

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 2542

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DATE	D-PG	OFFICIAL STATUS
03/06/2023	1343	Introduction and first reading
		Referred to Energy, Utilities, Environment, and Climate
03/27/2023		Comm report: To pass as amended
		Second reading

1.1 A bill for an act

1.2 relating to energy; modifying certain utility requirements; prohibiting certain

1.3 restrictions on the use of residential solar energy systems; modifying the property

1.4 assessed clean energy program; amending the definition of low-income household

1.5 for purposes of receiving energy conservation assistance; requiring submission of

1.6 a decommissioning and demolition plan for a scheduled retirement of an electric

1.7 generation facility; adding the definitions of gas and hazardous liquid; authorizing

1.8 natural gas utilities to sell extraordinary event bonds under certain circumstances;

1.9 modifying various other provisions governing utilities; and modifying various

1.10 other energy provisions; amending Minnesota Statutes 2022, sections 216B.164,

1.11 by adding a subdivision; 216B.2402, subdivision 16; 216B.2425, subdivision 3;

1.12 216B.243, subdivision 8, as amended; 216B.50, subdivision 1; 216C.435,

1.13 subdivision 8; 216C.436, subdivision 2, by adding a subdivision; 216G.02,

1.14 subdivision 1; 515B.2-103; 515B.3-102; Laws 2005, chapter 97, article 10, section

1.15 3, as amended; proposing coding for new law in Minnesota Statutes, chapters

1.16 216B; 500.

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

1.18 Section 1. Minnesota Statutes 2022, section 216B.164, is amended by adding a subdivision
1.19 to read:

1.20 Subd. 12. Customer's access to electricity usage data. A utility must provide a

1.21 customer's electricity usage data to the customer within ten days of the date the utility

1.22 receives a request from the customer that is accompanied by evidence that the energy usage

1.23 data is relevant to the interconnection of a qualifying facility on behalf of the customer. For

1.24 the purposes of this subdivision, "electricity usage data" includes but is not limited to: (1)

1.25 the total amount of electricity used by a customer monthly; (2) usage by time period if the

1.26 customer operates under a tariff where costs vary by time-of-use; and (3) usage data that is

1.27 used to calculate a customer's demand charge.

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

2.1 Sec. 2. Minnesota Statutes 2022, section 216B.2402, subdivision 16, is amended to read:

2.2 Subd. 16. **Low-income household.** "Low-income household" means a household whose
2.3 household income:

2.4 (1) is ~~60~~ 80 percent or less of the ~~state~~ area median household income; for the geographic
2.5 area in which the low-income household is located, as calculated by the federal Department
2.6 of Housing and Urban Development; or

2.7 (2) meets the income eligibility standards, as determined by the commissioner, required
2.8 for a household to receive financial assistance from a federal, state, municipal, or utility
2.9 program administered or approved by the department.

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

2.11 Sec. 3. Minnesota Statutes 2022, section 216B.2425, subdivision 3, is amended to read:

2.12 Subd. 3. **Commission approval.** (a) By June 1 of each even-numbered year, the
2.13 commission shall adopt a state transmission project list and shall certify, certify as modified,
2.14 or deny certification of the transmission and distribution projects proposed under subdivision
2.15 2. Except as provided in paragraph (b), the commission may only certify a project that is a
2.16 high-voltage transmission line as defined in section 216B.2421, subdivision 2, that the
2.17 commission finds is:

2.18 (1) necessary to maintain or enhance the reliability of electric service to Minnesota
2.19 consumers;

2.20 (2) needed, applying the criteria in section 216B.243, subdivision 3; and

2.21 (3) in the public interest, taking into account electric energy system needs and economic,
2.22 environmental, and social interests affected by the project.

2.23 (b) The commission may certify a project proposed under subdivision 2, paragraph (e),
2.24 only if the commission finds the proposed project is in the public interest.

2.25 Sec. 4. Minnesota Statutes 2022, section 216B.243, subdivision 8, as amended by Laws
2.26 2023, chapter 7, section 23, is amended to read:

2.27 Subd. 8. **Exemptions.** (a) This section does not apply to:

2.28 (1) cogeneration or small power production facilities as defined in the Federal Power
2.29 Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and
2.30 paragraph (18), subparagraph (A), and having a combined capacity at a single site of less
2.31 than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or

3.1 any case where the commission has determined after being advised by the attorney general
3.2 that its application has been preempted by federal law;

3.3 (2) a high-voltage transmission line proposed primarily to distribute electricity to serve
3.4 the demand of a single customer at a single location, unless the applicant opts to request
3.5 that the commission determine need under this section or section 216B.2425;

3.6 (3) the upgrade to a higher voltage of an existing transmission line that serves the demand
3.7 of a single customer that primarily uses existing rights-of-way, unless the applicant opts to
3.8 request that the commission determine need under this section or section 216B.2425;

3.9 (4) a high-voltage transmission line of one mile or less required to connect a new or
3.10 upgraded substation to an existing, new, or upgraded high-voltage transmission line;

3.11 (5) conversion of the fuel source of an existing electric generating plant to using natural
3.12 gas;

3.13 (6) the modification of an existing electric generating plant to increase efficiency, as
3.14 long as the capacity of the plant is not increased more than ten percent or more than 100
3.15 megawatts, whichever is greater;

3.16 (7) a large wind energy conversion system, as defined in section 216F.01, subdivision
3.17 2, or a solar energy generating system, as defined in section 216E.01, subdivision 9a, ~~if the~~
3.18 ~~system is owned and operated by an independent power producer and the electric output of~~
3.19 ~~the system:~~

3.20 ~~(i) is not sold to an entity that provides retail service in Minnesota or wholesale electric~~
3.21 ~~service to another entity in Minnesota other than an entity that is a federally recognized~~
3.22 ~~regional transmission organization or independent system operator; or~~

3.23 ~~(ii) is sold to an entity that provides retail service in Minnesota or wholesale electric~~
3.24 ~~service to another entity in Minnesota other than an entity that is a federally recognized~~
3.25 ~~regional transmission organization or independent system operator, provided that the system~~
3.26 ~~represents solar or wind capacity that the entity purchasing the system's electric output was~~
3.27 ~~ordered by the commission to develop in the entity's most recent integrated resource plan~~
3.28 ~~approved under section 216B.2422~~ if a site permit application under chapter 216E or 216F
3.29 is initially submitted by an independent power producer; or

3.30 (8) a large wind energy conversion system, as defined in section 216F.01, subdivision
3.31 2, or a solar energy generating system that is a large energy facility, as defined in section
3.32 216B.2421, subdivision 2, engaging in a repowering project that:

4.1 (i) will not result in the system exceeding the nameplate capacity under its most recent
4.2 interconnection agreement; or

4.3 (ii) will result in the system exceeding the nameplate capacity under its most recent
4.4 interconnection agreement, provided that the Midcontinent Independent System Operator
4.5 has provided a signed generator interconnection agreement that reflects the expected net
4.6 power increase.

4.7 (b) For the purpose of this subdivision, "repowering project" means:

4.8 (1) modifying a large wind energy conversion system or a solar energy generating system
4.9 that is a large energy facility to increase its efficiency without increasing its nameplate
4.10 capacity;

4.11 (2) replacing turbines in a large wind energy conversion system without increasing the
4.12 nameplate capacity of the system; or

4.13 (3) increasing the nameplate capacity of a large wind energy conversion system.

4.14 Sec. 5. [216B.491] DEFINITIONS.

4.15 Subdivision 1. Scope. For the purposes of sections 216B.491 to 216B.499, the terms
4.16 defined in this subdivision have the meanings given.

4.17 Subd. 2. Ancillary agreement. "Ancillary agreement" means any bond, insurance policy,
4.18 letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, liquidity
4.19 or credit support arrangement, or other financial arrangement entered into in connection
4.20 with extraordinary event bonds that is designed to promote the credit quality and
4.21 marketability of extraordinary event bonds or to mitigate the risk of an increase in interest
4.22 rates.

