

CHAPTER 116H

MINNESOTA ENERGY AGENCY

116H.01	Repealed.	116H.123	Energy conservation in university buildings.
116H.02	Definitions.	116H.124	Local governmental surveys and fuel cost estimates.
116H.03	Repealed.	116H.126	Public school building energy reports and audits.
116H.05	Conflict of interest.	116H.127	Solar energy system standards of performance.
116H.06	Jurisdiction.	116H.128	Review of energy research and demonstration projects.
116H.07	Duties.	116H.129	Energy conservation standards for existing residences.
116H.08	Powers.	116H.13	Certificate of need.
116H.085	Energy conservation information center.	116H.14	Subpoena power.
116H.087	Energy conservation publicity.	116H.15	Enforcement, penalties.
116H.088	Post-secondary energy education.	116H.17	Energy audits.
116H.089	Community energy planning; grants.	116H.18	Energy efficient building education.
116H.09	Energy supply emergency conservation and allocation plan.	116H.19	Minnesota biomass center.
116H.095	State set-aside program.	116H.23	Priorities for funding.
116H.10	Forecasts, statistics and information.	116H.31	District heating loans.
116H.11	State energy policy and conservation report.		
116H.12	Energy conservation.		
116H.121	Energy conservation standards in certain public buildings.		
116H.122	Energy conservation in state owned buildings.		

116H.001 [Repealed, 1981 c 356 s 247]

116H.02 DEFINITIONS.

[For text of subd 1, see M.S.1980]

Subd. 2. [Repealed, 1981 c 356 s 247]

[For text of subd 3, see M.S.1980]

Subd. 4. [Repealed, 1981 c 356 s 247]

[For text of subds 5 to 14, see M.S.1980]

116H.03 [Repealed, 1981 c 356 s 247]

116H.05 CONFLICT OF INTEREST.

No person shall be eligible to continue in office as commissioner unless he has within six months after being appointed divested himself of any interest except fully vested pension rights in any utility, coal or petroleum supplier, or manufacturer of any major component of a large energy facility doing business within or outside this state.

No person who is an employee of the department shall participate in any manner in any decision or action of the commissioner where he has a direct or indirect financial interest.

History: 1981 c 356 s 125

116H.06 JURISDICTION.

The commissioner has sole authority and responsibility for the administration of sections 116H.01 to 116H.15. Other laws notwithstanding, the authority granted the commissioner shall supersede the authority given any other agency whenever overlapping, duplication or additional administrative or legal procedures might occur in the administration of sections 116H.01 to 116H.15. The commissioner shall consult with other state departments or agencies in matters related to energy and shall contract with them to provide appropriate services to effectuate the purposes of sections 116H.01 to 116H.15. Any other department, agency or

MINNESOTA STATUTES 1981 SUPPLEMENT

official of this state or political subdivision thereof which would in any way affect the administration or enforcement of sections 116H.01 to 116H.15 shall cooperate and coordinate all activities with the commissioner to assure orderly and efficient administration and enforcement of sections 116H.01 to 116H.15.

The commissioner shall designate a liaison officer whose duty shall be to insure the maximum possible consistency in procedures and to eliminate duplication between the commissioner and the other agencies that may be involved in energy.

History: 1981 c 356 s 126

116H.07 DUTIES.

The commissioner shall:

(a) Manage the department as the central repository within the state government for the collection of data on energy;

(b) Prepare and adopt an emergency allocation plan specifying actions to be taken in the event of an impending serious shortage of energy, or a threat to public health, safety, or welfare;

(c) Undertake a continuing assessment of trends in the consumption of all forms of energy and analyze the social, economic, and environmental consequences of these trends;

(d) Carry out energy conservation measures as specified by the legislature and recommend to the governor and the legislature additional energy policies and conservation measures as required to meet the objectives of sections 116H.01 to 116H.15;

(e) Collect and analyze data relating to present and future demands and resources for all sources of energy, and specify energy needs for the state and various service areas as a basis for planning large energy facilities;

(f) Require certificate of need for construction of large energy facilities;

(g) Evaluate policies governing the establishment of rates and prices for energy as related to energy conservation, and other goals and policies of sections 116H.01 to 116H.15, and make recommendations for changes in energy pricing policies and rate schedules;

(h) Study the impact and relationship of the state energy policies to international, national, and regional energy policies;

(i) Design a state program for the conservation of energy; this program shall include but not be limited to, general commercial, industrial, and residential areas; such program shall also provide for the evaluation of energy systems as they relate to lighting, heating, refrigeration, air conditioning, building design and operation, and appliance manufacturing and operation;

(j) Inform and educate the public about the sources and uses of energy and the ways in which persons can conserve energy;

(k) Dispense funds made available for the purpose of research studies and projects of professional and civic orientation, which are related to either energy conservation or the development of alternative energy technologies which conserve nonrenewable energy resources while creating minimum environmental impact;

(l) Charge other governmental departments and agencies involved in energy related activities with specific information gathering goals and require that those goals be met.

History: 1981 c 356 s 127

116H.08 POWERS.

The commissioner may:

(a) Adopt rules pursuant to chapter 15 as necessary to carry out the purposes of sections 116H.01 to 116H.15 and, when necessary for the purposes of section 116H.09, adopt temporary rules pursuant to section 15.0412, subdivision 5;

(b) Make all contracts pursuant to sections 116H.01 to 116H.15 and do all things necessary to cooperate with the United States government, and to qualify for, accept and disburse any grant intended for the administration of sections 116H.01 to 116H.15. Notwithstanding any other law the commissioner is designated the state agent to apply for, receive and accept federal or other funds made available to the state for the purposes of sections 116H.01 to 116H.15.

(c) Contract for professional services if such work or services cannot be satisfactorily performed by employees of the department or by any other state agency;

(d) Enter into interstate compacts to jointly carry out such research and planning with other states or the federal government where appropriate;

(e) Distribute informational material at no cost to the public upon reasonable request;

(f) Provide on-site technical assistance to units of local government in order to enhance local capabilities for dealing with energy problems;

(g) Administer for the state, energy programs pursuant to federal law, regulations or guidelines, except for the crisis fuel assistance and low income weatherization programs administered by the department of economic security, and coordinate the programs and activities with other state agencies, units of local government and educational institutions.

History: 1981 c 85 s 2; 1981 c 356 s 128

116H.085 ENERGY CONSERVATION INFORMATION CENTER.

The commissioner shall establish an energy information center in the department's offices in St. Paul. The information center shall maintain a toll-free telephone information service and disseminate printed materials on energy conservation topics, including but not limited to, availability of loans and other public and private financing methods for energy conservation physical improvements, the techniques and materials used to conserve energy in buildings, including retrofitting or upgrading insulation and installing weatherstripping, the projected prices and availability of different sources of energy, and alternative sources of energy.

The energy information center shall serve as the official Minnesota alcohol fuels information center and shall disseminate information, printed, by the toll-free telephone information service, or otherwise on the applicability and technology of alcohol fuels.

