement programs and rate design, energy efficiency achieved by energy consumers without direct utility involvement, energy codes and appliance standards, programs designed to transform the market or change consumer behavior, energy savings resulting from efficiency improvements to the utility infrastructure and system, and other efforts to promote energy efficiency and energy conservation.~~ multiple measures, including but not limited to:

(1) cost-effective energy conservation improvement programs and efficient fuel-switching utility programs under sections 216B.2402 to 216B.241;

(2) rate design;

(3) energy efficiency achieved by energy consumers without direct utility involvement;

(4) advancements in statewide energy codes and cost-effective appliance and equipment standards;

(5) programs designed to transform the market or change consumer behavior;

(6) energy savings resulting from efficiency improvements to the utility infrastructure and system; and

(7) other efforts to promote energy efficiency and energy conservation.

(b) A utility is encouraged to design and offer to customers load management programs that enable: (1) customers to maximize the economic value gained from the energy purchased from the customer's utility service provider; and (2) utilities to optimize the infrastructure and generation capacity needed to effectively serve customers and facilitate the integration of renewable energy into the energy system.

(c) The commissioner must provide a reasonable estimate of progress made toward the statewide energy-savings goal under paragraph (a) in the annual report required under section 216B.241, subdivision 1c, and make recommendations for administrative or legislative initiatives to increase energy savings toward that goal. The commissioner must also annually report on the energy productivity of the state's economy by estimating the ratio of economic output produced in the most recently completed calendar year to the primary energy inputs used in that year.

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

Sec. 3. **[216B.2402] DEFINITIONS.**

Subdivision 1. **Definitions.** For the purposes of section 216B.16, subdivision 6b, and sections 216B.2401 to 216B.241, the following terms have the meanings given them.

Subd. 2. **Consumer-owned utility.** "Consumer-owned utility" means a municipal gas utility, a municipal electric utility, or a cooperative electric association.

Subd. 3. **Cumulative lifetime savings.** "Cumulative lifetime savings" means the total electric energy or natural gas savings in a given year from energy conservation improvements installed in that given year and energy conservation improvements installed in previous years that are still in operation.

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

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

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

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

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

An efficient fuel-switching improvement is not an energy conservation improvement or energy efficiency even if the efficient fuel-switching improvement results in a net reduction in electricity or natural gas use. An efficient fuel-switching improvement does not include, and must not count toward any energy savings goal from, energy conservation improvements when fuel switching would result in an increase of greenhouse gas emissions into the atmosphere on an annual basis.

Subd. 5. **Energy conservation.** "Energy conservation" means an action that results in a net reduction in electricity or natural gas consumption. Energy conservation does not include an efficient fuel-switching improvement.

Subd. 6. **Energy conservation improvement.** "Energy conservation improvement" means a project that results in energy efficiency or energy conservation. Energy conservation improvement may include waste heat that is recovered and converted into electricity or used as thermal energy, but does not include electric utility infrastructure projects approved by the commission under section 216B.1636.

Subd. 7. **Energy efficiency.** "Energy efficiency" means measures or programs, including energy conservation measures or programs, that: (1) target consumer behavior, equipment, processes, or devices; (2) are designed to reduce the consumption of electricity or natural gas on either an absolute or per unit of production basis; and (3) do not reduce the quality or level of service provided to an energy consumer.

Subd. 8. **Fuel.** "Fuel" means energy, including electricity, propane, natural gas, heating oil, gasoline, diesel fuel, or steam, consumed by a retail utility customer.

Subd. 9. **Fuel neutral.** "Fuel neutral" means an approach that compares the use of various fuels for a given end use, using a common metric.

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

(1) gas sales to:

(i) a large energy facility;

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

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

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

(3) the amount of electric sales prior to December 31, 2032, that are associated with a utility's program, rate, or tariff for electric vehicle charging based on a methodology and assumptions developed by the department in consultation with interested stakeholders no later than December 31, 2021. After December 31, 2032, incremental sales to electric vehicles must be included in calculating a utility's gross annual retail sales.

**Subd. 11. Investments and expenses of a public utility.** "Investments and expenses of a public utility" means the investments and expenses incurred by a public utility in connection with an energy conservation improvement.

**Subd. 12. Large customer facility.** "Large customer facility" means all buildings, structures, equipment, and installations at a single site that in aggregate: (1) impose a peak electrical demand on an electric utility's system of at least 20,000 kilowatts, measured in the same way as the utility that serves the customer facility measures electric demand for billing purposes; or (2) consume at least 500,000,000 cubic feet of natural gas annually. When calculating peak electrical demand, a large customer facility may include demand offset by on-site cogeneration facilities and, if engaged in mineral extraction, may include peak energy demand from the large customer facility's mining processing operations.

**Subd. 13. Large energy facility.** "Large energy facility" has the meaning given in section 216B.2421, subdivision 2, clause (1).

**Subd. 14. Lifetime energy savings.** "Lifetime energy savings" means the amount of savings a particular energy conservation improvement is projected to produce over the improvement's effective useful lifetime.

**Subd. 15. Load management.** "Load management" means an activity, service, or technology that changes the timing or the efficiency of a customer's use of energy that allows a utility or a customer to: (1) respond to local and regional energy system conditions; or (2) reduce peak demand for electricity or natural gas. Load management that reduces a customer's net annual energy consumption is also energy conservation.

**Subd. 16. Low-income household.** "Low-income household" means a household whose household income is 60 percent or less of the state median household income.