4.23 Subd. 3. Assignee. "Assignee" means any person to which an interest in extraordinary
4.24 event property is sold, assigned, transferred, or conveyed, other than as security, and any
4.25 successor to or subsequent assignee of the person.

4.26 Subd. 4. Bondholder. "Bondholder" means any holder or owner of extraordinary event
4.27 bonds.

4.28 Subd. 5. Customer. "Customer" means a person who purchases natural gas or natural
4.29 gas transportation services from a utility in Minnesota but does not include a person who:

4.30 (1) purchases natural gas transportation services from a utility in Minnesota that serves
4.31 fewer than 600,000 natural gas customers in Minnesota; and

5.1 (2) does not purchase natural gas from a utility in Minnesota.

5.2 Subd. 6. **Extraordinary event.** (a) "Extraordinary event" means an event arising from
 5.3 unforeseen circumstances and of sufficient magnitude, as determined by the commission:

5.4 (1) to impose significant costs on customers; and

5.5 (2) for which the issuance of extraordinary event bonds in response to the event meets
 5.6 the conditions of section 216B.492, subdivision 2, as determined by the commission.

5.7 (b) Extraordinary event includes but is not limited to a storm event or other natural
 5.8 disaster, an act of God, war, terrorism, sabotage or vandalism, a cybersecurity attack, or a
 5.9 temporary significant increase in the wholesale price of natural gas.

5.10 Subd. 7. **Extraordinary event activity.** "Extraordinary event activity" means an activity
 5.11 undertaken by or on behalf of a utility to restore or maintain the utility's ability to provide
 5.12 natural gas service following one or more extraordinary events, including but not limited
 5.13 to activities related to mobilization, staging, construction, reconstruction, replacement, or
 5.14 repair of natural gas transmission, distribution, storage, or general facilities.

5.15 Subd. 8. **Extraordinary event bonds.** "Extraordinary event bonds" means debt securities,
 5.16 including but not limited to senior secured bonds, debentures, notes, certificates of
 5.17 participation, certificates of beneficial interest, certificates of ownership, or other evidences
 5.18 of indebtedness or ownership, that (1) have a scheduled maturity of no longer than 30 years
 5.19 and a final legal maturity date that is not later than 32 years from the issue date, (2) are rated
 5.20 AA or Aa2 or better by a major independent credit rating agency at the time of issuance,
 5.21 and (3) are issued by a utility or an assignee under a financing order.

5.22 Subd. 9. **Extraordinary event charge.** "Extraordinary event charge" means a
 5.23 nonbypassable charge that:

5.24 (1) a utility that is the subject of a financing order or the utility's successors or assignees
 5.25 imposes on all of the utility's customers;

5.26 (2) is separate from the utility's base rates; and

5.27 (3) provides a source of revenue solely to repay, finance, or refinance extraordinary
 5.28 event costs.

5.29 Subd. 10. **Extraordinary event costs.** "Extraordinary event costs":

5.30 (1) means all incremental costs of extraordinary event activities that are approved by
 5.31 the commission in a financing order issued under section 216B.492 as being:

6.1 (i) necessary to enable the utility to restore or maintain natural gas service to customers
6.2 after the utility experiences an extraordinary event; and

6.3 (ii) prudent and reasonable;

6.4 (2) includes costs to repurchase equity or retire any indebtedness relating to extraordinary
6.5 event activities;

6.6 (3) are net of applicable insurance proceeds, tax benefits, and any other amounts intended
6.7 to reimburse the utility for extraordinary event activities, including government grants or
6.8 aid of any kind;

6.9 (4) do not include any monetary penalty, fine, or forfeiture assessed against a utility by
6.10 a government agency or court under a federal or state environmental statute, rule, or
6.11 regulation; and

6.12 (5) must be adjusted to reflect:

6.13 (i) the difference, as determined by the commission, between extraordinary event costs
6.14 that the utility expects to incur and actual, reasonable, and prudent costs incurred; or

6.15 (ii) a more fair or reasonable allocation of extraordinary event costs to customers over
6.16 time, as expressed in a commission order, provided that after the issuance of extraordinary
6.17 event bonds relating to the extraordinary event costs, the adjustment must not (A) impair
6.18 the value of the extraordinary event property relating to the extraordinary event bonds, or
6.19 (B) reduce, alter, or impair extraordinary event charges relating to the extraordinary event
6.20 bonds, until all principal and interest payable on the extraordinary event bonds, all financing
6.21 costs for the extraordinary event bonds, and all amounts to be paid to an assignee or financing
6.22 party under an ancillary agreement relating to the extraordinary event bonds are paid in full.

6.23 Subd. 11. **Extraordinary event property.** "Extraordinary event property" means:

6.24 (1) all rights and interests of a utility or the utility's successor or assignee under a
6.25 financing order for the right to impose, bill, collect, receive, and obtain periodic adjustments
6.26 to extraordinary event charges authorized under a financing order issued by the commission;
6.27 and

6.28 (2) all revenue, collections, claims, rights to payments, payments, money, or proceeds
6.29 arising from the rights and interests specified in clause (1), regardless of whether any are
6.30 commingled with other revenue, collections, rights to payment, payments, money, or
6.31 proceeds.

7.1 Subd. 12. **Extraordinary event revenue.** "Extraordinary event revenue" means revenue,
 7.2 receipts, collections, payments, money, claims, or other proceeds arising from extraordinary
 7.3 event property.

7.4 Subd. 13. **Financing costs.** "Financing costs" means:

7.5 (1) principal, interest, and redemption premiums that are payable on extraordinary event
 7.6 bonds;

7.7 (2) payments required under an ancillary agreement and amounts required to fund or
 7.8 replenish a reserve account or other accounts established under the terms of any indenture,
 7.9 ancillary agreement, or other financing document pertaining to extraordinary event bonds;

7.10 (3) other demonstrable costs related to issuing, supporting, repaying, refunding, and
 7.11 servicing extraordinary event bonds, including but not limited to servicing fees, accounting
 7.12 and auditing fees, trustee fees, legal fees, consulting fees, financial adviser fees,
 7.13 administrative fees, placement and underwriting fees, capitalized interest, rating agency
 7.14 fees, stock exchange listing and compliance fees, security registration fees, filing fees,
 7.15 information technology programming costs, and any other demonstrable costs necessary to
 7.16 otherwise ensure and guarantee the timely payment of extraordinary event bonds or other
 7.17 amounts or charges payable in connection with extraordinary event bonds;

7.18 (4) taxes and license fees imposed on the revenue generated from collecting an
 7.19 extraordinary event charge;

7.20 (5) state and local taxes, including franchise, sales and use, and other taxes or similar
 7.21 charges, including but not limited to regulatory assessment fees, whether paid, payable, or
 7.22 accrued; and

7.23 (6) costs incurred by the commission to hire and compensate additional temporary staff
 7.24 needed to perform the commission's responsibilities under this section and, in accordance
 7.25 with section 216B.494, to engage specialized counsel and expert consultants experienced
 7.26 in securitized utility ratepayer-backed bond financings similar to extraordinary event bond
 7.27 financings.

7.28 Subd. 14. **Financing order.** "Financing order" means an order issued by the commission
 7.29 under section 216B.492 that authorizes an applicant to:

7.30 (1) issue extraordinary event bonds in one or more series;

7.31 (2) impose, charge, and collect extraordinary event charges; and

7.32 (3) create extraordinary event property.

8.1 Subd. 15. **Financing party.** "Financing party" means a holder of extraordinary event
8.2 bonds and a trustee, a collateral agent, a party under an ancillary agreement, or any other
8.3 person acting for the benefit of extraordinary event bondholders.

8.4 Subd. 16. **Natural gas facility.** "Natural gas facility" means natural gas pipelines,
8.5 including distribution lines, underground storage areas, liquefied natural gas facilities,
8.6 propane storage tanks, and other facilities the commission determines are used and useful
8.7 to provide natural gas service to retail and transportation customers in Minnesota.

8.8 Subd. 17. **Nonbypassable.** "Nonbypassable" means an extraordinary event charge
8.9 required to pay (1) principal and interest on extraordinary event bonds, and (2) other financing
8.10 costs, that a retail customer located within a utility service area cannot avoid and must pay.