The information center shall include information on the potential hazards of energy conservation techniques and improvements in the printed materials disseminated. The commissioner shall not be liable for damages arising from the installation or operation of equipment or materials recommended by the information center.

History: 1981 c 356 s 129

116H.087 ENERGY CONSERVATION PUBLICITY.

The commissioner in consultation with other affected agencies or departments shall develop informational materials, pamphlets and radio and television messages on energy conservation and housing programs available in Minnesota, renewable energy resources, and energy supply and demand. The printed materials shall include information on available tax credits for residential energy conservation measures, residential retrofitting loan and grant programs, and data on the economics of energy conservation and renewable resource measures. Copies of printed materials shall be distributed to members of the appropriate standing committees of the legislature.

History: 1981 c 356 s 130

116H.088 POST-SECONDARY ENERGY EDUCATION.

Subdivision 1. The commissioner, in consultation with the state board of education, the higher education coordinating board, the state board for community colleges, the state university board, and the board of regents of the University of Minnesota, shall develop a plan for adult and post-secondary energy education.

[For text of subd 2, see M.S.1980]

History: 1981 c 356 s 131

116H.089 COMMUNITY ENERGY PLANNING; GRANTS.

Subdivision 1. **Purpose.** In order to improve the energy planning capabilities of local governments, the commissioner shall make grants to counties and cities, however organized. The commissioner when making grants shall give priority to those units of government that submit proposals that could result in significant savings of traditional energy sources, development of renewable energy systems, and broad community involvement. The commissioner shall give priority to local units of government that provide staff or other support for a program and who request grants for programs which can be duplicated by other local governments. The grants may be used to purchase materials, employ staff or contract with other units of government or qualified consultants.

The commissioner shall not make grants of more than 45 percent of the amount appropriated for those purposes to cities and counties located within the seven county metropolitan area. A single grant to a city or county shall not exceed \$50,000.

Subd. 2. **Qualifying expenditures.** Community energy planning grants may be used for the following purposes:

(a) To gather, monitor, and analyze local energy supply, demand, and cost information;

(b) To prepare comprehensive community energy plans;

(c) To implement comprehensive energy plans that the unit of government is authorized to undertake for the management of problems resulting from: (1) rising energy cost; (2) lack of efficient public and private transportation; (3) lack of community conservation efforts; (4) lack of widespread renewable energy sources; and (5) lack of energy components in comprehensive plans and local ordinances;

(d) To assist neighborhood organizations in counties and cities to do energy planning by making grants to the local unit of government; and

(e) Any other purposes deemed appropriate by the commissioner.

Subd. 3. **Administration.** The commissioner shall determine priorities pursuant to subdivisions 1 and 2, and shall promulgate rules for the submission and review of applications in accordance with the provisions of chapter 15. For this purpose the commissioner may adopt temporary rules pursuant to the provisions of section 15.0412, subdivision 5.

History: 1981 c 356 s 132

116H.09 ENERGY SUPPLY EMERGENCY CONSERVATION AND ALLOCATION PLAN.

Subdivision 1. The commissioner shall maintain an emergency conservation and allocation plan. The plan shall provide a variety of strategies and staged conservation measures to reduce energy use and in the event of an energy supply emergency, shall establish guidelines and criteria for allocation of fuels to priority users. The plan shall contain alternative conservation actions and allocation plans to reasonably meet various foreseeable shortage circumstances and allow a choice of appropriate responses. The plan shall be consistent with requirements of federal emergency energy conservation and allocation laws and regulations, shall be based on reasonable energy savings or transfers from scarce energy resources and shall:

(a) Give priority to individuals, institutions, agriculture and businesses which demonstrate they have engaged in energy-saving measures and shall include provisions to insure that:

(1) Immediate allocations to individuals, institutions, agriculture and businesses be based on needs at energy conservation levels;

(2) Successive allocations to individuals, institutions, agriculture and businesses be based on needs after implementation of required action to increase energy conservation;

(3) Needs of individuals and institutions are adjusted to insure the health and welfare of the young, old and infirm;

(b) Insure maintenance of reasonable job safety conditions and avoid environmental sacrifices;

(c) Establish programs, controls, standards, priorities or quotas for the allocation, conservation and consumption of energy resources; and for the suspension and modification of existing standards and the establishment of new standards affecting or affected by the use of energy resources, including those related to the type and composition of energy sources, and to the hours and days during which public buildings, commercial and industrial establishments, and other energy consuming facilities may or are required to remain open;

(d) Establish programs to control the use, sale or distribution of commodities, materials, goods or services;

(e) Establish regional programs and agreements for the purpose of coordinating the energy resources, programs and actions of the state with those of the federal government, of local governments, and of other states and localities; and

(f) Determine at what level of an energy supply emergency situation the pollution control agency shall be requested to ask the governor to petition the president for a temporary emergency suspension of air quality standards as required by the Clean Air Act, 42 U.S.C., Section 7410f;

(g) Establish procedures for fair and equitable review of complaints and requests for special exemptions regarding emergency conservation measures or allocations.

MINNESOTA STATUTES 1981 SUPPLEMENT

Subd. 2. [Repealed, 1981 c 356 s 247]

Subd. 3. [Repealed, 1981 c 356 s 247]

Subd. 4. At least once every five years and whenever construction of a new large energy facility is completed which affects the supply of energy in Minnesota, the commissioner shall review and if necessary revise the emergency conservation and allocation plan. Revisions of the emergency conservation and allocation plan shall be adopted pursuant to the rulemaking procedures in chapter 15 and reviewed by the appropriate standing committees of the legislature. The commissioner may also make revisions to the plan pursuant to section 15.0412, subdivision 5, and the temporary rules powers of section 116H.08, clause (a), when a declared or impending energy supply emergency requires.

Subd. 5. The executive council or the legislature may declare an energy supply emergency when an acute shortage of energy exists by issuing a declaration which indicates the nature of the emergency, the area or areas threatened if less than the whole state is threatened, and the conditions causing the emergency. The declaration shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the commissioner, the division of emergency services and the secretary of state. Upon a declaration of an energy supply emergency by the executive council or the legislature, the governor and the division of emergency services, in consultation with the commissioner, shall implement and enforce the emergency conservation and allocation plan or any part thereof. Revisions of the plan shall be made by the commissioner in accordance with subdivision 4. The executive council or the legislature may terminate an energy supply emergency at any time by issuing a declaration which terminates the energy supply emergency and indicates the conditions which make possible termination of the emergency, but no energy supply emergency may continue for longer than 30 days unless renewed by the legislature. Each renewed energy supply emergency may not continue for longer than 30 days, unless otherwise provided by law. Each person shall carry out the responsibilities specified in the emergency conservation allocation plan, and violation of any provision of such emergency conservation or allocation requirements shall be deemed a violation of sections 116H.01 to 116H.15 and the rules promulgated thereunder for purposes of enforcement pursuant to section 116H.15.

History: 1981 c 356 s 133-135

116H.095 STATE SET-ASIDE PROGRAM.

