

1.1 A bill for an act
1.2 relating to energy; requiring owners of certain buildings to enter energy use data
1.3 into a benchmarking tool; requiring public disclosure of energy use data; providing
1.4 grants; appropriating money; proposing coding for new law in Minnesota Statutes,
1.5 chapter 216C.

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

1.7 Section 1. **[216C.331] ENERGY BENCHMARKING.**

1.8 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
1.9 the meanings given.

1.10 (b) "Benchmark" means to electronically input into a benchmarking tool total energy
1.11 use data and other descriptive information about a building that is required by a benchmarking
1.12 tool.

1.13 (c) "Benchmarking information" means data related to a building's energy use generated
1.14 by a benchmarking tool, and other information about the building's physical and operational
1.15 characteristics, that includes, but is not limited to, the building's:

1.16 (1) address;

1.17 (2) owner and, if applicable, the building manager responsible for operating the building's
1.18 physical systems;

1.19 (3) total floor area, expressed on square feet;

1.20 (4) energy use intensity;

1.21 (5) greenhouse gas emissions; and

2.1 (6) energy performance score comparing the building's energy use with that of similar
2.2 buildings.

2.3 (d) "Benchmarking tool" means the United State Environmental Protection Agency's
2.4 Energy Star Portfolio Manager tool, or an equivalent tool, as determined by the commissioner.

2.5 (e) "Covered property" means a building whose total floor area is equal to or greater
2.6 than 50,000 square feet, but does not include:

2.7 (1) a residential property containing fewer than five dwelling units;

2.8 (2) a property classified as manufacturing under the North American Industrial
2.9 Classification System (NAICS); or

2.10 (3) other property types not meeting the purposes of this section, as determined by the
2.11 commissioner.

2.12 (f) "Energy" means electricity, natural gas, steam, or other product used to provide
2.13 heating, cooling, lighting, water heating, or to power other end uses in a building.

2.14 (g) "Energy audit" has the meaning given in section 216C.435, subdivision 4.

2.15 (h) "Energy intensity" means the total annual energy consumed in a building divided by
2.16 the building's total floor area.

2.17 (i) "Energy performance score" means a numerical value from one to 100 that the Energy
2.18 Star Portfolio Manager tool calculates to rate a building's energy efficiency against that of
2.19 comparable buildings nationwide.

2.20 (j) "Energy Star Portfolio Manager" means an interactive resource management tool
2.21 developed by the United States Environmental Protection Agency that enables the periodic
2.22 entry of a building's energy use data and other descriptive information about a building and
2.23 rates a building's energy efficiency against that of comparable buildings nationwide.

2.24 (k) "Financial distress" means that a covered property, at the time benchmarking is to
2.25 be conducted:

2.26 (1) is the subject of a qualified tax lien sale or public auction due to property tax
2.27 arrears;

2.28 (2) is controlled by a court-appointed receiver based on financial distress;

2.29 (3) is owned by a financial institution through default by the borrower;

2.30 (4) has been acquired by deed in lieu of foreclosure; or

2.31 (5) has a senior mortgage that is subject to a notice of default.

3.1 (l) "Owner" means an individual or entity possessing title to a covered property or an
 3.2 agent authorized to act on behalf of the covered property owner.

3.3 (m) "Total floor area" means the sum of gross square footage inside a building's envelope
 3.4 measured between the outside exterior walls of the building. Total floor area includes covered
 3.5 parking structures.

3.6 Subd. 2. **Establishment.** A building energy benchmarking program is established in the
 3.7 Department of Commerce for the purposes of:

3.8 (1) making building owners, tenants, and potential tenants aware of energy consumption
 3.9 levels and patterns in their buildings and how that energy use compares with that of similar
 3.10 buildings nationwide; and

3.11 (2) enhancing the likelihood that owners will adopt energy conservation measures in
 3.12 their buildings as a way to reduce energy use, operating costs, and greenhouse gas emissions.

