

Economic Development and Planning

CHAPTER 116J

DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

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GENERAL

116J.01 DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT.

Subdivision 1. **Appointment.** The department of trade and economic development is supervised and controlled by the commissioner of trade and economic development, who is appointed by the governor and serves under section 15.06.

Subd. 2. **Confidential secretary.** The commissioner may appoint a confidential secretary in the unclassified service.

Subd. 3. [Repealed, 1993 c 163 art 1 s 35]

Subd. 4. **Appointment of director of the office of tourism.** The director of the office of tourism shall be appointed by the governor. The director is under the supervision of the commissioner and serves in the unclassified service.

Subd. 5. **Departmental organization.** (a) The commissioner shall organize the department as provided in section 15.06.

(b) The commissioner may establish divisions and offices within the department. The commissioner may employ three deputy commissioners in the unclassified service. One deputy must direct the Minnesota trade office and must be experienced and knowledgeable in matters of international trade.

(c) The commissioner shall:

(1) employ assistants and other officers, employees, and agents that the commissioner considers necessary to discharge the functions of the commissioner's office;

(2) define the duties of the officers, employees, and agents, and delegate to them any of the commissioner's powers, duties, and responsibilities, subject to the commissioner's control and under conditions prescribed by the commissioner.

History: 1981 c 356 s 64; 1983 c 289 s 40-42; 1984 c 558 art 4 s 3; 1987 c 312 art 1 s 14; 1989 c 335 art 1 s 136,137; 1991 c 261 s 1; 1993 c 163 art 1 s 12; 1996 c 369 s 2,3

116J.011 MISSION.

The mission of the department of trade and economic development is to employ all of the available state government resources to facilitate an economic environment that produces net new job growth in excess of the national average and to increase nonresident and resident tourism revenues. It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and

(7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

History: 1993 c 163 art 1 s 13; 1995 c 248 art 11 s 8

116J.02 [Repealed, 1983 c 289 s 119]

116J.03 DEFINITIONS.

Subdivision 1. **Scope.** As used in this chapter, the terms defined in this section have the meaning given them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of trade and economic development.

Subd. 3. **Department.** "Department" means the department of trade and economic development.

History: 1981 c 356 s 66,248; 1983 c 289 s 43; 1987 c 312 art 1 s 15

116J.035 DUTIES AND POWERS OF COMMISSIONER; RULES.

Subdivision 1. **Powers.** The commissioner may:

(a) apply for, receive, and expend money from municipal, county, regional, and other government agencies;

(b) apply for, accept, and disburse grants and other aids from other public or private sources;

(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; and

(f) enter into contracts necessary for the performance of the commissioner's duties with federal, state, regional, metropolitan, local, and other agencies or units of government; educational institutions, including the University of Minnesota. Contracts made pursuant to this section shall not be subject to the competitive bidding requirements of chapter 16B.

The commissioner may apply for, receive, and expend money made available from federal or other sources for the purpose of carrying out the duties and responsibilities of the commissioner pursuant to this chapter.

All moneys received by the commissioner pursuant to this chapter shall be deposited in the state treasury and are appropriated to the commissioner for the purpose for which the moneys have been received. The money shall not cancel and shall be available until expended.

Subd. 2. **Rules.** The commissioner may adopt rules pursuant to chapter 14 as necessary to carry out the commissioner's duties and responsibilities pursuant to this chapter.

Subd. 3. [Repealed, 1987 c 403 art 2 s 164]

History: 1984 c 604 s 2; 1Sp1985 c 14 art 9 s 4; 1986 c 444; 1995 c 186 s 34

116J.04 [Repealed, 1988 c 629 s 64]

116J.05 [Renumbered 216C.05]

116J.06 Subdivision 1. [Renumbered 216C.06 subdivision 1]

Subd. 2. [Renumbered 216C.06 subd 2]

Subd. 3. [Renumbered 216B.2421 subd 2]

Subd. 4. [Renumbered 216C.06 subd 3]

Subd. 5. [Renumbered 216C.06 subd 4]

Subd. 6. [Renumbered 216C.06 subd 5]

Subd. 7. [Renumbered 216C.06 subd 6]

Subd. 8. [Renumbered 216C.06 subd 7]

Subd. 9. [Renumbered 216C.06 subd 8]

Subd. 10. [Renumbered 216C.06 subd 9]

Subd. 11. [Renumbered 216C.06 subd 10]

Subd. 12. [Renumbered 216C.06 subd 11]

Subd. 13. [Renumbered 216C.06 subd 12]

116J.07 [Renumbered 216C.07]

116J.08 [Renumbered 216C.08]

116J.09 [Renumbered 216C.09]

116J.10 [Renumbered 216C.10]

116J.11 [Renumbered 216C.11]

116J.12 [Renumbered 216C.12]