Subdivision 1. **Purpose.** The purpose of this section is to grant to the commissioner authority to exercise specific power to deal with shortages of refined petroleum products. Authority granted shall be exercised for the purpose of minimizing the adverse impacts of shortages and dislocations upon the citizens and the economy of the state and nation.

Subd. 2. **Establishment.** The commissioner shall establish and is responsible for a state set-aside system for motor gasoline and middle distillates to provide emergency petroleum requirements and thereby relieve the hardship caused by shortage, supply dislocations, or other emergencies. The commissioner, for purposes of administration, may exercise all of the powers granted by this chapter.

Subd. 3. **Definitions.** As used in this section:

(a) "Middle distillates" means distillates obtained between kerosene and lubricating oil fractions in the refining process, including but not limited to, kerosene, number one and number two heating oil and diesel fuel;

MINNESOTA STATUTES 1981 SUPPLEMENT

455

MINNESOTA ENERGY AGENCY 116H.10

(b) "Motor gasoline" means a liquid mixture of hydrocarbons produced by the distillation of petroleum and used chiefly as a fuel in internal combustion engines;

(c) "Prime supplier" means the producer or supplier now or hereafter making the first sale of middle distillates or motor gasoline subject to the state set-aside for consumption within the state;

(d) "State set-aside" means the amount of middle distillates or motor gasoline required to be made available by a prime supplier for utilization by the commissioner to resolve or mitigate emergencies or hardships due to shortages of supply.

Subd. 4. **Set-aside required.** Every prime supplier shall allocate for sale or exchange monthly upon order of the commissioner a volume of gasoline and middle distillate not exceeding the monthly set-aside amount. The amount of gasoline subject to monthly set-aside shall be an amount equal to three percent of the prime supplier's sales of gasoline during the corresponding month of 1980. The amount of middle distillate subject to monthly set-aside shall be an amount equal to four percent of the prime supplier's sales of middle distillate during the corresponding months of 1980.

Subd. 5. **Report of estimated volume.** Every prime supplier who did not do business in the state during the corresponding month of 1980 shall file with the commissioner a report of its estimated volume of gasoline and middle distillate sale. The report shall be in a form prescribed by the commissioner and shall be submitted by the 25th day of the month preceding the month covered by the report. Each prime supplier subject to this subdivision shall allocate monthly for sale or exchange upon order of the commissioner three percent of estimated gasoline supplies and four percent of estimated middle distillate supplies as shown by the report.

Subd. 6. **Prime supplier obligations.** Each prime supplier shall designate a representative to act for and on behalf of the prime supplier in respect to energy agency state set-aside orders to be issued to the prime supplier. A prime supplier shall provide the amount of allocated product stated in the energy state set-aside order.

Subd. 7. **Rules.** The commissioner shall adopt rules, including temporary rules pursuant to section 15.0412, subdivision 5, to govern the administration of the set-aside system. Rules shall cover matters such as the form and procedure for applications for set-aside allocations by dealers of bulk purchasers, reports on available gasoline and middle distillate supplies, orders and procedure for set-aside allocation and distribution and other rules deemed necessary or desirable in the implementation and administration of the set-aside system, including monthly reports of anticipated deliveries and actual sales of gasoline, middle distillates, propane, aviation fuels, and residual oils.

Subd. 8. **Criteria.** The commissioner may allocate gasoline and middle distillates from the set-aside system in accordance with the criteria in section 116H.09 and rules adopted pursuant thereto. The commissioner may prescribe additional priorities by rule.

History: 1981 c 356 s 136

116H.10 FORECASTS, STATISTICS AND INFORMATION.

Subdivision 1. In order to further the purposes of sections 116H.01 to 116H.15, the commissioner shall develop and maintain an effective program of collection, compilation, and analysis of energy statistics. The statistical program

MINNESOTA STATUTES 1981 SUPPLEMENT

shall be developed to insure a central state repository of energy data and so that the state may coordinate and cooperate with other governmental data collection and record keeping programs.

Subd. 2. In addition to supplying the current statistical and short range forecasting information the commissioner requires, each utility, coal supplier, petroleum supplier and large energy facility in the state shall prepare and transmit to the commissioner by July 1 of each year, a report specifying in five, ten, and 15 year forecasts the projected demand for energy within their respective service areas and the facilities necessary to meet the demand.

The report shall be in a form specified by the commissioner and contain all information deemed relevant by the commissioner.

Subd. 3. The commissioner shall, to the maximum extent feasible, provide that forecasts required under this section be consistent with material required by other state and federal agencies in order to prevent unnecessary duplication.

Subd. 4. Reports issued pursuant to this section shall be available for public inspection in the office of the department during normal business hours.

Subd. 5. The commissioner shall review and evaluate forecasts of energy demands and resources as they relate to the most current population growth and development estimates, statewide and regional land use, transportation, and economic development programs and forecasts.

History: 1981 c 356 s 137

116H.11 STATE ENERGY POLICY AND CONSERVATION REPORT.

Subdivision 1. By January 1 of each even-numbered year, the commissioner shall transmit to the governor and the legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, conservation, public health and safety factors, and to specify the level of statewide and geographical area energy need. The report shall include, but not be limited to, all of the following:

(a) A final report on the accuracy and acceptability of the energy forecasts received under section 116H.10 and the alternatives to meeting that demand;

(b) An estimate of statewide and geographical area energy need for the forthcoming five and ten year period which, in the judgment of the commissioner, will reasonably balance requirements of state and geographical area growth and development, protection of public health and safety, preservation of environmental quality, and conservation of energy resources;

(c) The anticipated level of statewide and geographical area energy demand for 20 years, which shall serve as the basis for long range action;

(d) The identification of potential adverse social, economic, or environmental effects caused by a continuation of the present energy demand trends;

(e) An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels;

(f) The estimated reduction in annual energy consumption resulting from various energy conservation measures;

(g) The cost of energy to residential and rental consumers in relation to their socio-economic status;

(h) An assessment of the economic and employment implications of proposed state energy policies;

(i) The status of the department's ongoing studies;

(j) Recommendations to the governor and the legislature for administrative and legislative actions to accomplish the purposes of sections 116H.01 to 116H.15.

Subd. 2. Prior to the preparation of a final report, the commissioner shall issue a draft report to the environmental quality board and any person, upon request, and shall hold a public meeting. Notice of the public meeting shall be provided to each regional development commission.

Subd. 3. The commissioner shall distribute the final report to any person upon request.

History: 1981 c 356 s 138

116H.12 ENERGY CONSERVATION.

Subdivision 1. After consultation with the commissioner and the commissioner of public safety, the commissioner of transportation shall, pursuant to chapter 15, promulgate regulations establishing maximum energy use standards for street, highway and parking lot lighting. The standards shall be consistent with overall protection of the public health, safety and welfare. No new highway, street or parking lot lighting shall be installed in violation of these regulations and existing lighting levels shall be reduced consistent with the regulations as soon as feasible and practical, consistent with overall energy conservation.

[For text of subd 1a, see M.S.1980]

Subd. 1b. The commissioner shall adopt rules, pursuant to chapter 15, setting standards covering permissible hours of operation, quantity and efficiency of outdoor display lighting and defining "outdoor display lighting".

