



March 2, 2023

Senate File 1368

Dear Chair McEwen and Members of the Senate Labor Committee,

Our organizations represent tens of thousands of employers, builders, housing providers, homebuyers, and workplaces across the state of Minnesota. Safe, affordable, and reliable energy is critical for our businesses, workers, customers, residents, and occupants.

We write to express our concerns with Senate File 1368. This bill directs the Minnesota Department of Labor and Industry to establish a net zero energy standard for commercial buildings by 2038. The department must adopt each new published edition of ASHRAE 90.1 and amend as needed to achieve the net zero mandate. While undefined, “net zero” could be understood to mean that the building produces as much energy as it uses.

While our businesses strive to be more energy efficient every day, this bill as written presents serious challenges for employers, builders, owners, operators, residents, and occupants of affected buildings.

Senate File 1368 and other proposals to alter energy codes for new and existing residential and commercial buildings open the door to controversial and impractical rulemaking. Rulemaking is an inappropriate tool for making such momentous changes to the living and working conditions of every person in this state.

Please let us take this opportunity to outline our challenges with this bill.

Cost. This bill imposes significant new costs on residential and commercial buildings, including on-site generation for commercial buildings, early adoption of new and unproven building systems and appliances, and adherence to an ever-changing energy code. It could also make Minnesotans far more dependent on the electric grid as their primary source of energy for heating, cooling, cooking, and other basic functions of life and business.

Electricity is an expensive energy source in our region: nearly twice the cost of propane and roughly three times as expensive as natural gas on a fuel neutral basis according to the U.S. Energy Information Administration.

Energy generating infrastructure, for which this bill increases demand, is also expensive. And as demand increases, reliability will decrease without sufficient supply. Minnesota is part of the Midcontinent Independent System Operator (MISO) system, which is already experiencing capacity shortfalls on the electric grid during periods of peak demand.

Further, the bill allows for modification of the energy code at irregular intervals, putting existing and new buildings on an expensive track toward an uncertain future.

Weather. Minnesota experiences extreme swings in temperature throughout the winter and over the course of the year. In January, we started one week at -10 degrees and reached 20 degrees two days later. Large swings in temperature tax the best of systems.

Ratcheting up residential and commercial efficiency mandates and limiting building system options through the energy codes, absent significant improvement in building systems technology, disincentivizes the maintenance of existing buildings and creation of new ones.

Technology Limitations. The bill sets us down a relatively short path toward drastic changes in how and what energy is consumed in commercial buildings. The bill contains no off-ramp or explanation of what happens if the requirement proves to be impractical or too expensive and could lead to a halt in the construction of new commercial buildings.

And alternatives to conventional energy consuming infrastructure, such as heating systems, often come with a much longer payback period that makes construction or ownership infeasible. Perhaps the cost of such technology will improve in the future, but SF 1368 makes no contingency if it does not.