8.11 Subd. 18. **Pretax costs.** "Pretax costs" means costs incurred by a utility and approved
8.12 by the commission, including but not limited to:

8.13 (1) unrecovered capitalized costs of replaced natural gas facilities damaged or destroyed
8.14 by an extraordinary event;

8.15 (2) costs to decommission and restore the site of a natural gas facility damaged or
8.16 destroyed by an extraordinary event;

8.17 (3) other applicable capital and operating costs, accrued carrying charges, deferred
8.18 expenses, reductions for applicable insurance, and salvage proceeds; and

8.19 (4) costs to retire any existing indebtedness, fees, costs, and expenses to modify existing
8.20 debt agreements, or for waivers or consents related to existing debt agreements.

8.21 Subd. 19. **Storm event.** "Storm event" means a tornado, derecho, ice or snow storm,
8.22 wildfire, flood, earthquake, or other significant weather or natural disaster that causes
8.23 substantial damage to a utility's infrastructure.

8.24 Subd. 20. **Successor.** "Successor" means a legal entity that succeeds by operation of law
8.25 to the rights and obligations of another legal entity as a result of bankruptcy, reorganization,
8.26 restructuring, other insolvency proceeding, merger, acquisition, consolidation, or sale or
8.27 transfer of assets.

8.28 Subd. 21. **Utility.** "Utility" means a public utility, as defined in section 216B.02,
8.29 subdivision 4, that provides natural gas service to Minnesota customers. Utility includes
8.30 the utility's successors or assignees.

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

9.1 Sec. 6. [216B.492] FINANCING ORDER.

9.2 Subdivision 1. Application. (a) A utility may file an application with the commission
9.3 for the issuance of a financing order to enable the utility to recover extraordinary event costs
9.4 through the issuance of extraordinary event bonds under this section.

9.5 (b) The application must include the following information, as applicable:

9.6 (1) a description of each natural gas facility to be repaired or replaced;

9.7 (2) the undepreciated value remaining in the natural gas facility whose repair or
9.8 replacement is proposed to be financed through the issuance of extraordinary event bonds
9.9 under sections 216B.491 to 216B.499, and the method used to calculate the amount;

9.10 (3) the estimated costs imposed on customers resulting from an extraordinary event that
9.11 involves no physical damage to natural gas facilities;

9.12 (4) the estimated savings or estimated mitigation of rate impacts to utility customers if
9.13 the financing order is issued as requested in the application, calculated by comparing the
9.14 costs to customers that are expected to result from implementing the financing order and
9.15 the estimated costs associated with implementing traditional utility financing mechanisms
9.16 with respect to the same undepreciated balance, expressed in net present value terms;

9.17 (5) a description of (i) the nonbypassable extraordinary event charge utility customers
9.18 would be required to pay in order to fully recover financing costs, and (ii) the method and
9.19 assumptions used to calculate the amount;

9.20 (6) a proposed methodology to allocate the revenue requirement for the extraordinary
9.21 event charge among the utility's customer classes;

9.22 (7) a description of a proposed adjustment mechanism that is implemented when necessary
9.23 to correct any overcollection or undercollection of extraordinary event charges, in order to
9.24 complete payment of scheduled principal and interest on extraordinary event bonds and
9.25 other financing costs in a timely fashion;

9.26 (8) a memorandum with supporting exhibits, from a securities firm that is experienced
9.27 in the marketing of securitized utility ratepayer-backed bonds and that is approved by the
9.28 commissioner of management and budget, indicating the proposed issuance satisfies the
9.29 current published AA or Aa2 or higher rating or equivalent rating criteria of at least one
9.30 nationally recognized securities rating organization for issuances similar to the proposed
9.31 extraordinary event bonds;

10.1 (9) an estimate of the timing of the issuance and the term of the extraordinary event
10.2 bonds, or series of bonds, provided that the scheduled final maturity for each bond issuance
10.3 does not exceed 30 years;

10.4 (10) identification of plans to sell, assign, transfer, or convey, other than as a security,
10.5 interest in extraordinary event property, including identification of an assignee, and
10.6 demonstration that the assignee is a financing entity that is wholly owned, directly or
10.7 indirectly, by the utility;

10.8 (11) identification of ancillary agreements that may be necessary or appropriate;

10.9 (12) one or more alternative financing scenarios in addition to the preferred scenario
10.10 contained in the application;

10.11 (13) the extent of damage to the utility's natural gas facility caused by an extraordinary
10.12 event and the estimated costs to repair or replace the damaged natural gas facility;

10.13 (14) a schedule of the proposed repairs to and replacement of the damaged natural gas
10.14 facility;

10.15 (15) a description of the steps taken to provide customers interim natural gas service
10.16 while the damaged natural gas facility is being repaired or replaced; and

10.17 (16) a description of the impacts on the utility's current workforce resulting from
10.18 implementing a repair or replacement plan following an extraordinary event.

10.19 Subd. 2. **Findings.** After providing notice and holding a public hearing on an application
10.20 filed under subdivision 1, the commission may issue a financing order if the commission
10.21 finds that:

10.22 (1) the extraordinary event costs described in the application are reasonable;

10.23 (2) the proposed issuance of extraordinary event bonds and the imposition and collection
10.24 of extraordinary event charges:

10.25 (i) are just and reasonable;

10.26 (ii) are consistent with the public interest;

10.27 (iii) constitute a prudent and reasonable mechanism to finance the extraordinary event
10.28 costs; and

10.29 (iv) provide tangible and quantifiable benefits to customers, either by providing lower
10.30 overall costs or mitigating rate impacts relative to traditional methods of financing, that

11.1 exceed the benefits that would have been achieved absent the issuance of extraordinary
11.2 event bonds; and

11.3 (3) the proposed structuring, marketing, and pricing of the extraordinary event bonds:

11.4 (i) lower overall costs to customers or mitigate rate impacts to customers relative to
11.5 traditional methods of financing; and

11.6 (ii) achieve customer savings or mitigation of rate impacts to customers, as determined
11.7 by the commission in a financing order, consistent with market conditions at the time of
11.8 sale and the terms of the financing order.

11.9 Subd. 3. **Contents.** (a) A financing order issued under this section must:

11.10 (1) determine the maximum amount of extraordinary event costs that may be financed
11.11 from proceeds of extraordinary event bonds issued pursuant to the financing order;

11.12 (2) describe the proposed customer billing mechanism for extraordinary event charges
11.13 and include a finding that the mechanism is just and reasonable;

11.14 (3) describe the financing costs that may be recovered through extraordinary event
11.15 charges and the period over which the costs may be recovered, which must end no earlier
11.16 than the date of final legal maturity of the extraordinary event bonds;

11.17 (4) describe the extraordinary event property that is created and that may be used to pay,
11.18 and secure the payment of, principal and interest on the extraordinary event bonds and other
11.19 financing costs authorized in the financing order;

11.20 (5) authorize the utility to finance extraordinary event costs through the issuance of one
11.21 or more series of extraordinary event bonds. A utility is not required to secure a separate
11.22 financing order for each issuance of extraordinary event bonds or for each scheduled phase
11.23 of the replacement of natural gas facilities approved in the financing order;

11.24 (6) include a formula-based mechanism that must be used to make expeditious periodic
11.25 adjustments to the extraordinary event charges authorized by the financing order that are
11.26 necessary to correct for any overcollection or undercollection, or to otherwise provide for
11.27 the timely payment of extraordinary event bonds, other financing costs, and other required
11.28 amounts and charges payable in connection with extraordinary event bonds;

11.29 (7) specify the degree of flexibility afforded to the utility in establishing the terms and
11.30 conditions of the extraordinary event bonds, including but not limited to repayment schedules,
11.31 expected interest rates, and other financing costs;

12.1 (8) specify that the extraordinary event bonds must be issued, subject to market conditions
12.2 and the terms of the financing order, as soon as feasible following issuance of the financing
12.3 order;