Subd. 2. The commissioner may investigate promotional practices by energy suppliers and, pursuant to chapter 15, may promulgate regulations to limit such practices in order to reduce the rate of growth of energy demand.

[For text of subd 3, see M.S.1980]

Subd. 3a. Beginning April 20, 1977, no person shall use a decorative gas lamp in Minnesota except as provided in subdivisions 3b and 3c.

Subd. 3b. [Repealed, 1981 c 356 s 247]

Subd. 3c. Gas lamps installed prior to April 20, 1977, by or at the request of a municipality, on a public street or right of way, may be used as street lighting.

Subd. 4. In recognition of the compelling need for energy conservation in order to safeguard the public health, safety and welfare, it is necessary to provide building design and construction standards consistent with the most efficient use of energy. Therefore, the commissioner of administration, in consultation with the commissioner, shall, pursuant to chapter 15, adopt rules governing building design and construction standards regarding heat loss control, illumination and climate control. The rules shall apply to all new buildings and remodeling affecting heat loss control, illumination and climate control. The rules shall be economically feasible in that the resultant savings in energy procurement shall exceed the cost of the energy conserving requirements amortized over the life of the building. The rules shall become part of the state building code and be effective six months after promulgation.

Subd. 5. The commissioner shall conduct studies and make recommendations concerning the purchase and use by the state and its political subdivisions of supplies, motor vehicles and equipment having a significant impact on energy use in order to determine the potential for energy conservation. The commissioner

MINNESOTA STATUTES 1981 SUPPLEMENT

may adopt rules pursuant to chapter 15 to insure that energy use and conservation will be considered in state purchasing and, where appropriate, to require certain minimum energy efficiency standards in purchased products and equipment. No state purchasing of equipment or material use shall occur that is not in conformity with these regulations.

Subd. 6. In consultation with the commissioner, the commissioner of transportation shall begin an efficiency study of the present traffic flow system within the state. The study shall consider the feasibility of a computer-coordinated traffic system and other measures for increasing the efficiency of present traffic loads.

[For text of subds 7 and 8, see M.S.1980]

Subd. 9. In conjunction with the motor vehicle services division, the commissioner shall study the feasibility of modifying motor vehicle license fees to reflect energy consumption.

[For text of subds 10 and 11, see M.S.1980]

History: 1981 c 85 s 3,4; 1981 c 356 s 139-145

116H.121 ENERGY CONSERVATION STANDARDS IN CERTAIN PUBLIC BUILDINGS.

Subdivision 1. The rules concerning heat loss, illumination, and climate control standards adopted pursuant to section 116H.12, subdivision 4, shall include standards for all existing buildings heated by oil, coal, gas, or electric units which are owned by the state, the university of Minnesota, any city, any county, or any school district. Compliance with standards adopted pursuant to this section shall not be mandatory for buildings owned by any city, county or school district, except as otherwise provided by this section.

Subd. 2. The illumination standards promulgated pursuant to subdivision 1, are mandatory for all public buildings where economically feasible. For the purposes of this subdivision, "public building" means any building which is open to the public during normal business hours and which exceeds 5,000 square feet in gross floor area. The commissioner shall specify the formula for determining economic feasibility.

[For text of subd 3, see M.S.1980]

History: 1981 c 356 s 146,147

116H.122 ENERGY CONSERVATION IN STATE OWNED BUILDINGS.

By June 30, 1982, the commissioner of administration, in cooperation with the commissioner, shall complete a mini-audit or maxi-audit of all buildings which are heated and owned by the state of Minnesota, including buildings and associated facilities of the state university system, the state fairgrounds as defined in section 37.01, the Minnesota historical society building, and all buildings under the administration or supervision of the commissioners of natural resources, corrections, welfare, and transportation. The commissioner of administration shall determine the estimated remaining useful life of each building, together with the present degree and estimated cost of compliance with the energy conservation standards promulgated pursuant to section 116H.121. The commissioner of administration shall estimate the annual potential savings in units of fuel and fuel procurement costs which would be realized for each state owned building if its operating procedures were modified and it were improved to comply with each of

the energy conservation standards promulgated pursuant to section 116H.121. If appropriations are inadequate to complete a mini-audit or maxi-audit of all state owned buildings, the commissioner of administration shall give priority to buildings of 25,000 or more square feet. If the commissioner of administration determines that a modification is economically feasible, in that savings in fuel procurement costs will exceed the cost of the modification amortized over the remaining useful life of the building, he shall recommend implementation of the modification to the legislature. The commissioner of administration shall submit to the legislature an annual progress report on January 1 of each year and a final progress report by December 31, 1982, indicating the number and percentage of state owned buildings surveyed, the estimated costs of implementing the economically feasible modifications, the energy savings and costs resulting from implementing such modifications, and his findings, recommendations, and priorities for implementing economically feasible modifications.

History: 1981 c 356 s 148

116H.123 ENERGY CONSERVATION IN UNIVERSITY BUILDINGS.

By June 30, 1982, the University of Minnesota, after consultation with the commissioner, shall complete a mini-audit or a maxi-audit of all buildings and associated facilities of the University of Minnesota which are heated. The university shall determine the estimated remaining useful life of each building, together with the present degree and estimated cost of compliance with the energy conservation standards promulgated pursuant to section 116H.121. The university shall estimate the annual potential savings in units of fuel and fuel procurement costs for existing heating and cooling systems, which savings would be realized for each university owned building if its operating procedures were modified and it were improved to comply with each of the energy conservation standards promulgated pursuant to section 116H.121. If appropriations are inadequate to complete a mini-audit or maxi-audit of all university owned buildings, the university shall give priority to buildings of 25,000 or more square feet. If the university determines that a modification is economically feasible, in that estimated savings in fuel procurement costs will exceed the cost of the modification amortized over the remaining useful life of the building, it shall implement the modification in a manner designed to maximize the reduction in costs resulting from the modification. The university shall submit to the legislature an annual progress report on January 1 of each year and a final report by December 31, 1982, indicating the number and percentage of university owned buildings surveyed, the estimated costs of implementing the economically feasible modifications, the energy savings and costs resulting from implementing such modifications, and its preliminary findings, recommendations, and priorities for implementing economically feasible modifications.

History: 1981 c 356 s 149

116H.124 LOCAL GOVERNMENTAL SURVEYS AND FUEL COST ESTIMATES.

Subdivision 1. [Repealed, 1981 c 356 s 150]

Subd. 2. **Mini-audits and maxi-audits.** On or before June 30, 1980, based upon analysis of the building energy reports, the commissioner shall indicate to the governing body of each city and county those buildings upon which a mini-audit, a maxi-audit, or both, shall be performed. The audit results shall be recorded on a form furnished by the commissioner, and filed with the commissioner by December 31, 1982.