**Subd. 17. Low-income programs.** "Low-income programs" means energy conservation improvement and efficient fuel-switching programs that directly serve the needs of low-income households, including low-income renters.

Subd. 18. **Member.** "Member" has the meaning given in section 308B.005, subdivision 15.

Subd. 19. **Multifamily building.** "Multifamily building" means a residential building containing five or more dwelling units.

Subd. 20. **Preweatherization measure.** "Preweatherization measure" means an improvement that is necessary to allow energy conservation improvements to be installed in a home.

Subd. 21. **Qualifying utility.** "Qualifying utility" means a utility that supplies a customer with energy that enables the customer to qualify as a large customer facility.

Subd. 22. **Waste heat recovered and used as thermal energy.** "Waste heat recovered and used as thermal energy" means capturing heat energy that would be exhausted or dissipated to the environment from machinery, buildings, or industrial processes, and productively using the recovered thermal energy where it was captured or distributing it as thermal energy to other locations where it is used to reduce demand-side consumption of natural gas, electric energy, or both.

Subd. 23. **Waste heat recovery converted into electricity.** "Waste heat recovery converted into electricity" means an energy recovery process that converts to electricity energy from the heat of exhaust stacks or pipes used for engines or manufacturing or industrial processes, or from the reduction of high pressure in water or gas pipelines, that would otherwise be lost.

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

Sec. 4. **[216B.2403] CONSUMER-OWNED UTILITIES; ENERGY CONSERVATION AND OPTIMIZATION.**

Subdivision 1. **Applicability.** This section applies to:

- (1) a cooperative electric association that provides retail service to more than 5,000 members;
- (2) a municipality that provides electric service to more than 1,000 retail customers; and
- (3) a municipality with more than 1,000,000,000 cubic feet in annual throughput sales to natural gas retail customers.

Subd. 2. **Consumer-owned utility; energy-savings goal.** (a) Each individual consumer-owned utility subject to this section has an annual energy-savings goal equivalent to 1.5 percent of gross annual retail energy sales, to be met with a minimum of energy savings from energy conservation improvements equivalent to at least 0.95 percent of the consumer-owned utility's gross annual retail energy sales. The balance of energy savings toward the annual energy-savings goal may be achieved only by the following consumer-owned utility activities:

- (1) energy savings from additional energy conservation improvements;
- (2) electric utility infrastructure projects, as defined in section 216B.1636, subdivision 1, that result in increased efficiency greater than would have occurred through normal maintenance activity;
- (3) net energy savings from efficient fuel-switching improvements that meet the criteria under subdivision 8, which may contribute up to 0.55 percent of the goal; or
- (4) subject to department approval, demand-side natural gas or electric energy displaced by use of waste heat recovered and used as thermal energy, including the recovered thermal energy from a cogeneration or combined heat and power facility.

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

(c) A consumer-owned utility subject to this section is not required to make energy conservation improvements that are not cost-effective, even if the improvement is necessary to attain the energy-savings goal. A consumer-owned utility subject to this section must make reasonable efforts to implement energy conservation improvements that exceed the minimum level established under this subdivision if cost-effective opportunities and funding are available, considering other potential investments the consumer-owned utility intends to make to benefit customers during the term of the plan filed under subdivision 3.

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

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

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

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

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

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

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

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

(d) The commissioner must evaluate a plan filed under this subdivision based on the plan's likelihood to achieve the energy-savings goals established in subdivision 2. The commissioner may make recommendations to a consumer-owned utility regarding ways to increase the effectiveness of the consumer-owned utility's energy conservation activities and programs under this subdivision. The commissioner may recommend that a consumer-owned utility implement a cost-effective energy conservation program, including an energy conservation program suggested by an outside source such as a political subdivision, nonprofit corporation, or community organization.

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

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

(g) A consumer-owned utility may annually spend and invest up to ten percent of the total amount spent and invested on energy conservation improvements on research and development projects that meet the definition of energy conservation improvement.

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

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

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

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

(2) recommission buildings;

(3) train building operators; and

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

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

(1) historical energy conservation improvement program achievements;

(2) customer class makeup;

(3) projected load growth;

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

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

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

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

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

**Subd. 4. Consumer-owned utility; energy savings investment.** (a) Except as otherwise provided, a consumer-owned utility that the commissioner determines falls short of the minimum energy savings goal from energy conservation improvements established in subdivision 2, paragraph (a), for three consecutive years during which the utility has annually spent on energy conservation improvements less than 1.5 percent of the utility's gross operating revenues for an electric utility or less than 0.5 percent of the utility's gross operating revenues for a natural gas utility, must spend no less than the following amounts for energy conservation improvements:

(1) for a municipality, 0.5 percent of the municipality's gross operating revenues from the sale of gas and 1.5 percent of the municipality's gross operating revenues from the sale of electricity, excluding gross operating revenues from electric and gas service provided in Minnesota to large electric customer facilities; and

(2) for a cooperative electric association, 1.5 percent of the association's gross operating revenues from service provided in the state, excluding gross operating revenues from service provided in Minnesota to large electric customers facilities indirectly through a distribution cooperative electric association.

(b) The commissioner may not impose the spending requirement under this subdivision if the commissioner has determined that the utility has followed the commissioner's recommendations, if any, provided under subdivision 3, paragraph (d).

(c) Upon request of a consumer-owned utility, the commissioner may reduce the amount or duration of the spending requirement imposed under this subdivision, or both, if the commissioner determines that the consumer-owned utility's failure to maintain the minimum energy savings goal is the result of:

(1) a natural disaster or other emergency that is declared by the executive branch through an emergency executive order that affects the consumer-owned utility's service area;

(2) a unique load distribution experienced by the consumer-owned utility; or

(3) other factors that the commissioner determines justifies a reduction.