12.4 (9) require the utility, at the same time as extraordinary event charges are initially
12.5 collected and independent of the schedule to close and decommission any natural gas facility
12.6 replaced as the result of an extraordinary event, if any, to remove the natural gas facility
12.7 from the utility's rate base and commensurately reduce the utility's base rates;

12.8 (10) specify a future ratemaking process to reconcile any difference between the projected
12.9 pretax costs included in the amount financed by extraordinary event bonds and the final
12.10 actual pretax costs incurred by the utility to retire or replace the natural gas facility, if any;

12.11 (11) specify information regarding extraordinary event bond issuance and repayments,
12.12 financing costs, energy transaction charges, extraordinary event property, and related matters
12.13 that the natural gas utility is required to provide to the commission on a schedule determined
12.14 by the commission;

12.15 (12) allow or require the creation of a utility's extraordinary event property to be
12.16 conditioned on, and occur simultaneously with, the sale or other transfer of the extraordinary
12.17 event property to an assignee and the pledge of the extraordinary event property to secure
12.18 the extraordinary event bonds;

12.19 (13) ensure that the structuring, marketing, and pricing of extraordinary event bonds
12.20 result in reasonable securitization bond charges and customer savings or rate impact
12.21 mitigation, consistent with market conditions and the terms of the financing order; and

12.22 (14) specify that a utility financing the replacement of one or more natural gas facilities
12.23 after the natural gas facilities subject to the finance order are removed from the utility's rate
12.24 base is prohibited from:

12.25 (i) operating the natural gas facilities; or

12.26 (ii) selling the natural gas facilities to another entity to operate as natural gas facilities.

12.27 (b) A financing order issued under this section may:

12.28 (1) include conditions different from those requested in the application that the
12.29 commission determines are necessary to:

12.30 (i) promote the public interest; and

12.31 (ii) maximize the financial benefits or minimize the financial risks of the transaction to
12.32 customers and to directly impacted Minnesota workers and communities; and

13.1 (2) specify the selection of one or more underwriters of the extraordinary event bonds.

13.2 Subd. 4. **Duration; irrevocability; subsequent order.** (a) A financing order remains
 13.3 in effect until the extraordinary event bonds issued under the financing order and all financing
 13.4 costs related to the extraordinary event bonds have been paid in full.

13.5 (b) A financing order remains in effect and unabated notwithstanding the bankruptcy,
 13.6 reorganization, or insolvency of the utility to which the financing order applies or any
 13.7 affiliate, successor, or assignee of the utility to which the financing order applies.

13.8 (c) Subject to judicial review under section 216B.52, a financing order is irrevocable
 13.9 and is not reviewable by a future commission. The commission must not: (1) reduce, impair,
 13.10 postpone, or terminate extraordinary event charges approved in a financing order; or (2)
 13.11 impair extraordinary event property or the collection or recovery of extraordinary event
 13.12 charges and extraordinary event revenue.

13.13 (d) Notwithstanding paragraph (c), the commission may, on the commission's own
 13.14 motion or at the request of a utility or any other person, commence a proceeding and issue
 13.15 a subsequent financing order that provides for refinancing, retiring, or refunding extraordinary
 13.16 event bonds issued under the original financing order if:

13.17 (1) the commission makes all of the findings specified in subdivision 2 with respect to
 13.18 the subsequent financing order; and

13.19 (2) the modification contained in the subsequent financing order does not in any way
 13.20 impair the covenants and terms of the extraordinary event bonds being refinanced, retired,
 13.21 or refunded.

13.22 Subd. 5. **Effect on commission jurisdiction.** (a) Except as provided in paragraph (b),
 13.23 the commission, in exercising the powers and carrying out the duties under this section, is
 13.24 prohibited from:

13.25 (1) considering extraordinary event bonds issued under this section to be debt of the
 13.26 utility other than for income tax purposes, unless it is necessary to consider the extraordinary
 13.27 event bonds to be debt in order to achieve consistency with prevailing utility debt rating
 13.28 methodologies;

13.29 (2) considering the extraordinary event charges paid under the financing order to be
 13.30 revenue of the utility;

13.31 (3) considering the extraordinary event costs or financing costs specified in the financing
 13.32 order to be the regulated costs or assets of the utility; or

14.1 (4) determining that any prudent action taken by a utility that is consistent with the
14.2 financing order is unjust or unreasonable.

14.3 (b) Nothing in this subdivision:

14.4 (1) affects the authority of the commission to apply or modify any billing mechanism
14.5 designed to recover extraordinary event charges;

14.6 (2) prevents or precludes the commission from (i) investigating a utility's compliance
14.7 with the terms and conditions of a financing order, and (ii) requiring compliance with the
14.8 financing order; or

14.9 (3) prevents or precludes the commission from imposing regulatory sanctions against a
14.10 utility for failure to comply with the terms and conditions of a financing order or the
14.11 requirements of this section.

14.12 (c) The commission is prohibited from refusing to allow a utility to recover any costs
14.13 associated with the replacement of natural gas facilities solely because the utility has elected
14.14 to finance the natural gas facility replacement through a financing mechanism other than
14.15 extraordinary event bonds.

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

14.17 **Sec. 7. [216B.493] POSTORDER COMMISSION DUTIES.**

14.18 Subdivision 1. **Financing cost review.** Within 120 days after the date extraordinary
14.19 event bonds are issued, a utility subject to a financing order must file with the commission
14.20 the actual initial and ongoing financing costs, the final structure and pricing of the
14.21 extraordinary event bonds, and the actual extraordinary event charge. The commission must
14.22 review the prudence of the natural gas utility's actions to determine whether the actual
14.23 financing costs were the lowest that could reasonably be achieved given the terms of the
14.24 financing order and market conditions prevailing at the time of the extraordinary event
14.25 bond's issuance.

14.26 Subd. 2. **Enforcement.** If the commission determines that a utility's actions under this
14.27 section are not prudent or are inconsistent with the financing order, the commission may
14.28 apply remedies deemed appropriate for utility actions, provided that any remedy applied
14.29 must not directly or indirectly (1) impair the value of the extraordinary event property, or
14.30 (2) reduce, alter, or impair extraordinary event charges, until all principal and interest payable
14.31 on the extraordinary event bonds, all financing costs, and all amounts to be paid to an
14.32 assignee or financing party under an ancillary agreement are paid in full.

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

15.2 Sec. 8. **[216B.494] USE OF OUTSIDE EXPERTS.**

15.3 (a) In carrying out the duties under this section, the commission may:

15.4 (1) contract with outside consultants and counsel experienced in securitized utility
 15.5 customer-backed bond financing similar to extraordinary event bonds; and

15.6 (2) hire and compensate additional temporary staff as needed.

15.7 Expenses incurred by the commission under this paragraph must be treated as financing
 15.8 costs to be paid by the extraordinary event revenue. The costs incurred under clause (1) are
 15.9 not an obligation of the state and are assigned solely to the transaction.

15.10 (b) A utility presented with a written request from the commission for reimbursement
 15.11 of the commission's expenses incurred under paragraph (a), accompanied by a detailed
 15.12 account of those expenses, must remit full payment of the expenses to the commission
 15.13 within 30 days of receiving the request.

15.14 (c) If a utility's application for a financing order is denied or withdrawn for any reason
 15.15 and extraordinary event bonds are not issued, the commission's costs to retain expert
 15.16 consultants under this section must be paid by the applicant utility and are deemed a prudent
 15.17 deferred expense eligible for recovery in the utility's future rates.

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

15.19 Sec. 9. **[216B.495] EXTRAORDINARY EVENT CHARGE; BILLING TREATMENT.**

15.20 (a) A utility that obtains a financing order and issues extraordinary event bonds must:

15.21 (1) include on each customer's monthly natural gas bill:

15.22 (i) a statement that a portion of the charges represents extraordinary event charges
 15.23 approved in a financing order;

15.24 (ii) the amount and rate of the extraordinary event charge as a separate line item titled
 15.25 "extraordinary event charge"; and

15.26 (iii) if extraordinary event property has been transferred to an assignee, a statement that
 15.27 the assignee is the owner of the rights to extraordinary event charges and that the utility or
 15.28 other entity, if applicable, is acting as a collection agent or servicer for the assignee; and

15.29 (2) file annually with the commission:

16.1 (i) a calculation that identifies the impact financing the retirement or replacement of
16.2 natural gas facilities has on customer rates, itemized by customer class; and

16.3 (ii) evidence demonstrating that extraordinary event revenues are applied solely to pay
16.4 (A) principal and interest on extraordinary event bonds, and (B) other financing costs.