Subd. 3. **Appeal from decision of commissioner.** The governing body of any city or county may appeal the decision of the commissioner pursuant to subdivision 2 by submitting in writing to the commissioner the reasons for the appeal. No appeal may be considered by the commissioner if received later than three months after notification to the city or county that a mini-audit or maxi-audit shall be performed. The commissioner shall review all appeals and respond to the governing body within one month of receipt of the appeal indicating whether the appeal is granted in full, granted in part, or denied.

Subd. 4. **Certification of auditors.** The commissioner may certify persons to perform mini-audits and maxi-audits, and to complete the building energy reports.

Subd. 5. **Acceptance of equivalent energy survey.** The commissioner may accept the results of an equivalent energy survey in place of the building energy report or audits required under this section.

History: 1981 c 356 s 150

116H.126 PUBLIC SCHOOL BUILDING ENERGY REPORTS AND AUDITS.

Subdivision 1. [Repealed, 1981 c 358 art 7 s 31]

Subd. 2. **Mini-audits and maxi-audits.** On or before July 1, 1980, based upon the analysis of the building energy reports which school districts were required by law to submit by December 31, 1979, the commissioner shall indicate to each school district those buildings upon which a mini-audit, maxi-audit, or both, shall be performed. The audit results shall be recorded on a form furnished by the commissioner and filed with the commissioner by December 31, 1982.

Subd. 3. **Appeal from decision of commissioner.** Any school district may appeal the decision of the commissioner pursuant to subdivision 2 by submitting in writing to the commissioner the reasons for the appeal. No appeal may be considered by the commissioner if received later than three months after notification to the school district that a mini-audit or maxi-audit shall be performed. The commissioner shall review all appeals and respond to the school district within one month of receipt of the appeal indicating whether the appeal is granted in full, granted in part, or denied.

Subd. 4. **Certification of auditors.** The commissioner may certify persons to perform mini-audits and maxi-audits.

Subd. 5. **Acceptance of equivalent energy surveys.** The commissioner may accept the results of an equivalent energy survey in place of the audits required under this section.

Subd. 6. **School districts intending to close public school buildings.** A school district intending to permanently close or otherwise discontinue use of any existing public school building by January 1, 1985, shall not be required to comply with this section as to those buildings, if a certification of intent to close the building is filed with the commissioner.

Subd. 7. [Repealed, 1981 c 358 art 7 s 31]

History: 1981 c 356 s 151; 1981 c 358 art 7 s 1-3

116H.127 SOLAR ENERGY SYSTEM STANDARDS OF PERFORMANCE.

The commissioner of administration in consultation with the commissioner shall adopt rules concerning quality and performance standards which are in reasonable conformance with the Interim Performance Criteria for Solar Heating and Combined Heating/Cooling Systems and Dwellings, National Bureau of

Standards, January 1, 1975; and the Interim Performance Criteria for Commercial Solar Heating and Combined Heating/Cooling Systems and Facilities, National Aeronautics and Space Administration, February 28, 1975, to insure that within the existing state of development, solar energy systems as defined in section 116H.02, subdivision 11, which are sold or installed within this state, are effective and represent a high standard of quality of material, workmanship, design, and performance. The commissioner of administration in consultation with the energy commissioner shall amend the rules as new technology and materials become available, or as standards are revised by the federal government.

Manufacturers or retailers of solar energy systems shall disclose to each bona fide potential purchaser of a system the extent to which the system meets or exceeds each quality standard.

History: 1981 c 356 s 152

116H.128 REVIEW OF ENERGY RESEARCH AND DEMONSTRATION PROJECTS.

The commissioner shall continuously identify, monitor, and evaluate in terms of potential direct benefit to, and possible implementation in Minnesota, research studies and demonstration projects of alternative energy systems and methodologies currently performed in Minnesota and other states and countries including:

- (a) Solar energy systems for heating and cooling;
- (b) Energy systems using wind, agricultural wastes, forestry products, peat, and other nonconventional energy resources;
- (c) Devices and technologies increasing the energy efficiency of energy consuming appliances, equipment, and systems;
- (d) Hydroelectric power; and
- (e) Other projects the commissioner deems appropriate and of direct benefit to Minnesota and other states of the upper midwest.

History: 1981 c 356 s 153

116H.129 ENERGY CONSERVATION STANDARDS FOR EXISTING RESIDENCES.

Subdivision 1. The commissioner of administration, in consultation with the commissioner and the appropriate standing committees of the legislature, shall adopt rules containing minimum energy efficiency standards for existing residences. The standards shall be economically feasible in that the resultant savings in energy procurement costs, based on current and projected average residential energy costs in Minnesota as certified by the commissioner in the state register, will exceed the cost of the energy conserving requirements amortized over the five-year period subsequent to the incurring of the cost. The costs computed under this section shall include reasonable inflation and interest factors. The rules shall require that energy conserving requirements shall be amortized over a ten year period.

Subd. 2. For the purposes of subdivisions 3 to 7, the following terms shall have the meanings given them.

- (a) "Residence" means any dwelling for habitation either seasonally, meaning all or a portion of the months of December through March, or permanently by one or more persons. A residence may be owned or rented and may be part of a multi-dwelling or multi-purpose building, but shall not include buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools and

MINNESOTA STATUTES 1981 SUPPLEMENT

other buildings used for educational purposes, or correctional institutions. A mobile home as defined in section 168.011, subdivision 8, shall be a residence for purposes of this section.

(b) "Time of sale" means the time when a written purchase agreement is executed by the buyer, or, in the absence of a purchase agreement, at the time of the execution of any document providing for the conveyance of a residence.

(c) "Energy disclosure report" means the written and signed evaluation by a person certified pursuant to subdivision 6 made on an approved form, representing to the actual buyer of the residence evaluated that the evaluator has used reasonable care and diligence. For purposes of subdivisions 5 and 7, a residential energy audit meeting the audit standards of 42 U.S.C. 8211 et seq. may be substituted for an energy disclosure report.

(d) "Applicable energy efficiency standards" means those standards established under subdivision 1 which are not shown to be economically infeasible for the building in question.

[For text of subd 3, see M.S.1980]

Subd. 4. Inspections. The commissioner shall conduct inspections on a random basis for compliance with the provisions of subdivision 3. The director may authorize a municipality, with its consent, to conduct the inspections within the municipality's jurisdiction. Any municipality which conducts an inspections program in conjunction with existing city inspection programs shall have authority under all subdivisions of section 116H.15 to enforce the provisions of subdivision 3; provided that 50 percent of the penalties to be paid to the state treasury for violation of subdivision 3 shall be paid to the municipality.

Subd. 5. Residential energy disclosure program. The commissioner of administration, in consultation with the commissioner and the appropriate standing committees of the legislature, shall adopt rules providing for residential energy disclosure requirements and shall approve forms for the purposes of this subdivision. The rules and forms shall provide only for the disclosure of structural characteristics, energy use characteristics relating to energy consumption and conservation, and the extent of compliance with standards adopted pursuant to subdivision 1. Nothing in the forms shall indicate or be deemed to indicate that the residence meets all state building code specifications.