3.13 Subd. 3. **Classification of covered properties.** For the purposes of this section, a covered
 3.14 property is classified as follows:

| | <u>Class</u> | <u>Total Floor Area (sq. ft.)</u> |
|------|--------------|-----------------------------------|
| 3.15 | | |
| 3.16 | <u>1</u> | <u>150,000 or more</u> |
| 3.17 | <u>2</u> | <u>100,000 to 149,999</u> |
| 3.18 | <u>3</u> | <u>75,000 to 99,999</u> |
| 3.19 | <u>4</u> | <u>50,000 to 74,999</u> |

3.20 Subd. 4. **Benchmarking requirement.** (a) In conformity with the schedule in subdivision
 3.21 6, an owner must annually benchmark all covered property owned as of December 31 of
 3.22 the previous calendar year. Energy use data must be compiled by:

3.23 (1) obtaining the data from the utility providing the energy; or

3.24 (2) reading a master meter.

3.25 (b) An owner, before entering information in a benchmarking tool, shall run all automated
 3.26 data quality assurance functions available within the benchmarking tool and shall correct
 3.27 all missing or incorrect data identified.

3.28 (c) An owner that becomes aware that any information entered into a benchmarking tool
 3.29 is inaccurate or incomplete must amend the information in the benchmarking tool within
 3.30 30 days of learning of the inaccuracy.

4.1 Subd. 5. Exemption. (a) The commissioner may exempt an owner from the requirements
4.2 of subdivision 4 for any covered property for which the owner provides evidence satisfying
4.3 the commissioner that the covered property:

4.4 (1) is presently experiencing financial distress;

4.5 (2) has been less than 50 percent occupied during the previous calendar year;

4.6 (3) does not have a certificate of occupancy or temporary certificate of occupancy for
4.7 the full previous calendar year;

4.8 (4) was issued a demolition permit during the previous calendar year that remains current;

4.9 (5) received no energy services for at least 30 days during the previous calendar year;

4.10 or

4.11 (6) is participating in a benchmarking program operated by a city or other political
4.12 subdivision that the commissioner determines is equivalent to the benchmarking program
4.13 established in this section.

4.14 (b) An exemption granted under this subdivision applies only to a single calendar year.
4.15 An owner must reapply to the commissioner each year an extension is sought.

4.16 (c) Each tenant of a covered property subject to this section must provide the owner,
4.17 within 30 days of the owner's request and in a format approved by the commissioner, with
4.18 any information regarding energy use of the tenant's rental unit that the property owner
4.19 cannot otherwise obtain and that is needed by the owner to comply with this section.

4.20 Subd. 6. Benchmarking schedule. An owner shall annually benchmark for the previous
4.21 calendar year each covered property according to the following schedule:

4.22 (1) all Class 1 properties by June 1, 2023, and by every June 1 thereafter;

4.23 (2) all Class 2 properties by June 1, 2024, and by every June 1 thereafter;

4.24 (3) all Class 3 properties by June 1, 2025, and by every June 1 thereafter; and

4.25 (4) all Class 4 properties by June 1, 2026, and by every June 1 thereafter.

4.26 Subd. 7. Energy audit. (a) The commissioner must notify in writing an owner of a
4.27 building whose energy performance score is 25 or lower or whose calculated energy intensity
4.28 is among the 25 percent highest compared to similar building types within its class, as
4.29 determined by the commissioner, that, except as provided in paragraph (c), the owner is
4.30 required to contract for an energy audit of the building no later than one year after the notice
4.31 is issued, unless the commissioner extends the deadline.

5.1 (b) The commissioner shall award a grant to an owner who completes an energy audit
5.2 after receiving notice under this subdivision in the amount of the lower of \$..... or ... percent
5.3 of the cost of the audit. An owner may not receive more than one grant under this subdivision.

5.4 (c) If a building owner receiving notice under this subdivision submits evidence to the
5.5 commissioner's satisfaction that an energy audit of the building that was the subject of the
5.6 notice was conducted within the previous five years, the owner is exempt from the
5.7 requirement to conduct an energy audit.

5.8 **Subd. 8. Data collection and management.** (a) The department must:

5.9 (1) collect benchmarking information generated by a benchmarking tool and other related
5.10 information for each covered property;

5.11 (2) provide technical assistance to owners entering data into a benchmarking tool; and

5.12 (3) collaborate with utilities regarding the provision of energy use information to owners
5.13 and tenants to enable owners to comply with this section.