16.5 (b) Extraordinary event charges are nonbypassable and must be paid by all existing and
16.6 future customers receiving service from the utility or the utility's successors or assignees
16.7 under commission-approved rate schedules or special contracts.

16.8 (c) A utility's failure to comply with this section does not invalidate, impair, or affect
16.9 any financing order, extraordinary event property, extraordinary event charge, or
16.10 extraordinary event bonds, but does subject the utility to penalties under applicable
16.11 commission rules provided that any penalty applied must not directly or indirectly (1) impair
16.12 the value of the extraordinary event property, or (2) reduce, alter, or impair extraordinary
16.13 event charges, until all principal and interest payable on the extraordinary event bonds, all
16.14 financing costs, and all amounts to be paid to an assignee or financing party under an
16.15 ancillary agreement are paid in full.

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

16.17 **Sec. 10. [216B.496] EXTRAORDINARY EVENT PROPERTY.**

16.18 Subdivision 1. **General.** (a) Extraordinary event property is an existing present property
16.19 right or interest in a property right, even though the imposition and collection of extraordinary
16.20 event charges depend on the utility collecting extraordinary event charges and on future
16.21 natural gas consumption. The property right or interest exists regardless of whether the
16.22 revenues or proceeds arising from the extraordinary event property have been billed, have
16.23 accrued, or have been collected.

16.24 (b) Extraordinary event property exists until all extraordinary event bonds issued under
16.25 a financing order are paid in full and all financing costs and other costs of the extraordinary
16.26 event bonds have been recovered in full.

16.27 (c) All or any portion of extraordinary event property described in a financing order
16.28 issued to a utility may be transferred, sold, conveyed, or assigned to a successor or assignee
16.29 that is wholly owned, directly or indirectly, by the utility and is created for the limited
16.30 purpose of acquiring, owning, or administering extraordinary event property or issuing
16.31 extraordinary event bonds authorized by the financing order. All or any portion of
16.32 extraordinary event property may be pledged to secure extraordinary event bonds issued
16.33 under a financing order, amounts payable to financing parties and to counterparties under

17.1 any ancillary agreements, and other financing costs. Each transfer, sale, conveyance,
17.2 assignment, or pledge by a utility or an affiliate of extraordinary event property is a
17.3 transaction in the ordinary course of business.

17.4 (d) If a utility defaults on any required payment of charges arising from extraordinary
17.5 event property described in a financing order, a court, upon petition by an interested party
17.6 and without limiting any other remedies available to the petitioner, must order the
17.7 sequestration and payment of the revenues arising from the extraordinary event property to
17.8 the financing parties.

17.9 (e) The interest of a transferee, purchaser, acquirer, assignee, or pledgee in extraordinary
17.10 event property specified in a financing order issued to a utility, and in the revenue and
17.11 collections arising from the property, is not subject to setoff, counterclaim, surcharge, or
17.12 defense by the utility or any other person, or in connection with the reorganization,
17.13 bankruptcy, or other insolvency of the utility or any other entity.

17.14 (f) A successor to a utility, whether resulting from a reorganization, bankruptcy, or other
17.15 insolvency proceeding, merger or acquisition, sale, other business combination, transfer by
17.16 operation of law, utility restructuring, or otherwise, must: (1) perform and satisfy all
17.17 obligations of, and has the same duties and rights under, a financing order as the utility to
17.18 which the financing order applies; and (2) perform the duties and exercise the rights in the
17.19 same manner and to the same extent as the utility, including collecting and paying to any
17.20 person entitled to receive revenues, collections, payments, or proceeds of extraordinary
17.21 event property.

17.22 Subd. 2. **Security interests in extraordinary event property.** (a) The creation,
17.23 perfection, and enforcement of any security interest in extraordinary event property to secure
17.24 the repayment of the principal and interest on extraordinary event bonds, amounts payable
17.25 under any ancillary agreement, and other financing costs are governed solely by this section.

17.26 (b) A security interest in extraordinary event property is created, valid, and binding
17.27 when:

17.28 (1) the financing order that describes the extraordinary event property is issued;

17.29 (2) a security agreement is executed and delivered; and

17.30 (3) value is received for the extraordinary event bonds.

17.31 (c) Once a security interest in extraordinary event property is created, the security interest
17.32 attaches without any physical delivery of collateral or any other act. The lien of the security
17.33 interest is valid, binding, and perfected against all parties having claims of any kind in tort,

18.1 contract, or otherwise against the person granting the security interest, regardless of whether
18.2 the parties have notice of the lien, upon the filing of a financing statement with the secretary
18.3 of state.

18.4 (d) The description or indication of extraordinary event property in a transfer or security
18.5 agreement and a financing statement is sufficient only if the description or indication refers
18.6 to this section and the financing order creating the extraordinary event property.

18.7 (e) A security interest in extraordinary event property is a continuously perfected security
18.8 interest and has priority over any other lien, created by operation of law or otherwise, which
18.9 may subsequently attach to the extraordinary event property unless the holder of the security
18.10 interest has agreed otherwise in writing.

18.11 (f) The priority of a security interest in extraordinary event property is not affected by
18.12 the commingling of extraordinary event property or extraordinary event revenue with other
18.13 money. An assignee, bondholder, or financing party has a perfected security interest in the
18.14 amount of all extraordinary event property or extraordinary event revenue that is pledged
18.15 to pay extraordinary event bonds, even if the extraordinary event property or extraordinary
18.16 event revenue is deposited in a cash or deposit account of the utility in which the
18.17 extraordinary event revenue is commingled with other money. Any other security interest
18.18 that applies to the other money does not apply to the extraordinary event revenue.

18.19 (g) Neither a subsequent commission order amending a financing order under section
18.20 216B.492, subdivision 4, nor application of an adjustment mechanism authorized by a
18.21 financing order under section 216B.492, subdivision 3, affects the validity, perfection, or
18.22 priority of a security interest in or transfer of extraordinary event property.

18.23 **Subd. 3. Sales of extraordinary event property.** (a) A sale, assignment, or transfer of
18.24 extraordinary event property is an absolute transfer and true sale of, and not a pledge of or
18.25 secured transaction relating to, the seller's right, title, and interest in, to, and under the
18.26 extraordinary event property if the documents governing the transaction expressly state that
18.27 the transaction is a sale or other absolute transfer. A transfer of an interest in extraordinary
18.28 event property may be created when:

18.29 (1) the financing order creating and describing the extraordinary event property is
18.30 effective;

18.31 (2) the documents evidencing the transfer of the extraordinary event property are executed
18.32 and delivered to the assignee; and

18.33 (3) value is received.

19.1 (b) The characterization of a sale, assignment, or transfer as an absolute transfer and
 19.2 true sale, and the corresponding characterization of the property interest of the assignee, is
 19.3 not affected or impaired by:

19.4 (1) commingling of extraordinary event revenue with other money;

19.5 (2) the seller retaining:

19.6 (i) a partial or residual interest, including an equity interest, in the extraordinary event
 19.7 property, whether (A) direct or indirect, or (B) subordinate or otherwise; or

19.8 (ii) the right to recover costs associated with taxes, franchise fees, or license fees imposed
 19.9 on the collection of extraordinary event revenue;

19.10 (3) any recourse that the extraordinary event property purchaser may have against the
 19.11 seller;

19.12 (4) any indemnification rights, obligations, or repurchase rights made or provided by
 19.13 the extraordinary event property seller;

19.14 (5) the extraordinary event property seller's to collect extraordinary event revenues on
 19.15 behalf of an assignee;

19.16 (6) the treatment of the sale, assignment, or transfer for tax, financial reporting, or other
 19.17 purposes;

19.18 (7) any subsequent financing order amending a financing order under section 216B.492,
 19.19 subdivision 4, paragraph (d); or

19.20 (8) any application of an adjustment mechanism under section 216B.492, subdivision
 19.21 3, paragraph (a), clause (6).