Subd. 6. Building evaluators. The commissioner of administration shall certify evaluators in each county of the state who are qualified to determine the compliance of a residence with applicable energy disclosure requirements. The commissioner of administration shall, by rule pursuant to chapter 15, establish standards for the certification and performance of evaluators and set a fee for the certification of evaluators which is sufficient to cover the ongoing costs of the program once it is established. The commissioner of administration shall encourage the certification of existing groups of trained municipal personnel and individuals from public service organizations. Each certified evaluator shall, on request of the owner, inspect any residence and report the degree to which it complies with applicable energy disclosure requirements. The inspections shall be made within 30 days of the request.

Subd. 7. Disclosure report. Effective October 1, 1980, no owner or agent shall sell by conveyance or contract for conveyance a residence constructed before January, 1976, without providing to the buyer, prior to the time of sale, a copy of an energy disclosure report for the residence unless the buyer has been provided a copy of the form used in making an energy disclosure report and has declared in

MINNESOTA STATUTES 1981 SUPPLEMENT

writing that he waives his right to a report. A residential energy audit meeting the audit standards of 42 U.S.C. 8211 et seq. may be substituted for the energy disclosure report required by this subdivision; and provided that no utility with a geographic audit plan approved by the agency shall be required to deviate from that geographic plan in order to provide a residential energy audit. After January 1, 1982, only residential energy audits meeting the audit standards of 42 U.S.C. 8211 et seq. shall qualify as an energy disclosure report. No new evaluation shall be required for five years after the date of the evaluation, if a copy of the last evaluation has been delivered to the prospective buyer. The provisions of this subdivision shall not apply to the sale or conveyance of any residence to a public body or by a sheriff, constable, marshal or other public or court officer in the performance of his official duties as such, or to trustees in bankruptcy or any other person or persons acting under the direction or authority of any court, state or federal, in selling a residence, except as to a public sale ordered by a probate court, in which case this subdivision shall apply. The provisions of this subdivision are repealed effective June 30, 1990.

Subd. 8. The standards concerning heat loss, illumination, and climate control adopted pursuant to section 116H.12, subdivision 4, shall require that electrical service to individual dwelling units in buildings containing two or more units be separately metered, with individual metering readily accessible to the individual occupants. The standards authorized by this subdivision shall only apply to buildings constructed after the effective date of the amended standards. Buildings intended for occupancy primarily by persons who are 62 years of age or older or handicapped, or which contain a majority of units not equipped with complete kitchen facilities, shall be exempt from the provisions of this subdivision.

History: 1981 c 85 s 5; 1981 c 255 s 2,5; 1981 c 356 s 154-158

NOTE: Subdivision 1 was also amended by Laws 1981, Chapter 255, Section 1 to read as follows:

"Subdivision 1. Before January 1, 1982, the director shall adopt minimum energy efficiency standards for existing residences. The standards shall be appropriate for evaluation of the energy efficiency of each major type of residential housing including, but not limited to, one to four family dwellings, apartment buildings, mobile homes, condominium buildings, and type of ownership. The standards shall be economically feasible in that the resultant savings in energy procurement costs, based on current and projected average residential energy costs in Minnesota as certified by the director in the state register, will exceed the cost of the energy conserving requirements amortized over the ten-year period subsequent to the incurring of such cost. The costs computed under this section shall include reasonable inflation and interest factors."

NOTE: Subdivision 5 was also amended by Laws 1981, Chapter 255, Section 3 to read as follows:

"Subd. 5. **Residential energy disclosure program.** By January 1, 1982, the director shall adopt rules providing for residential energy disclosure requirements and shall approve forms for the purposes of this subdivision. The rules and forms shall provide only for the disclosure of structural characteristics and energy use characteristics relating to energy consumption and conservation. Nothing in the forms shall indicate or be deemed to indicate that the residence meets all state building code specifications. For purposes of subdivision 7, a residential energy audit meeting the audit standards of 42 U.S.C. 8211 et seq. and reported on appropriate forms may be substituted for the rules and forms promulgated pursuant to this subdivision."

NOTE: Subdivision 6 was also amended by Laws 1981, Chapter 255, Section 4 to read as follows:

"Subd. 6. **Building evaluators.** The director shall certify evaluators in each county of the state who are qualified to determine the compliance of a residence with applicable energy disclosure requirements. The director shall adopt standards for the certification and performance of evaluators and set a fee for the certification of evaluators which is sufficient to cover the ongoing costs of the program once it is established. The director shall encourage the certification of existing groups of trained municipal personnel and qualified individuals from community based organizations and public service organizations. Effective August 1, 1980, each certified evaluator shall, on request of the owner, inspect any residence and report the degree to which it complies with applicable energy disclosure requirements. The inspections shall be made within 30 days of the request. After July 1, 1981, evaluators for the home energy disclosure program shall be certified only if they also meet all requirements for conducting residential energy audits pursuant to 42 U.S.C. 8211 et seq. Any person certified as a building evaluator prior to July 1, 1981 shall, by January 1, 1982, meet the upgraded certification standards in effect after July 1, 1981. The director shall enter into an agreement with the department of education for the provision of evaluator training through the area vocational technical institutes. The director may contract with the area vocational technical institutes to reduce the training costs to the students. The director may eliminate the examination fee for persons seeking upgraded certificates. The director may also establish requirements for continuing education, periodic recertification, and revocation of certification for evaluators."

116H.13 CERTIFICATE OF NEED.

Subdivision 1. The commissioner shall, pursuant to chapter 15 and sections 116H.01 to 116H.15, adopt assessment of need criteria to be used in the determination of need for large energy facilities pursuant to this section.

Subd. 2. No large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the commissioner pursuant to sections 116H.01 to 116H.15 and consistent with the criteria for assessment of need.

Subd. 3. No proposed large energy facility shall be certified for construction unless the applicant has justified its need. In assessing need, the commissioner shall evaluate:

(1) The accuracy of the long range energy demand forecasts on which the necessity for the facility is based;

(2) The effect of existing or possible energy conservation programs under sections 116H.01 to 116H.15 or other federal or state legislation on long term energy demand;

(3) The relationship of the proposed facility to overall state energy needs, as described in the most recent state energy policy and conservation report prepared pursuant to section 116H.11;

(4) Promotional activities which may have given rise to the demand for this facility;

(5) Socially beneficial uses of the output of this facility, including its uses to protect or enhance environmental quality;

(6) The effects of the facility in inducing future development;

(7) Possible alternatives for satisfying the energy demand including but not limited to potential for increased efficiency of existing energy generation facilities;

(8) The policies, rules and regulations of other state and federal agencies and local governments; and

(9) Any feasible combination of energy conservation improvements, required by the public utilities commission pursuant to section 216B.241, that can (a) replace part or all of the energy to be provided by the proposed facility, and (b) compete with it economically.

Subd. 4. Any person proposing to construct a large energy facility shall apply for a certificate of need prior to construction of the facility. The application shall be on forms and in a manner established by the commissioner. In reviewing each application the commissioner shall hold at least one public hearing pursuant to chapter 15. The public hearing shall be held at a location and hour reasonably calculated to be convenient for the public. An objective of the public hearing shall be to obtain public opinion on the necessity of granting a certificate of need. The commissioner shall designate a department employee whose duty shall be to facilitate citizen participation in the hearing process.