5.14 (b) A utility must comply with a request from the department to provide energy use
5.15 information to the department or to an owner that is needed for the effective operation of
5.16 the energy benchmarking program.

5.17 (c) The department shall:

5.18 (1) rank benchmarked covered properties in each property class from highest to lowest
5.19 performance score, or, if a performance score is unavailable for a covered property, from
5.20 lowest to highest energy use intensity;

5.21 (2) divide covered properties in each property class into four quartiles based on the
5.22 applicable measure in clause (1);

5.23 (3) assign four stars to each covered property in the quartile of each property class with
5.24 the highest performance scores or lowest energy use intensities, as applicable;

5.25 (4) assign three stars to each covered property in the quartile of each property class with
5.26 the second highest performance scores or second lowest energy use intensities, as applicable;

5.27 (5) assign two stars to each covered property in the quartile of each property class with
5.28 the third highest performance scores or third lowest energy use intensities, as applicable;

5.29 (6) assign one star to each covered property in the quartile of each property class with
5.30 the lowest performance scores or highest energy use intensities, as applicable; and

6.1 (7) serve notice on each owner in writing of the number of stars assigned by the
6.2 department to each of the owner's covered properties.

6.3 Subd. 9. **Data disclosure to public.** (a) The department must post on its Internet website,
6.4 and update annually, the following information for the previous calendar year:

6.5 (1) annual summary statistics on energy use for all covered properties in the state;

6.6 (2) annual summary statistics on energy use for all covered properties aggregated by
6.7 covered property class, as defined in subdivision 3, city, and county;

6.8 (3) the percentage of covered properties in each building class listed in subdivision 3
6.9 that are in compliance with the benchmarking provisions of subdivisions 4 to 6; and

6.10 (4) for each covered property, at a minimum, total energy use, energy use per square
6.11 foot of total floor area, annual greenhouse gas emissions, and an energy performance score,
6.12 if available.

6.13 (b) The department must post the information required under this subdivision for each
6.14 class of covered property beginning one year after the initial benchmarking submission is
6.15 made by the owner according to the schedule in subdivision 6.

6.16 Subd. 10. **Building performance disclosure to potential tenants.** An owner must, on
6.17 any application provided to a potential tenant seeking to rent a unit in a covered property,
6.18 include the following language in a 12-point or larger font on the first page of the application:
6.19 "This building has received a [insert number of stars assigned to the building by the
6.20 commissioner under subdivision 8, paragraph (c)] star rating of its energy efficiency from
6.21 the Minnesota Department of Commerce, where four stars represent the most energy efficient
6.22 buildings and one star represents the least energy efficient buildings."

6.23 Subd. 11. **Notifications.** (a) The commissioner shall, by March 1 of each year, notify
6.24 the owner of each covered property required to benchmark for the previous calendar year,
6.25 of the requirement to benchmark by June 1 of that year.

6.26 (b) The commissioner shall, by July 15 of each year, notify the owner of each covered
6.27 property required to benchmark for the previous calendar year that has failed to benchmark,
6.28 that the owner has 30 days in which to benchmark.

6.29 Subd. 12. **Program implementation.** The commissioner may contract with an
6.30 independent third party to implement any or all the duties required of the department under
6.31 subdivisions 2 to 10.

7.1 Subd. 13. **Enforcement.** If the commissioner determines that an owner has failed to
7.2 benchmark in a timely, complete, and accurate fashion as required under this section, the
7.3 commissioner may impose on the owner a civil fine of \$..... Each day that the owner fails
7.4 to benchmark to the satisfaction of the commissioner for each covered property owned by
7.5 the owner may be deemed a separate offense and a separate civil penalty may be imposed
7.6 by the commissioner.

7.7 Subd. 14. **Rules.** The department is authorized to promulgate rules under chapter 14 to
7.8 implement the provisions of this section.

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

7.10 Sec. 2. **APPROPRIATION.**

7.11 \$..... in fiscal year 2023 and \$..... in fiscal year 2024 are appropriated from the general
7.12 fund to the commissioner of commerce to award grants under and implement the provisions
7.13 of Minnesota Statutes, section 216C.331. These appropriations are available until expended.

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