(d) Unless the commissioner reduces the duration of the spending requirement under paragraph (c), the spending requirement under this subdivision remains in effect until the consumer-owned utility has met the minimum energy savings goal for three consecutive years.

**Subd. 5. Energy conservation programs for low-income households.** (a) A consumer-owned utility subject to this section must provide energy conservation programs to low-income households. The commissioner must evaluate a consumer-owned utility's plans under this section by considering the consumer-owned utility's historic

spending on energy conservation programs directed to low-income households, the rate of customer participation in and the energy savings resulting from those programs, and the number of low-income persons residing in the consumer-owned utility's service territory. A municipal utility that furnishes natural gas service must spend at least 0.2 percent of the municipal utility's most recent three-year average gross operating revenue from residential customers in Minnesota on energy conservation programs for low-income households. A consumer-owned utility that furnishes electric service must spend at least 0.2 percent of the consumer-owned utility's gross operating revenue from residential customers in Minnesota on energy conservation programs for low-income households. The requirement under this paragraph applies to each generation and transmission cooperative association's aggregate gross operating revenue from the sale of electricity to residential customers in Minnesota by all of the association's member distribution cooperatives.

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

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

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

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

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

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

(h) A Healthy AIR (Asbestos Insulation Removal) account is established as a separate account in the special revenue fund in the state treasury. A consumer-owned utility may elect to contribute money to the Healthy AIR account to provide preweatherization measures for households eligible for weatherization assistance from the state

weatherization assistance program in section 216C.264. Remediation activities must be executed in conjunction with federal weatherization assistance program services. Money contributed to the account by a consumer-owned utility counts toward: (1) the minimum low-income spending requirement under paragraph (a); and (2) the cap on preweatherization measures under paragraph (f). Money in the account is annually appropriated to the commissioner of commerce to pay for Healthy AIR-related activities.

Subd. 6. **Recovery of expenses.** The commission must allow a cooperative electric association subject to rate regulation under section 216B.026 to recover expenses resulting from: (1) a plan under this section; and (2) assessments and contributions to the energy and conservation account under section 216B.241, subdivision 2a.

Subd. 7. **Ownership of preweatherization measure or energy conservation improvement.** (a) A preweatherization measure or energy conservation improvement installed in a building under this section, excluding a system owned by a consumer-owned utility that is designed to turn off, limit, or vary the delivery of energy, is the exclusive property of the building owner, except to the extent that the improvement is subject to a security interest in favor of the consumer-owned utility in case of a loan to the building owner for the improvement.

(b) A consumer-owned utility has no liability for loss, damage, or injury directly or indirectly caused by a preweatherization measure or energy conservation improvement, unless a consumer-owned utility is determined to have been negligent in purchasing, installing, or modifying a preweatherization measure or energy conservation improvement.

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

(1) results in a net reduction in the amount of source energy consumed for a particular use, measured on a fuel-neutral basis;

(2) results in a net reduction of statewide greenhouse gas emissions, as defined in section 216H.01, subdivision 2, over the lifetime of the improvement. For an efficient fuel-switching improvement installed by an electric consumer-owned utility, the reduction in emissions must be measured based on the hourly emissions profile of the consumer-owned utility or the utility's electricity supplier, as reported in the most recent resource plan approved by the commission under section 216B.2422. If the hourly emissions profile is not available, the commissioner must develop a method consumer-owned utilities must use to estimate that value;

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

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

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

Subd. 9. **Manner of filing and service.** (a) A consumer-owned utility must submit the filings required under this section to the department using the department's electronic filing system. The commissioner may approve an exemption from this requirement if an affected consumer-owned utility is unable to submit filings via the department's electronic filing system. All other interested parties must submit filings to the department via the department's electronic filing system whenever practicable but may also file by personal delivery or by mail.

(b) The submission of a document to the department's electronic filing system constitutes service on the department. If a department rule requires service of a notice, order, or other document by the department, a consumer-owned utility, or an interested party upon persons on a service list maintained by the department, service may be made by personal delivery, mail, or electronic service. Electronic service may be made only to persons on the service list that have previously agreed in writing to accept electronic service at an e-mail address provided to the department for electronic service purposes.

Subd. 10. **Assessment.** The commission or department may assess consumer-owned utilities subject to this section to carry out the purposes of section 216B.241, subdivisions 1d, 1e, and 1f. An assessment under this subdivision must be proportionate to a consumer-owned utility's gross operating revenue from sales of gas or electric service in Minnesota during the previous calendar year, as applicable. Assessments under this subdivision are not subject to the cap on assessments under section 216B.62 or any other law.