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

19.23 **Sec. 11. [216B.497] EXTRAORDINARY EVENT BONDS.**

19.24 (a) Banks, trust companies, savings and loan associations, insurance companies, executors,
 19.25 administrators, guardians, trustees, and other fiduciaries may legally invest any money
 19.26 within the individual's or entity's control in extraordinary event bonds.

19.27 (b) Extraordinary event bonds issued under a financing order are not debt of or a pledge
 19.28 of the faith and credit or taxing power of the state, any agency of the state, or any political
 19.29 subdivision. Holders of extraordinary event bonds may not have taxes levied by the state
 19.30 or a political subdivision in order to pay the principal or interest on extraordinary event
 19.31 bonds. The issuance of extraordinary event bonds does not directly, indirectly, or contingently

20.1 obligate the state or a political subdivision to levy any tax or make any appropriation to pay
 20.2 principal or interest on the extraordinary event bonds.

20.3 (c) The state pledges to and agrees with holders of extraordinary event bonds, any
 20.4 assignee, and any financing parties that the state and state agencies, including the commission,
 20.5 are prohibited from:

20.6 (1) taking or permitting any action that impairs the value of extraordinary event property;
 20.7 or

20.8 (2) reducing, altering, or impairing extraordinary event charges that are imposed,
 20.9 collected, and remitted for the benefit of holders of extraordinary event bonds, any assignee,
 20.10 and any financing parties until any principal, interest, and redemption premium payable on
 20.11 extraordinary event bonds, all financing costs, and all amounts to be paid to an assignee or
 20.12 financing party under an ancillary agreement are paid in full.

20.13 (d) The commission may include a pledge in the financing order similar to the state
 20.14 pledge included in paragraph (c).

20.15 (e) A person who issues extraordinary event bonds may include the pledge specified in
 20.16 paragraphs (c) and (d) in the extraordinary event bonds, ancillary agreements, and
 20.17 documentation related to the issuance and marketing of the extraordinary event bonds.

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

20.19 **Sec. 12. [216B.498] ASSIGNEE OF FINANCING PARTY NOT SUBJECT TO**
 20.20 **COMMISSION REGULATION.**

20.21 An assignee or financing party that is not already regulated by the commission does not
 20.22 become subject to commission regulation solely as a result of engaging in any transaction
 20.23 authorized by or described in sections 216B.491 to 216B.499.

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

20.25 **Sec. 13. [216B.499] EFFECT ON OTHER LAWS.**

20.26 (a) If any provision of sections 216B.491 to 216B.499 conflicts with any other law
 20.27 regarding the attachment, assignment, perfection, effect of perfection, or priority of any
 20.28 security interest in or transfer of extraordinary event property, sections 216B.491 to 216B.499
 20.29 govern.

20.30 (b) Nothing in this section precludes a utility for which the commission has initially
 20.31 issued a financing order from applying to the commission for:

21.1 (1) a subsequent financing order amending the financing order under section 216B.492,
 21.2 subdivision 4, paragraph (d); or

21.3 (2) approval to issue extraordinary event bonds to refund all or a portion of an outstanding
 21.4 series of extraordinary event bonds.

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

21.6 Sec. 14. Minnesota Statutes 2022, section 216B.50, subdivision 1, is amended to read:

21.7 Subdivision 1. **Commission approval required.** No public utility shall sell, acquire,
 21.8 lease, or rent any plant as an operating unit or system in this state for a total consideration
 21.9 in excess of ~~\$100,000~~ \$1,000,000, or merge or consolidate with another public utility or
 21.10 transmission company operating in this state, without first being authorized so to do by the
 21.11 commission. Upon the filing of an application for the approval and consent of the
 21.12 commission, the commission shall investigate, with or without public hearing. The
 21.13 commission shall hold a public hearing, upon such notice as the commission may require.
 21.14 If the commission finds that the proposed action is consistent with the public interest, it
 21.15 shall give its consent and approval by order in writing. In reaching its determination, the
 21.16 commission shall take into consideration the reasonable value of the property, plant, or
 21.17 securities to be acquired or disposed of, or merged and consolidated.

21.18 This section does not apply to the purchase of property to replace or add to the plant of
 21.19 the public utility by construction.

21.20 Sec. 15. Minnesota Statutes 2022, section 216C.435, subdivision 8, is amended to read:

21.21 Subd. 8. **Qualifying commercial real property.** "Qualifying commercial real property"
 21.22 means a multifamily residential dwelling, ~~or~~ a commercial or industrial building, or farmland,
 21.23 as defined in section 216C.436, subdivision 1b, that the implementing entity has determined,
 21.24 after review of an energy audit ~~or~~, renewable energy system feasibility study, or agronomic
 21.25 assessment, as defined in section 216C.436, subdivision 1b, can ~~be benefited by~~ benefit
 21.26 from the installation of cost-effective energy improvements or land and water improvements,
 21.27 as defined in section 216C.436, subdivision 1b. Qualifying commercial real property includes
 21.28 new construction.

21.29 Sec. 16. Minnesota Statutes 2022, section 216C.436, is amended by adding a subdivision
 21.30 to read:

21.31 **Subd. 1b. Definitions.** (a) For the purposes of this section, the following terms have the
 21.32 meanings given.

22.1 (b) "Agronomic assessment" means a study by an independent third party that assesses
 22.2 the environmental impacts of proposed land and water improvements on farmland.

22.3 (c) "Farmland" means land classified as 2a, 2b, or 2c for property tax purposes under
 22.4 section 273.13, subdivision 23.

22.5 (d) "Land and water improvement" means:

22.6 (1) an improvement to farmland that:

22.7 (i) is permanent;

22.8 (ii) results in improved agricultural profitability or resiliency;

22.9 (iii) reduces the environmental impact of agricultural production; and

22.10 (iv) if the improvement affects drainage, complies with the most recent versions of the
 22.11 applicable following conservation practice standards issued by the United States Department
 22.12 of Agriculture's Natural Resources Conservation Service: Drainage Water Management
 22.13 (Code 554), Saturated Buffer (Code 604), Denitrifying Bioreactor (Code 605), and
 22.14 Constructed Wetland (Code 656); or

22.15 (2) water conservation and quality measures, which include permanently affixed
 22.16 equipment, appliances, or improvements that reduce a property's water consumption or that
 22.17 enable water to be managed more efficiently.

22.18 (e) "Resiliency" means the ability of farmland to maintain and enhance profitability,
 22.19 soil health, and water quality.

22.20 Sec. 17. Minnesota Statutes 2022, section 216C.436, subdivision 2, is amended to read:

22.21 Subd. 2. **Program requirements.** A commercial PACE loan program must:

22.22 (1) impose requirements and conditions on financing arrangements to ensure timely
 22.23 repayment;

22.24 (2) require an energy audit ~~or~~, renewable energy system feasibility study, or agronomic
 22.25 or soil health assessment to be conducted on the qualifying commercial real property and
 22.26 reviewed by the implementing entity prior to approval of the financing;

22.27 (3) require the inspection of all installations and a performance verification of at least
 22.28 ten percent of the cost-effective energy improvements or land and water improvements
 22.29 financed by the program;

22.30 (4) not prohibit the financing of all cost-effective energy improvements or land and
 22.31 water improvements not otherwise prohibited by this section;

23.1 (5) require that all cost-effective energy improvements or land and water improvements
 23.2 be made to a qualifying commercial real property prior to, or in conjunction with, an
 23.3 applicant's repayment of financing for cost-effective energy improvements or land and water
 23.4 improvements for that property;

23.5 (6) have cost-effective energy improvements or land and water improvements financed
 23.6 by the program performed by a licensed contractor as required by chapter 326B or other
 23.7 law or ordinance;

23.8 (7) require disclosures in the loan document to borrowers by the implementing entity
 23.9 of: (i) the risks involved in borrowing, including the risk of foreclosure if a tax delinquency
 23.10 results from a default; and (ii) all the terms and conditions of the commercial PACE loan
 23.11 and the installation of cost-effective energy improvements or land and water improvements,
 23.12 including the interest rate being charged on the loan;

23.13 (8) provide financing only to those who demonstrate an ability to repay;

23.14 (9) not provide financing for a qualifying commercial real property in which the owner
 23.15 is not current on mortgage or real property tax payments;

23.16 (10) require a petition to the implementing entity by all owners of the qualifying
 23.17 commercial real property requesting collections of repayments as a special assessment under
 23.18 section 429.101;

23.19 (11) provide that payments and assessments are not accelerated due to a default and that
 23.20 a tax delinquency exists only for assessments not paid when due; ~~and~~

23.21 (12) require that liability for special assessments related to the financing runs with the
 23.22 qualifying commercial real property; and

23.23 (13) prior to financing any improvements to or imposing any assessment upon qualifying
 23.24 commercial real property, require notice to and written consent from the mortgage lender
 23.25 of any mortgage encumbering or otherwise secured by the qualifying commercial real
 23.26 property.