Subd. 5. Within six months of the submission of an application, the commissioner shall approve or deny a certificate of need for the facility. Approval or denial of the certificate shall be accompanied by a statement of the reasons for the decision. Issuance of the certificate may be made contingent upon modifications required by the commissioner.

Subd. 6. Any application for a certificate of need shall be accompanied by the fee required pursuant to this subdivision. The maximum fee shall be \$50,000, except for an application for an electric power generating plant as defined in

section 116H.02, subdivision 5, clause (a) or a high voltage transmission line as defined in section 116H.02, subdivision 5, clause (b), for which the maximum fee shall be \$100,000. The commissioner may require an additional fee to recover the costs of any rehearing. The fee for a rehearing shall not be greater than the actual cost of the rehearing or the maximum fee specified above, whichever is less. The commissioner shall establish by rule pursuant to chapter 15 and sections 116H.01 to 116H.15, a schedule of fees based on the output or capacity of the facility and the difficulty of assessment of need. Money collected in this manner shall be credited to the general fund of the state treasury.

Subd. 7. Other state agencies authorized to issue permits for siting, construction or operation of large energy facilities, and those state agencies authorized to participate in matters before the Minnesota public utilities commission involving utility rates and adequacy of utility services, shall present their position regarding need and participate in the public hearing process prior to the issuance or denial of a certificate of need. Issuance or denial of certificates of need shall be the sole and exclusive prerogative of the commissioner and said determinations and certificates shall be binding upon other state departments and agencies, regional, county and local governments and special purpose government districts except as provided in sections 116C.01 to 116C.08 and 116D.04, subdivision 9.

Subd. 8. This section shall not apply in any case where the commissioner shall determine after being advised by the attorney general that its application has been preempted by federal law.

History: 1981 c 356 s 159

116H.14 SUBPOENA POWER.

The commissioner shall have the power, for the purposes of sections 116H.01 to 116H.15, to issue subpoenas for production of books, records, correspondence and other information and to require attendance of witnesses. The subpoenas may be served anywhere in the state by any person authorized to serve processes of courts of record. If a person does not comply with a subpoena, the commissioner may apply to the district court of Ramsey county and the court shall compel obedience to the subpoena by a proper order. A person failing to obey the order is punishable by the court as for contempt.

History: 1981 c 356 s 160

116H.15 ENFORCEMENT, PENALTIES.

[For text of subd 1, see M.S.1980]

Subd. 2. The provisions of sections 116H.01 to 116H.15, 325F.20, and 325F.21, or any rules or regulations promulgated hereunder may be enforced by injunction, action to compel performance or other appropriate action in the district court of the county wherein the violation takes place. The attorney general shall bring any action under this subdivision upon the request of the commissioner, and the existence of an adequate remedy at law shall not be a defense to an action brought under this subdivision.

[For text of subd 3, see M.S.1980]

History: 1981 c 356 s 161

116H.17 ENERGY AUDITS.

The commissioner, in cooperation with the director of consumer services, shall develop the state plan for the program of energy audits of residential and commercial buildings required by 42 United States Code, Section 8211 et seq. The consumer services division and the attorney general are authorized to release information on consumer complaints about the operation of the program to the commissioner.

History: 1981 c 356 s 162

116H.18 ENERGY EFFICIENT BUILDING EDUCATION.

The commissioner shall develop a program to provide information and training to contractors, engineers and architects on techniques and standards for the design and construction of buildings which maximize energy efficiency. The program may include the production of printed materials and the development of training courses.

History: 1981 c 356 s 163

116H.19 MINNESOTA BIOMASS CENTER.

Subdivision 1. The commissioner, in consultation with the commissioner of agriculture, may organize a Minnesota biomass center.

The center shall be the focus of biomass energy activities for the state. To the maximum extent possible, the center shall coordinate its activities and the use of its staff and facilities with those of other entities involved in biomass energy projects.

[For text of subd 2, see M.S.1980]

History: 1981 c 85 s 6; 1981 c 356 s 164

116H.23 PRIORITIES FOR FUNDING.

All applications for funding shall be made to the commissioner. Applications shall be accompanied by a report on the energy using characteristics of the building and any other information the commissioner may reasonably require. A school or local government may apply to the commissioner to receive reimbursement for up to the reasonable costs of mini-audits or maxi-audits performed pursuant to section 116H.124 or 116H.126. In the event that the applicant receives federal money pursuant to the National Energy Conservation Policy Act, P.L. 95-619 that is intended to be used to pay part or all of the costs of a mini-audit or maxi-audit, the applicant shall receive state money, which, when combined with federal money received, equals the reasonable costs of the mini-audit or maxi-audit.

History: 1981 c 356 s 165

116H.31 DISTRICT HEATING LOANS.

Subdivision 1. **Policies.** Developing and improving efficient and economical district heating systems is a public purpose for state financing and a proper function of state government. Climate and geography make a reliable, economic supply of energy essential for industrial, commercial, and residential heating. Imported supplies are increasingly costly, unreliable, and environmentally disadvantageous. District heating systems employing cogeneration techniques and innovative technology offer an important means of increasing the efficiency of Minnesota's energy systems and reducing the state's reliance on imported energy

supplies. The combination of the large initial capital cost and investors' lack of familiarity with district heating has made the private market reluctant to provide the necessary capital for district heating projects. As a result, public leadership, cooperation, and aid are needed to demonstrate the feasibility of district heating systems by establishing economically viable municipal district heating systems as demonstration projects. Municipal district heating systems may be financed by loans from the state and from other sources available to municipalities.

Subd. 2. **Definitions.** In this section:

(a) "Commissioner" means the commissioner of finance.

(b) "Construction costs" means all costs associated with the construction, modification or expansion of a district heating system except for preliminary planning costs and detailed design costs. Construction costs include the cost of debt service from the time a construction loan is made until five years after the beginning of the operation of the district heating system constructed or the part of the system being modified or expanded.

(c) "Director" means the director of the Minnesota energy agency.

(d) "District heating" means the use of a central energy conversion facility to produce hot water or steam for distribution to homes or businesses. District heating facilities may also produce electricity in addition to hot water or steam.

(e) "Municipality" means any county, city, town, municipal power agency, or public utility, as defined in section 452.01, subdivision 3, owned and operated by a city, however organized or nonprofit corporation organized pursuant to the provisions of chapter 317 whose membership is limited to the mayor and governing body of the city in which the district heating system is located.

Subd. 3. **Eligibility.** The commissioner of finance, upon request of the governor, may make loans to municipalities for the acquisition, construction, expansion, or modification of district heating systems. A loan shall be made only to a municipality that has demonstrated that:

(a) The municipality has the financial capability to sponsor the project;

(b) The project is technologically feasible;

(c) The district heating project will become a cogeneration facility or the project will utilize hot water or, if the project involves an existing district steam heating system, the project will become integrated with a hot water district heating system, or the project will allow the use of nonpetroleum fuels or will construct an efficient heat transmission system; and

(d) The municipality has made adequate provision to assure proper and efficient operation and maintenance of the project after construction is completed.