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

Sec. 5. Minnesota Statutes 2020, section 216B.241, subdivision 1a, is amended to read:

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

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

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

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

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

~~(b) (a) The owner of a large customer facility may petition the commissioner to exempt both electric and gas utilities serving the large customer facility from the investment and expenditure requirements of paragraph (a) contributing to investments and expenditures made under an energy and conservation optimization plan filed under subdivision 2 or section 216B.2403, subdivision 3, with respect to retail revenues attributable to the large customer facility. The filing must include a discussion of the competitive or economic pressures facing the owner of the facility and the efforts taken by the owner to identify, evaluate, and implement energy conservation and efficiency improvements. A filing submitted on or before October 1 of any year must be approved within 90 days and become effective January 1 of the year following the filing, unless the commissioner finds that the owner of the large customer facility has failed to take reasonable measures to identify, evaluate, and implement energy conservation and efficiency improvements. If a facility qualifies as a large customer facility solely due to its peak electrical demand or annual natural gas usage, the exemption may be limited to the qualifying utility if the commissioner finds that the owner of the large customer facility has failed to take reasonable measures to identify, evaluate, and implement energy conservation and efficiency improvements with respect to the nonqualifying utility. Once an exemption is approved, the commissioner may request the owner of a large customer facility to submit, not more often than once every five years, a report demonstrating the large customer facility's ongoing commitment to energy conservation and efficiency improvement after the exemption filing. The commissioner may request such reports for up to ten years after the effective date of the exemption, unless the majority ownership of the large customer~~

facility changes, in which case the commissioner may request additional reports for up to ten years after the change in ownership occurs. The commissioner may, within 180 days of receiving a report submitted under this paragraph, rescind any exemption granted under this paragraph upon a determination that the large customer facility is not continuing to make reasonable efforts to identify, evaluate, and implement energy conservation improvements. A large customer facility that is, under an order from the commissioner, exempt from the investment and expenditure requirements of paragraph (a) as of December 31, 2010, is not required to submit a report to retain its exempt status, except as otherwise provided in this paragraph with respect to ownership changes. No exempt large customer facility may participate in a utility conservation improvement program unless the owner of the facility submits a filing with the commissioner to withdraw its exemption.

(e) ~~(b)~~ A commercial gas customer that is not a large customer facility and that purchases or acquires natural gas from a public utility having fewer than 600,000 natural gas customers in Minnesota may petition the commissioner to exempt gas utilities serving the commercial gas customer from ~~the investment and expenditure requirements of paragraph (a) contributing to investments and expenditures made under an energy and conservation optimization plan filed under subdivision 2 or section 216B.2403, subdivision 3,~~ with respect to retail revenues attributable to the commercial gas customer. The petition must be supported by evidence demonstrating that the commercial gas customer has acquired or can reasonably acquire the capability to bypass use of the utility's gas distribution system by obtaining natural gas directly from a supplier not regulated by the commission. The commissioner shall grant the exemption if the commissioner finds that the petitioner has made the demonstration required by this paragraph.

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

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

~~(1) not result in cost-effective energy conservation improvements; or~~

~~(2) otherwise the decision is not be in the public interest.~~

~~(d) Notwithstanding paragraph (a), a large customer facility or commercial gas customer that is exempt from the investment and expenditure requirements of this section pursuant to an order from the commissioner as of December 31, 2020, is not required to submit additional documentation to maintain the exemption and must not be assessed any costs related to any energy conservation and optimization plan filed under this section or section 216B.2403, including but not limited to costs, incentives, or rates of return associated with investments in programs for efficient fuel-switching improvements.~~

~~(e) A public utility is prohibited from spending for or investing in energy conservation improvements that directly benefit a large energy facility or a large electric customer facility the commissioner has issued an exemption to under this section.~~

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

Sec. 6. Minnesota Statutes 2020, section 216B.241, subdivision 1c, is amended to read:

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

~~(b) Each individual~~ A public utility and association shall have providing electric service has an annual energy-savings goal equivalent to ~~4.5~~ 1.75 percent of gross annual retail energy sales unless modified by the commissioner under paragraph ~~(d)~~. (c). A public utility providing natural gas service has an annual energy-savings goal equivalent to one percent of gross annual retail energy sales, which cannot be lowered by the commissioner. The savings goals must be calculated based on the most recent three-year weather-normalized average. A public utility or association providing electric service may elect to carry forward energy savings in excess of 4.5 1.75 percent for a year to the succeeding three calendar years, except that savings from electric utility infrastructure projects allowed under paragraph (d) may be carried forward for five years. A public utility providing natural gas service may elect to carry forward energy savings in excess of one percent for a year to the succeeding three calendar years. A particular energy savings can only be used only for to meet one year's goal.

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

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

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

~~A utility or association may include in its energy conservation plan energy savings from~~ The balance of the 1.75 percent annual energy savings goal may be achieved through energy savings from:

(1) additional energy conservation improvements;

(2) electric utility infrastructure projects approved by the commission under section 216B.1636 or waste heat recovery converted into electricity projects that may count as energy savings in addition to a minimum energy savings goal of at least one percent for energy conservation improvements. Energy savings from electric utility infrastructure projects, as defined in section 216B.1636, may be included in the energy conservation plan of a municipal utility or cooperative electric association. Electric utility infrastructure projects must result in increased energy efficiency greater than that which would have occurred through normal maintenance activity; that result in increased efficiency greater than would have occurred through normal maintenance activity; or

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

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

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

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

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

~~(i) This subdivision does not apply to:~~

~~(1) a cooperative electric association with fewer than 5,000 members;~~

~~(2) a municipal utility with fewer than 1,000 retail electric customers; or~~

~~(3) a municipal utility with less than 1,000,000,000 cubic feet in annual throughput sales to retail natural gas customers.~~

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

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

Sec. 7. Minnesota Statutes 2020, section 216B.241, subdivision 1d, is amended to read:

Subd. 1d. **Technical assistance.** (a) The commissioner shall evaluate energy conservation improvement programs filed under this section and section 216B.2403 on the basis of cost-effectiveness and the reliability of the technologies employed. The commissioner shall, by order, establish, maintain, and update energy-savings assumptions that must be used by utilities when filing energy conservation improvement programs. The department must track a public utility's or consumer-owned utility's lifetime energy savings and cumulative lifetime energy savings reported in plans submitted under this section and section 216B.2403.