23.27 Sec. 18. Minnesota Statutes 2022, section 216G.02, subdivision 1, is amended to read:

23.28 Subdivision 1. **Definition.** (a) For purposes of this section ~~and~~, the following terms
 23.29 defined in this subdivision have the meanings given.

23.30 (b) "Gas" means natural gas, flammable gas, carbon dioxide, gas that is toxic, or gas
 23.31 that is corrosive, regardless of whether the material has been compressed or cooled to a
 23.32 liquid or supercritical state.

24.1 (c) "Hazardous liquid" means petroleum, petroleum products, anhydrous ammonia, or
 24.2 a substance included in the definition of hazardous liquid under Code of Federal Regulations,
 24.3 title 49, section 195.2, as amended.

24.4 (d) Notwithstanding section 216G.01, subdivision 3, "pipeline" means:

24.5 (1) pipe with a nominal diameter of six inches or more that is designed to transport
 24.6 hazardous liquids, but does not include pipe designed to transport a hazardous liquid by
 24.7 gravity, and pipe designed to transport or store a hazardous liquid within a refining, storage,
 24.8 or manufacturing facility; or

24.9 (2) pipe designed to be operated at a pressure of more than 275 pounds per square inch
 24.10 and to carry gas.

24.11 Sec. 19. **[500.216] LIMITS ON CERTAIN RESIDENTIAL SOLAR ENERGY**
 24.12 **SYSTEMS PROHIBITED.**

24.13 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this
 24.14 subdivision have the meanings given.

24.15 (b) "Private entity" means a homeowners association, community association, or other
 24.16 association that is subject to a homeowners association document.

24.17 (c) "Homeowners association document" means a document containing the declaration,
 24.18 articles of incorporation, bylaws, or rules and regulations of:

24.19 (1) a common interest community, as defined in section 515B.1-103, regardless of
 24.20 whether the common interest community is subject to chapter 515B; and

24.21 (2) a residential community that is not a common interest community.

24.22 (d) "Solar energy system" has the meaning given in section 216C.06, subdivision 17.

24.23 Subd. 2. **Applicability.** This section applies to:

24.24 (1) single family detached dwellings for which the dwelling owner or owners each wholly
 24.25 owns the entire building in which the dwelling is located and is wholly responsible for the
 24.26 maintenance, repair, replacement, and insurance of the entire building; and

24.27 (2) multifamily attached dwellings for which the dwelling owner or owners each wholly
 24.28 owns the entire building in which the dwelling is located and is wholly responsible for the
 24.29 maintenance, repair, replacement, and insurance of the entire building.

24.30 Subd. 3. **General rule.** Except as otherwise provided in this section and notwithstanding
 24.31 any covenant, restriction, or condition contained in a deed, security instrument, homeowners

25.1 association document, or any other instrument affecting the transfer, sale of, or an interest
25.2 in real property, a private entity must not prohibit or refuse to permit the owner of a
25.3 single-family dwelling to install, maintain, or use a roof-mounted solar energy system.

25.4 Subd. 4. Allowable conditions. (a) A private entity may require that:

25.5 (1) a licensed contractor install a solar energy system;

25.6 (2) a roof-mounted solar energy system not extend above the peak of a pitched roof or
25.7 beyond the edge of the roof;

25.8 (3) the owner or installer of a solar energy system indemnify or reimburse the private
25.9 entity or the private entity's members for loss or damage caused by the installation,
25.10 maintenance, use, repair, or removal of a solar energy system;

25.11 (4) the owner and each successive owner of a solar energy system list the private entity
25.12 as a certificate holder on the homeowner's insurance policy; or

25.13 (5) the owner and each successive owner of a solar energy system be responsible for
25.14 removing the system if reasonably necessary to repair, perform maintenance, or replace
25.15 common elements or limited common elements, as defined in section 515B.1-103.

25.16 (b) A private entity may impose other reasonable restrictions on installing, maintaining,
25.17 or using solar energy systems, provided that the restrictions do not (1) decrease the solar
25.18 energy system's projected energy generation by more than ten percent; or (2) increase the
25.19 solar energy system's cost by more than (i) 20 percent for a solar water heater, or (ii) \$1,000
25.20 for a solar photovoltaic system, when compared with the solar energy system's energy
25.21 generation and the cost of labor and materials as originally proposed without the restrictions,
25.22 as certified by the solar energy system's designer or installer. A private entity may obtain
25.23 an alternative bid and design from a solar energy system designer or installer for the purposes
25.24 of this paragraph.

25.25 (c) A solar energy system must meet applicable standards and requirements imposed by
25.26 the state and by governmental units, as defined in section 462.384.

25.27 (d) A solar energy system for heating water must be certified by the Solar Rating
25.28 Certification Corporation or an equivalent certification agency. A solar energy system for
25.29 producing electricity must meet (1) all applicable safety and performance standards
25.30 established by the National Electrical Code, the Institute of Electrical and Electronics
25.31 Engineers, and accredited testing laboratories, including but not limited to Underwriters
25.32 Laboratories; and (2) where applicable, rules of the Public Utilities Commission regarding
25.33 safety and reliability.

26.1 (e) If approval by a private entity is required prior to installing or using a solar energy
26.2 system, the application for approval (1) must be processed and approved in the same manner
26.3 as an application for approval of an architectural modification to the property, and (2) must
26.4 not be willfully avoided or delayed. In no event will a private entity have less than 60 days
26.5 to approve or disapprove an application for a solar energy system.

26.6 (f) An application for approval must be made in writing and must contain certification
26.7 that the applicant must meet any conditions required by a private entity under subdivision
26.8 4. An application must include a copy of the interconnection application submitted to the
26.9 applicable electric utility.

26.10 (g) A private entity must approve or deny an application in writing. If an application is
26.11 not denied in writing within 60 days of the date the application was received, the application
26.12 is deemed approved unless the delay is the result of a reasonable request for additional
26.13 information. If a private entity determines that it needs additional information from the
26.14 applicant in order to approve or disapprove the application, the private entity must request
26.15 the additional information in writing within 60 days from the date of receipt of the
26.16 application. If the private entity makes a request for additional information within 15 days
26.17 from the date the private entity initially received the application, the private entity shall
26.18 have 60 days from the date of receipt of the additional information in which to approve or
26.19 deny the application. If the private entity makes a written request to the applicant for
26.20 additional information more than 15 days after the private entity initially received the
26.21 application, the private entity shall have 15 days after the private entity receives the additional
26.22 information it requested from the applicant in which to approve or disapprove the application,
26.23 but in no event shall the private entity have less than 60 days from the date the private entity
26.24 initially received the application in which to approve or disapprove the application.

26.25 Sec. 20. Minnesota Statutes 2022, section 515B.2-103, is amended to read:

26.26 **515B.2-103 CONSTRUCTION AND VALIDITY OF DECLARATION AND**
26.27 **BYLAWS.**

26.28 (a) All provisions of the declaration and bylaws are severable.