Subd. 4. **Priorities.** The director shall give higher priority to a project that does more to achieve the following goals:

(a) The district heating conversion facility employs cogeneration techniques;

(b) The facility uses renewable or nonpetroleum sources of energy;

(c) The district heating facility will save petroleum or natural gas;

(d) The operation of the district heating facility will not have an adverse impact on the environment;

(e) The district heating facility may readily be expanded to serve additional customers or to supply additional amounts of energy, and market demand for the energy exists;

(f) The project has obtained additional financing from the federal government, private sources, or other sources of capital; and

MINNESOTA STATUTES 1981 SUPPLEMENT

(g) Other goals the director finds desirable for district heating systems.

Subd. 5. **Application.** Application for a loan to be made pursuant to subdivision 6 shall be made by a municipality to the director on a form prescribed by the director by rule. The director shall review each application and determine:

- (a) Whether or not the project is eligible for a loan;
- (b) The priority of the project when ranked with all other eligible projects for which a loan application has been submitted;
- (c) The total estimated cost of the project;
- (d) The amount of the loan for which the project is eligible;
- (e) The terms upon which the loan would be made; and
- (f) The means by which the municipality proposes to finance the project, including:
 - (1) A loan authorized by state law; or
 - (2) A grant of money appropriated by state law; or
 - (3) A grant to the municipality by an agency of the federal government within the amount of money then appropriated to that agency and allocated by it to projects within the state; or
 - (4) The appropriation of proceeds of bonds or other money of the municipality to an account for the construction of the project; or
 - (5) User charges, franchise fees, special assessments or taxes; or
 - (6) Any or all of the means referred to in clauses (1) to (5).

Subd. 6. **Loans.** Upon the recommendation of the governor pursuant to subdivision 8, the commissioner shall make loans to municipalities on the following terms:

(a) In the case of loans for design costs, the maximum amount of the loan shall be limited by the provisions of this clause. For cities of the first class, the amount of the loan shall not exceed 40 percent of the design costs. For cities of the second, third and fourth class, the amount of the loan shall not exceed 90 percent of the design costs;

(b) In the case for loans for construction costs, a municipality must demonstrate that all design activities have been completed; that the project is economically and technologically feasible; that the district heating system will be constructed, and that it has made adequate provisions to assure proper and efficient operation and maintenance of the project. For cities of the first class, the amount of the loan shall be up to 50 percent of the construction costs. For cities of the second class, the amount of the loan shall be up to 80 percent of the construction costs. For cities of the third or fourth class, the amount of the loan shall be up to 90 percent of the construction costs.

(c) A loan made pursuant to this section is repayable over a period of 20 years, with interest payments beginning the first year. Interest shall accrue from the date of the loan at a rate of interest assigned at the date of loan commitment. Principal payments shall begin in the sixth year after the receipt of the loan on a 25 year level payment schedule with the balance of the principal to be retired with the payment due 20 years after receipt of the loan.

Subd. 7. **Modern steam systems.** (a) A municipality which has operating within its boundaries a modern steam district heating system owned by a district heating utility may apply for a loan or grant under this section even though the district heating project for which the loan or grant application is made may be

planned, constructed, or owned by a district heating utility. The loan or grant application shall be treated in the same manner as loan or grant applications for district heating projects where the projects are to be planned, constructed, or owned by a municipality.

All or a portion of the proceeds of a loan made to a municipality described in this subdivision may be used to make loans to a district heating utility to provide financial assistance for the planning, modification, expansion or construction of a district heating project. Prior to making the loan to the district heating utility, the municipality shall:

(1) Adopt a district heating plan which identifies the areas of the city to be served by district heating; a time schedule indicating when service would be available in different areas of the city and the type of service to be offered; and

(2) Enter into a written agreement with the district heating utility which includes a requirement that the district heating utility restrict expansion of its existing steam system within its current geographic boundaries as determined by the municipality and develop a hot water system on a specific time schedule.

(b) The powers, authority and obligations granted to a municipality under this subdivision are supplemental to the powers, authority and obligations granted all municipalities under this section.

(c) As used in this subdivision, "modern steam district heating system" means a steam district heating system with condensate return built after 1970 and before May 30, 1981. "District heating utility" means any person, corporation, or other legal entity which owns or operates or plans to own or operate a district heating system. "District heating project" means a new district heating system, or the expansion or modification of the existing modern steam district heating system.

Subd. 8. Loan approval. The director shall prepare and submit to the legislative advisory commission a list of district heating loan requests. The list shall contain the supporting information required by subdivisions 3, 4, 5, 6, and 7. The recommendation of the legislative advisory commission shall be transmitted to the governor. The governor shall approve or disapprove, or return for further consideration, each project recommended for approval by the legislative advisory commission. Loans may be disbursed only upon approval by the governor.

Subd. 9. Payment; obligation. The commissioner shall not pay money to a municipality pursuant to an approved loan until he has determined that:

(a) Financing of the project as proposed by the municipality is assured by an irrevocable undertaking, by resolution of the governing body of the municipality, to use all money made available by the financing plan exclusively for the eligible costs of the project, and to pay any additional amount by which the cost of the project exceeds the estimate by the appropriation to the construction account of additional municipal money or the proceeds of additional bonds to be issued by the municipality; and that

(b) The governing body of the municipality has adopted a resolution obligating the municipality to repay the loan according to the terms in the loan. The obligation may be payable from user charges, franchise fees, special assessments or other money available to the municipality. The resolution shall obligate the municipality to annually impose and collect user charges, franchise fees, special assessments, or to use any other money available to it from any other specified source, in amounts and at times that if collected in full will annually produce at least five percent in excess of the amount needed for all annual costs of the system, including annual repayment on state loans. A municipality may also pledge to

MINNESOTA STATUTES 1981 SUPPLEMENT

levy an ad valorem tax to guarantee the payments under the loan agreement. For the purpose of repaying the loan, the municipality by resolution of its governing body may fix the rates and charges for district heating system service and products, may enter into contracts for the payment by others of costs of construction, maintenance, and use of the project in accordance with section 444.075 and may pledge the revenues derived therefrom. The commissioner shall condition a loan upon the establishment of rates and charges or the execution of contracts sufficient to produce annually the revenues pledged for repayment of all annual costs of the system, including annual repayment of the state loan.

Subd. 10. **Receipts.** All principal and interest payments received by the commissioner in repayment of the loans authorized by this section shall be deposited in the state treasury and credited to the state bond fund and are appropriated to the commissioner for the purposes of that account.

Subd. 11. **Rules.** The director shall adopt rules necessary to carry out this section. The director shall adopt temporary rules pursuant to section 15.0412, subdivision 5, meeting the requirements of this section. The rules shall contain as a minimum:

- (a) Procedures for application by municipalities; and
- (b) Criteria for reviewing grant and loan applications.

History: 1981 c 334 s 1