(b) The commissioner shall establish an inventory of the most effective energy conservation programs, techniques, and technologies, and encourage all Minnesota utilities to implement them, where appropriate, ~~in their service territories.~~ The commissioner shall describe these programs in sufficient detail to provide a utility reasonable guidance concerning implementation. The commissioner shall prioritize the opportunities in order of potential energy savings and in order of cost-effectiveness.

(c) The commissioner may contract with a third party to carry out any of the commissioner's duties under this subdivision, and to obtain technical assistance to evaluate the effectiveness of any conservation improvement program.

(d) The commissioner may assess up to \$850,000 annually for the purposes of this subdivision. The assessments must be deposited in the state treasury and credited to the energy and conservation account created under subdivision 2a. An assessment made under this subdivision is not subject to the cap on assessments provided by section 216B.62, or any other law.

~~(b) Of the assessment authorized under paragraph (a), the commissioner may expend up to \$400,000 annually for the purpose of developing, operating, maintaining, and providing technical support for a uniform electronic data reporting and tracking system available to all utilities subject to this section, in order to enable accurate measurement of the cost and energy savings of the energy conservation improvements required by this section. This paragraph expires June 30, 2018.~~

(e) The commissioner must work with stakeholders to develop technical guidelines that public utilities and consumer-owned utilities must use to:

(1) determine whether deployment of a fuel-switching improvement meets the criteria established in subdivision 11, paragraph (d); subdivision 12, paragraph (a); or section 216B.2403, subdivision 8, as applicable; and

(2) calculate the amount of energy saved due to the deployment of a fuel-switching improvement.

The guidelines must be issued by the commissioner by order no later than March 15, 2022, and must be updated as the commissioner determines is necessary.

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

Sec. 8. Minnesota Statutes 2020, section 216B.241, subdivision 1f, is amended to read:

Subd. 1f. **Facilities energy efficiency.** (a) The commissioner of administration and the commissioner of commerce shall maintain and, as needed, revise the sustainable building design guidelines developed under section 16B.325.

(b) The commissioner of administration and the commissioner of commerce shall maintain and update the benchmarking tool developed under Laws 2001, chapter 212, article 1, section 3, so that all public buildings can use the benchmarking tool to maintain energy use information for the purposes of establishing energy efficiency benchmarks, tracking building performance, and measuring the results of energy efficiency and conservation improvements.

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

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

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

Sec. 9. Minnesota Statutes 2020, section 216B.241, subdivision 1g, is amended to read:

Subd. 1g. **Manner of filing and service.** (a) A public utility, ~~generation and transmission cooperative electric association, municipal power agency, cooperative electric association, and municipal utility~~ shall submit filings to the department via the department's electronic filing system. The commissioner may approve an exemption from this requirement in the event an affected a public utility or association is unable to submit filings via the department's electronic filing system. All other interested parties shall submit filings to the department via the department's electronic filing system whenever practicable but may also file by personal delivery or by mail.

(b) Submission of a document to the department's electronic filing system constitutes service on the department. Where department rule requires service of a notice, order, or other document by the department, public utility, association, or interested party upon persons on a service list maintained by the department, service may be made by personal delivery, mail, or electronic service, except that electronic service may only be made upon persons on the service list who have previously agreed in writing to accept electronic service at an electronic address provided to the department for electronic service purposes.

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

Sec. 10. Minnesota Statutes 2020, section 216B.241, subdivision 2, is amended to read:

Subd. 2. ~~Programs~~ **Public utility; energy conservation and optimization plans.** (a) The commissioner may require a public ~~utilities~~ utility to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers. ~~The required programs must cover no more than a three-year period.~~

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

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

~~(b)~~ (d) The commissioner may require a utility subject to subdivision 1c to make an energy conservation improvement investment or expenditure whenever the commissioner finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. ~~The commissioner shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department.~~

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

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

(f) The commissioner shall consider and may require a public utility to undertake a an energy conservation program suggested by an outside source, including a political subdivision, a nonprofit corporation, or community organization.

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

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

~~(g) A gas utility may not spend for or invest in energy conservation improvements that directly benefit a large customer facility or commercial gas customer facility for which the commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b), (c), or (e). The commissioner shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision, a nonprofit corporation, or a community organization.~~

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

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

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

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

Sec. 11. Minnesota Statutes 2020, section 216B.241, subdivision 2b, is amended to read:

Subd. 2b. **Recovery of expenses.** (a) The commission shall allow a public utility to recover expenses resulting from a an energy conservation improvement program required and optimization plan approved by the department under this section and contributions and assessments to the energy and conservation account, unless the recovery would be inconsistent with a financial incentive proposal approved by the commission. ~~The commission shall allow a cooperative electric association subject to rate regulation under section 216B.026, to recover expenses resulting from energy conservation improvement programs, load management programs, and assessments and contributions to the energy and conservation account unless the recovery would be inconsistent with a financial incentive proposal approved by the commission. In addition,~~

(b) A public utility may file annually, or the Public Utilities Commission may require the public utility to file, and the commission may approve, rate schedules containing provisions for the automatic adjustment of charges for utility service in direct relation to changes in the expenses of the public utility for real and personal property taxes, fees, and permits, the amounts of which the public utility cannot control. A public utility is eligible to file for adjustment for real and personal property taxes, fees, and permits under this subdivision only if, in the year previous to the year in which it files for adjustment, it has spent or invested at least 1.75 percent of its gross revenues from provision of electric service, excluding gross operating revenues from electric service provided in the state to large electric customer facilities for which the commissioner has issued an exemption under subdivision 1a, paragraph (b), and 0.6 percent of its gross revenues from provision of gas service, excluding gross operating revenues from gas services provided in the state to large electric customer facilities for which the commissioner has issued an exemption under subdivision 1a, paragraph (b), for that year for energy conservation improvements under this section.