26.29 (b) The rule against perpetuities may not be applied to defeat any provision of the
26.30 declaration or this chapter, or any instrument executed pursuant to the declaration or this
26.31 chapter.

27.1 (c) In the event of a conflict between the provisions of the declaration and the bylaws,
27.2 the declaration prevails except to the extent that the declaration is inconsistent with this
27.3 chapter.

27.4 (d) The declaration and bylaws must comply with ~~section~~ sections 500.215 and 500.216.

27.5 Sec. 21. Minnesota Statutes 2022, section 515B.3-102, is amended to read:

27.6 **515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

27.7 (a) Except as provided in subsections (b), (c), (d), and (e), and subject to the provisions
27.8 of the declaration or bylaws, the association shall have the power to:

27.9 (1) adopt, amend and revoke rules and regulations not inconsistent with the articles of
27.10 incorporation, bylaws and declaration, as follows: (i) regulating the use of the common
27.11 elements; (ii) regulating the use of the units, and conduct of unit occupants, which may
27.12 jeopardize the health, safety or welfare of other occupants, which involves noise or other
27.13 disturbing activity, or which may damage the common elements or other units; (iii) regulating
27.14 or prohibiting animals; (iv) regulating changes in the appearance of the common elements
27.15 and conduct which may damage the common interest community; (v) regulating the exterior
27.16 appearance of the common interest community, including, for example, balconies and patios,
27.17 window treatments, and signs and other displays, regardless of whether inside a unit; (vi)
27.18 implementing the articles of incorporation, declaration and bylaws, and exercising the
27.19 powers granted by this section; and (vii) otherwise facilitating the operation of the common
27.20 interest community;

27.21 (2) adopt and amend budgets for revenues, expenditures and reserves, and levy and
27.22 collect assessments for common expenses from unit owners;

27.23 (3) hire and discharge managing agents and other employees, agents, and independent
27.24 contractors;

27.25 (4) institute, defend, or intervene in litigation or administrative proceedings (i) in its
27.26 own name on behalf of itself or two or more unit owners on matters affecting the common
27.27 elements or other matters affecting the common interest community or, (ii) with the consent
27.28 of the owners of the affected units on matters affecting only those units;

27.29 (5) make contracts and incur liabilities;

27.30 (6) regulate the use, maintenance, repair, replacement, and modification of the common
27.31 elements and the units;

28.1 (7) cause improvements to be made as a part of the common elements, and, in the case
28.2 of a cooperative, the units;

28.3 (8) acquire, hold, encumber, and convey in its own name any right, title, or interest to
28.4 real estate or personal property, but (i) common elements in a condominium or planned
28.5 community may be conveyed or subjected to a security interest only pursuant to section
28.6 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative
28.7 may be subjected to a security interest, only pursuant to section 515B.3-112;

28.8 (9) grant or amend easements for public utilities, public rights-of-way or other public
28.9 purposes, and cable television or other communications, through, over or under the common
28.10 elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized
28.11 by the declaration; and, subject to approval by a vote of unit owners other than declarant
28.12 or its affiliates, grant or amend other easements, leases, and licenses through, over or under
28.13 the common elements;

28.14 (10) impose and receive any payments, fees, or charges for the use, rental, or operation
28.15 of the common elements, other than limited common elements, and for services provided
28.16 to unit owners;

28.17 (11) impose interest and late charges for late payment of assessments and, after notice
28.18 and an opportunity to be heard before the board or a committee appointed by it, levy
28.19 reasonable fines for violations of the declaration, bylaws, and rules and regulations of the
28.20 association;

28.21 (12) impose reasonable charges for the review, preparation and recordation of
28.22 amendments to the declaration, resale certificates required by section 515B.4-107, statements
28.23 of unpaid assessments, or furnishing copies of association records;

28.24 (13) provide for the indemnification of its officers and directors, and maintain directors'
28.25 and officers' liability insurance;

28.26 (14) provide for reasonable procedures governing the conduct of meetings and election
28.27 of directors;

28.28 (15) exercise any other powers conferred by law, or by the declaration, articles of
28.29 incorporation or bylaws; and

28.30 (16) exercise any other powers necessary and proper for the governance and operation
28.31 of the association.

29.1 (b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations
29.2 on the power of the association to deal with the declarant which are more restrictive than
29.3 the limitations imposed on the power of the association to deal with other persons.

29.4 (c) Notwithstanding subsection (a), powers exercised under this section must comply
29.5 with ~~section~~ sections 500.215 and 500.216.

29.6 (d) Notwithstanding subsection (a)(4) or any other provision of this chapter, the
29.7 association, before instituting litigation or arbitration involving construction defect claims
29.8 against a development party, shall:

29.9 (1) mail or deliver written notice of the anticipated commencement of the action to each
29.10 unit owner at the addresses, if any, established for notices to owners in the declaration and,
29.11 if the declaration does not state how notices are to be given to owners, to the owner's last
29.12 known address. The notice shall specify the nature of the construction defect claims to be
29.13 alleged, the relief sought, and the manner in which the association proposes to fund the cost
29.14 of pursuing the construction defect claims; and

29.15 (2) obtain the approval of owners of units to which a majority of the total votes in the
29.16 association are allocated. Votes allocated to units owned by the declarant, an affiliate of the
29.17 declarant, or a mortgagee who obtained ownership of the unit through a foreclosure sale
29.18 are excluded. The association may obtain the required approval by a vote at an annual or
29.19 special meeting of the members or, if authorized by the statute under which the association
29.20 is created and taken in compliance with that statute, by a vote of the members taken by
29.21 electronic means or mailed ballots. If the association holds a meeting and voting by electronic
29.22 means or mailed ballots is authorized by that statute, the association shall also provide for
29.23 voting by those methods. Section 515B.3-110(c) applies to votes taken by electronic means
29.24 or mailed ballots, except that the votes must be used in combination with the vote taken at
29.25 a meeting and are not in lieu of holding a meeting, if a meeting is held, and are considered
29.26 for purposes of determining whether a quorum was present. Proxies may not be used for a
29.27 vote taken under this paragraph unless the unit owner executes the proxy after receipt of
29.28 the notice required under subsection (d)(1) and the proxy expressly references this notice.

29.29 (e) The association may intervene in a litigation or arbitration involving a construction
29.30 defect claim or assert a construction defect claim as a counterclaim, crossclaim, or third-party
29.31 claim before complying with subsections (d)(1) and (d)(2) but the association's complaint
29.32 in an intervention, counterclaim, crossclaim, or third-party claim shall be dismissed without
29.33 prejudice unless the association has complied with the requirements of subsection (d) within

30.1 90 days of the association's commencement of the complaint in an intervention or the
 30.2 assertion of the counterclaim, crossclaim, or third-party claim.

30.3 Sec. 22. Laws 2005, chapter 97, article 10, section 3, as amended by Laws 2013, chapter
 30.4 85, article 7, section 9, is amended to read:

30.5 Sec. 3. **SUNSET.**

30.6 Sections 1 and 2 shall expire on June 30, ~~2023~~ 2028.

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

30.8 Sec. 23. **DECOMMISSIONING AND DEMOLITION PLAN FOR COAL-FIRED**
 30.9 **PLANT.**

30.10 (a) As a part of the next resource plan filing under Minnesota Statutes, section 216B.2422,
 30.11 subdivision 2, but no later than December 31, 2025, the public utility that owns an electric
 30.12 generation facility that is powered by coal, scheduled for retirement in 2028, and located
 30.13 within the St. Croix National Scenic Riverway must provide, to the extent known, the public
 30.14 utility's plan and a detailed timeline to decommission and demolish the electric generation
 30.15 facility and remediate pollution at the electric generation facility site.

30.16 (b) The public utility must also provide a copy of the plan and timeline to the governing
 30.17 body of the municipality where the electric generation facility is located on the same date
 30.18 the plan and timeline are submitted to the Public Utilities Commission.

30.19 (c) If a resource plan is not filed or required before December 31, 2025, the plan and
 30.20 timeline must be submitted to the Public Utilities Commission and the municipality as a
 30.21 separate filing by December 31, 2025.

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