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

Sec. 12. Minnesota Statutes 2020, section 216B.241, subdivision 3, is amended to read:

Subd. 3. **Ownership of preweatherization measure or energy conservation improvement.** ~~An (a) A~~ preweatherization measure or energy conservation improvement made to or installed in a building in accordance with this section, except systems owned by ~~the~~ a public utility and designed to turn off, limit, or vary the delivery of energy, are the exclusive property of the owner of the building except to the extent that the improvement is subjected to a security interest in favor of the public utility in case of a loan to the building owner.

~~The (b) A public utility has no liability for loss, damage or injury caused directly or indirectly by an a~~ preweatherization measure or energy conservation improvement except for negligence by the utility in ~~purchase, installation, or modification of the product. purchasing, installing, or modifying a preweatherization measure or energy conservation improvement.~~

Sec. 13. Minnesota Statutes 2020, section 216B.241, subdivision 5, is amended to read:

Subd. 5. **Efficient lighting program.** (a) Each public utility, ~~cooperative electric association, and municipal and consumer-owned~~ utility that provides electric service to retail customers and is subject to subdivision 1c ~~or section 216B.2403~~ shall include as part of its conservation improvement activities a program to strongly encourage the use of ~~LED lamps~~ LEDs. The program must include at least a public information campaign to encourage use of ~~LED lamps~~ LEDs and proper management of spent lamps ~~and LEDs~~ by all customer classifications.

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

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

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

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

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

(g) All the costs incurred by a public utility, ~~cooperative electric association, or municipal~~ or consumer-owned utility to promote the use of ~~LED lamps~~ LEDs and to ~~collect fluorescent and high-intensity discharge lamps~~ collect LEDs under this subdivision are conservation improvement spending under this section.

(h) For the purposes of this subdivision, "~~LED lamp~~" "LED" means a light-emitting diode ~~lamp that consists of a solid state device that emits visible light when an electric current passes through a semiconductor~~ bulb or lighting product.

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

Sec. 14. Minnesota Statutes 2020, section 216B.241, subdivision 7, is amended to read:

Subd. 7. **Low-income programs.** (a) The commissioner shall ensure that each public utility ~~and association~~ subject to subdivision 1c provides low-income energy conservation and efficient fuel-switching programs to low-income households. When approving spending and energy-savings goals for low-income programs, the commissioner shall consider historic spending and participation levels, energy savings ~~for~~ achieved by low-income programs, and the number of low-income persons residing in the utility's service territory. Beginning January 1, 2022, a municipal utility that furnishes gas service must spend at least 0.2 percent, and a public utility furnishing gas service must spend at least 0.4 one percent, of its most recent three-year average gross operating revenue from residential customers in the state on low-income programs. A public utility ~~or association~~ that furnishes electric service must spend at least ~~0.1~~ 0.4 percent of its gross operating revenue from residential customers in the state on low-income programs. ~~For a generation and transmission cooperative association, this requirement shall apply to each association's members' aggregate gross operating revenue from sale of electricity to residential customers in the state.~~ Beginning in ~~2010~~ 2024, a public utility ~~or association~~ that furnishes electric service must spend ~~0.2~~ 0.6 percent of ~~its~~ the public utility's gross operating revenue from residential customers in the state on low-income programs.

(b) To meet the requirements of paragraph (a), a public utility ~~or association~~ may contribute money to the energy and conservation account established under subdivision 2a. An energy conservation improvement plan must state the amount, if any, of low-income energy conservation improvement funds the public utility ~~or association~~ will contribute to the energy and conservation account. Contributions must be remitted to the commissioner by February 1 of each year.

(c) The commissioner shall establish low-income energy conservation programs to utilize ~~money contributed~~ contributions made to the energy and conservation account under paragraph (b). In establishing low-income programs, the commissioner shall consult political subdivisions, utilities, and nonprofit and community organizations, especially organizations ~~engaged in~~ providing energy and weatherization assistance to low-income ~~persons~~ households. ~~Money contributed~~ Contributions made to the energy and conservation account under paragraph (b) must provide programs for low-income ~~persons~~ households, including low-income renters, in the service territory of the public utility ~~or association~~ providing the money. The commissioner shall record and report

expenditures and energy savings achieved as a result of low-income programs funded through the energy and conservation account in the report required under subdivision 1c, paragraph ~~(e)~~ (f). The commissioner may contract with a political subdivision, nonprofit or community organization, public utility, ~~municipality~~, or ~~cooperative electric association~~ consumer-owned utility to implement low-income programs funded through the energy and conservation account.

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

(e) Representatives of each public utility must participate in the stakeholder group on multifamily building eligibility for low-income energy conservation programs, as provided under section 216B.2403, subdivision 5, paragraph (e). Notwithstanding the definition of low-income household under section 216B.2402, a public utility may apply the most recent guidelines for eligibility of multifamily buildings to participate in low-income energy conservation programs published by the commissioner under section 216B.2403, subdivision 5, paragraph (e).

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

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

(h) A public utility may elect to contribute money to the Healthy AIR account under section 216B.2403, subdivision 5, paragraph (h), to provide preweatherization measures to households eligible for weatherization assistance under section 216C.264. Remediation activities must be executed in conjunction with federal weatherization assistance program services. Money contributed to the account counts toward: (1) the minimum low-income spending requirement in paragraph (a); and (2) the cap on preweatherization measures under paragraph (f).

~~(e)~~ (i) The costs and benefits associated with any approved low-income gas or electric conservation improvement program that is not cost-effective when considering the costs and benefits to the public utility may, at the discretion of the utility, be excluded from the calculation of net economic benefits for purposes of calculating the financial incentive to the public utility. The energy and demand savings may, at the discretion of the public utility, be applied toward the calculation of overall portfolio energy and demand savings for purposes of determining progress toward annual goals and in the financial incentive mechanism.

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

Sec. 15. Minnesota Statutes 2020, section 216B.241, subdivision 8, is amended to read:

Subd. 8. **Assessment.** The commission or department may assess public utilities subject to this section ~~in proportion to their respective~~ to carry out the purposes of subdivisions 1d, 1e, and 1f. An assessment under this subdivision must be proportionate to a public utility's gross operating revenue from sales of gas or electric service within the state Minnesota during the last calendar year to carry out the purposes of subdivisions 1d, 1e, and 1f. Those assessments, as applicable. Assessments made under this subdivision are not subject to the cap on assessments provided by section 216B.62, or any other law.

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

Sec. 16. Minnesota Statutes 2020, section 216B.241, is amended by adding a subdivision to read:

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

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

(c) A public utility may file a rate schedule with the commission that provides for annual cost recovery of reasonable and prudent costs to implement and promote efficient fuel-switching programs. The commission may not approve a financial incentive to encourage efficient fuel-switching programs operated by a public utility providing electric service.

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

(1) results in a net reduction in the amount of source energy consumed for a particular use, measured on a fuel-neutral basis;

(2) results in a net reduction of statewide greenhouse gas emissions as defined in section 216H.01, subdivision 2, over the lifetime of the improvement. For an efficient fuel-switching improvement installed by an electric utility, the reduction in emissions must be measured based on the hourly emission profile of the electric utility, using the hourly emissions profile in the most recent resource plan approved by the commission under section 216B.2422;

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

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

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

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

Sec. 17. Minnesota Statutes 2020, section 216B.241, is amended by adding a subdivision to read:

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

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

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

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

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

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

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

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

Sec. 18. Minnesota Statutes 2020, section 216B.241, is amended by adding a subdivision to read:

Subd. 13. **Cost-effective load management programs.** (a) A public utility may include in the utility's plan required under subdivision 2 programs to implement load management activities, or combinations of energy conservation improvements, fuel-switching improvements, and load management activities. For each program the public utility must provide a proposed budget, cost-effectiveness analysis, and estimated net energy and demand savings.

(b) The commissioner may approve a proposed program if the commissioner determines the program is cost-effective, considering the costs and benefits to ratepayers, the utility, participants, and society.

(c) A public utility providing retail electric service to Minnesota customers may file rate schedules with the commission that provide for annual cost recovery of reasonable and prudent costs incurred to implement and promote cost-effective load management programs approved by the department under this subdivision.

(d) The commission may approve, modify, or reject a proposal made by the department or a public utility for an incentive plan to encourage investments in load management programs. The commission may approve a proposal that the commission determines:

(1) is needed to increase the public utility's investment in cost-effective load management;

(2) is compatible with the interest of the public utility's ratepayers; and

(3) links the incentive to the public utility's performance in achieving cost-effective load management.

(e) The commission may structure an incentive plan to encourage cost-effective load management programs as an asset on which a public utility earns a rate of return at a level the commission determines is reasonable and in the public interest.

(f) The commission may include the net benefits from a load management activity integrated with an energy efficiency program approved under this section in the net benefits of the energy efficiency program for purposes of a financial incentive program under section 216B.16, subdivision 6c, if the department determines the primary purpose of the load management activity is energy efficiency.

(g) A public utility is not eligible for a financial incentive for a load management program in any year in which the utility achieves energy savings below one percent of gross annual retail energy sales, excluding savings achieved through load management programs.

(h) The commission may include net benefits from a particular load management activity in an incentive plan under this subdivision or section 216B.16, subdivision 6c, but not both.

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

Sec. 19. **REPEALER.**

Minnesota Statutes 2020, section 216B.241, subdivisions 1, 1b, 2c, 4, and 10, are repealed.

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

Delete the title and insert:

"A bill for an act relating to energy; establishing an Energy Conservation and Optimization Act of 2021; amending Minnesota Statutes 2020, sections 216B.2401; 216B.241, subdivisions 1a, 1c, 1d, 1f, 1g, 2, 2b, 3, 5, 7, 8, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 216B; repealing Minnesota Statutes 2020, section 216B.241, subdivisions 1, 1b, 2c, 4, 10."

We request the adoption of this report and repassage of the bill.

House Conferees: ZACK STEPHENSON, JAMIE LONG and JORDAN RASMUSSEN.

Senate Conferees: JASON RARICK, DAVID OSMEK and NICK FRENTZ.

Stephenson moved that the report of the Conference Committee on H. F. No. 164 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 164, A bill for an act relating to energy; establishing the Energy Conservation and Optimization Act of 2021; amending Minnesota Statutes 2020, sections 216B.2401; 216B.241, subdivisions 1a, 1c, 1d, 1f, 1g, 2, 2b, 3, 5, 7, 8, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 216B; repealing Minnesota Statutes 2020, section 216B.241, subdivisions 1, 1b, 2c, 4, 10.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 88 yeas and 46 nays as follows:

Those who voted in the affirmative were:

Acomb	Ecklund	Hassan	Lee	Nelson, M.	Stephenson
Agbaje	Edelson	Hausman	Liebling	Nelson, N.	Sundin
Bahner	Elkins	Her	Lillie	Noor	Thompson
Baker	Feist	Hertaus	Lippert	Olson, B.	Urdahl
Becker-Finn	Fischer	Hollins	Lislegard	Olson, L.	Vang
Bennett	Franke	Hornstein	Long	O'Neill	Wazlawik
Berg	Frazier	Howard	Lueck	Pelowski	West
Bernardy	Frederick	Huot	Mariani	Pinto	Winkler
Bierman	Freiberg	Jordan	Marquart	Pryor	Wolgamott
Boe	Garofalo	Jurgens	Masin	Rasmusson	Xiong, J.
Boldon	Gomez	Keeler	Moller	Reyer	Xiong, T.
Carlson	Greenman	Klevorn	Moran	Richardson	Youakim
Christensen	Hamilton	Koegel	Morrison	Sandell	Spk. Hortman
Davids	Hansen, R.	Kotyza-Witthuhn	Mueller	Sandstede	
Davnie	Hanson, J.	Koznick	Murphy	Schultz	

Those who voted in the negative were:

Akland	Daudt	Gruenhagen	Lucero	Novotny	Robbins
Albright	Demuth	Haley	McDonald	O'Driscoll	Schomacker
Anderson	Dettmer	Heinrich	Mekeland	Petersburg	Scott
Backer	Drazkowski	Heintzeman	Miller	Pfarr	Swedzinski
Bahr	Erickson	Igo	Mortensen	Pierson	Theis
Bliss	Franson	Johnson	Munson	Poston	Torkelson
Burkel	Green	Kiel	Nash	Quam	
Daniels	Grossell	Kresha	Neu Brindley	Raleigh	

The bill was repassed, as amended by Conference, and its title agreed to.

#### REPORTS FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Winkler for the Committee on Rules and Legislative Administration offered the following resolution and moved its adoption:

*Be It Resolved*, by the House of Representatives of the State of Minnesota, that the Chief Clerk is directed to correct and approve the Journal of the House for the last day of the 2021 Regular Session.

*Be It Further Resolved* that the Chief Clerk is authorized to include in the Journal for the last day of the 2021 Regular Session any proceedings, including subsequent proceedings and any legislative interim committees or commissions created or appointments made to them by legislative action or by law.

The motion prevailed and the resolution was adopted.

Winkler for the Committee on Rules and Legislative Administration offered the following resolution and moved its adoption:

*Be It Resolved*, by the House of Representatives of the State of Minnesota, that it retains the use of parking lots C, D, N, and the state office building parking ramp for members and employees of the House of Representatives during the time between adjournment in 2021 and the convening of the House of Representatives in 2022. The Sergeant at Arms is directed to manage the use of the lots and ramp while the House of Representatives is adjourned. The Controller of the House may continue to deduct from the check of any legislator or legislative employee a sum adequate to cover the exercise of the parking privilege.

The motion prevailed and the resolution was adopted.

Winkler for the Committee on Rules and Legislative Administration offered the following resolution and moved its adoption:

*Be It Resolved*, by the House of Representatives of the State of Minnesota, that during the time between adjournment in 2021 and the convening of the House of Representatives in 2022, the Chief Clerk and Chief Sergeant at Arms under the direction of the Speaker shall maintain House facilities in the Capitol Complex. The House chamber, retiring room, hearing and conference rooms, and offices shall be set up and made ready for legislative use and reserved for the House and its committees. Those rooms may be reserved for use by others that are not in conflict with use by the House. The House Chamber, retiring room, and hearing rooms may be used by YMCA Youth in Government, Girls' State, Young Leaders Organization, and 4-H Leadership Conference.

The motion prevailed and the resolution was adopted.

## MOTIONS AND RESOLUTIONS

Davnie moved that the name of Bernardy be added as an author on H. F. No. 1067. The motion prevailed.

Novotny moved that the name of Boe be added as an author on H. F. No. 2609. The motion prevailed.

Lucero moved that the name of Boe be added as an author on H. F. No. 2627. The motion prevailed.

Murphy moved that the name of Bahner be added as an author on H. F. No. 2632. The motion prevailed.

Senate Concurrent Resolution No. 14 was reported to the House.

### SENATE CONCURRENT RESOLUTION No. 14

A Senate concurrent resolution relating to adjournment of the Senate and House of Representatives until 2022.

*Be It Resolved*, by the Senate of the State of Minnesota, the House of Representatives concurring:

1. Upon their adjournments on May 17, 2021, the Senate may set its next day of meeting for Monday, January 31, 2022, at 12:00 noon and the House of Representatives may set its next day of meeting for Monday, January 31, 2022, at 12:00 noon.

2. By the adoption of this resolution, each house consents to adjournment of the other house for more than three days.

Winkler moved that Senate Concurrent Resolution No. 14 be now adopted. The motion prevailed and Senate Concurrent Resolution No. 14 was adopted.

#### ADJOURNMENT

Her moved that when the House adjourns today it adjourn until 10:00 a.m., Monday, May 17, 2021. The motion prevailed.

Her moved that the House adjourn. The motion prevailed, and Speaker pro tempore Carlson declared the House stands adjourned until 10:00 a.m., Monday, May 17, 2021.

PATRICK D. MURPHY, Chief Clerk, House of Representatives