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- 116J.13** [Renumbered 216C.13]
- 116J.14** [Renumbered 216C.14]
- 116J.15** [Renumbered 216C.15]
- 116J.16** [Renumbered 216C.16]
- 116J.17** [Renumbered 216C.17]
- 116J.18** [Renumbered 216C.18]
- 116J.19** [Renumbered 216C.19]
- 116J.20** [Renumbered 216C.20]
- 116J.21** [Renumbered 216C.21]
- 116J.22** [Renumbered 216C.22]
- 116J.23** [Renumbered 216C.23]
- 116J.24** [Renumbered 216C.24]
- 116J.25** [Renumbered 216C.25]
- 116J.26** [Renumbered 216C.26]
- 116J.261** [Renumbered 216C.261]
- 116J.262** [Renumbered 216C.262]
- 116J.27** Subdivision 1. [Renumbered 216C.27 subdivision 1]
 - Subd. 2. [Renumbered 216C.27 subd 2]
 - Subd. 3. [Renumbered 216C.27 subd 3]
 - Subd. 4. [Renumbered 216C.27 subd 4]
 - Subd. 4a. [Renumbered 216C.27 subd 5]
 - Subd. 4b. [Renumbered 216C.27 subd 6]
 - Subd. 5. [Repealed, 1983 c 301 s 235]
 - Subd. 6. [Renumbered 216C.27 subd 7]
 - Subd. 7. [Repealed, 1983 c 301 s 235]
 - Subd. 8. [Renumbered 216C.27 subd 8]
- 116J.28** [Renumbered 216B.243]
- 116J.29** [Renumbered 216C.29]
- 116J.30** [Renumbered 216C.30]
- 116J.31** [Renumbered 216C.31]
- 116J.315** [Renumbered 216C.315]
- 116J.32** [Renumbered 216C.32]
- 116J.33** [Renumbered 216C.33]
- 116J.34** [Renumbered 216C.34]
- 116J.35** [Renumbered 216C.35]
- 116J.36** [Renumbered 216C.36]
- 116J.37** [Renumbered 216C.37]
- 116J.373** [Renumbered 216C.373]
- 116J.38** [Renumbered 216C.38]
- 116J.381** [Renumbered 216C.381]

116J.40 [Renumbered 116K.01]**116J.401 POWERS AND DUTIES.**

The commissioner of trade and economic development shall:

(1) provide regional development commissions, the metropolitan council, and units of local government with information, technical assistance, training, and advice on using federal and state programs;

(2) receive and administer the small cities community development block grant program authorized by Congress under the Housing and Community Development Act of 1974, as amended;

(3) receive and administer the section 107 technical assistance program grants authorized by Congress under the Housing and Community Development Act of 1974, as amended;

(4) receive and administer grants for the Minnesota jail resource center authorized by Congress under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended;

(5) receive and administer other state and federal grants and grant programs for planning, community affairs, community development purposes, and other state and federal programs assigned to the department by law or by the governor in accordance with section 4.07; and

(6) receive applications for state and federal grants and grant programs for planning, community affairs, and community development purposes, and other state and federal programs assigned to the department by law or by the governor in accordance with section 4.07.

History: 1984 c 558 art 4 s 4; 1987 c 312 art 1 s 26 subd 2; 1993 c 172 s 78

116J.402 COOPERATIVE CONTRACTS.

The commissioner of trade and economic development may apply for, receive, and spend money for community development from municipal, county, regional, and other planning agencies. The commissioner may also apply for, accept, and disburse grants and other aids for community development and related planning from the federal government and other sources. The commissioner may enter into contracts with agencies of the federal government, local governmental units, regional development commissions, and the metropolitan council, other state agencies, the University of Minnesota, and other educational institutions, and private persons as necessary to perform the commissioner's duties. Contracts made according to this section, except those with private persons, are not subject to the provisions of chapter 16B concerning competitive bidding.

The commissioner may apply for, receive, and spend money made available from federal sources or other sources for the purposes of carrying out the duties and responsibilities of the commissioner.

Money received by the commissioner under this section must be deposited in the state treasury and is appropriated to the commissioner for the purposes for which the money has been received. The money does not cancel and is available until spent.

History: 1984 c 558 art 4 s 5; 1986 c 444; 1987 c 312 art 1 s 26 subd 2; 1993 c 163 art 1 s 14; 1995 c 186 s 35

116J.403 RULES.

No money made available to the commissioner for the small cities community development block grant program shall be spent for community development and related planning programs until the commissioner adopts rules prescribing standards and procedures to govern the expenditure. The rules must be adopted under the administrative procedure act in chapter 14 and must conform with all terms and conditions imposed on the commissioner when the money is made available.

History: 1984 c 558 art 4 s 6; 1984 c 640 s 32; 1986 c 444; 1996 c 305 art 2 s 26

116J.404 [Repealed, 1987 c 312 art 1 s 25]

116J.405 [Repealed, 1987 c 312 art 1 s 25]

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116J.406 [Repealed, 1993 c 172 s 93]

116J.41 [Repealed, 1983 c 289 s 119]

RURAL DEVELOPMENT

116J.411 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 116J.411 to 116J.415, the following terms have the meaning given them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of trade and economic development.

Subd. 3. **Local governmental unit.** "Local governmental unit" means a home rule charter or statutory city when the project is located in an incorporated area, a county when the project is located in an unincorporated area, or an American Indian tribal council when the project is located within a federally recognized American Indian reservation or community.

Subd. 4. **Low income.** "Low income" means equal to or below the nonmetropolitan median household income.

Subd. 5. **Principally.** "Principally" means more than half.

Subd. 6. **Regional organization.** "Regional organization" or "organization" means an organization selected under section 116J.415, subdivision 3.

Subd. 7. **Rural.** "Rural" means the area of Minnesota located outside of the metropolitan area as defined in section 473.121, subdivision 2.

History: 1987 c 312 art 1 s 26 subd 2; 1987 c 386 art 1 s 3; 1996 c 369 s 12

116J.412 ACCOUNT ALLOCATION.

The commissioner shall allocate \$6,000,000 from the rural rehabilitation account to be used for the challenge grant program.

History: 1987 c 312 art 1 s 26 subd 2; 1987 c 386 art 1 s 4; 1989 c 335 art 4 s 52; 1990 c 375 s 3; 1991 c 322 s 19; 1994 c 483 s 1; 1995 c 232 s 6; 1996 c 369 s 12

116J.413 POWERS RELATING TO RURAL DEVELOPMENT.

Subdivision 1. **Contracts.** The commissioner may enter into contracts and grant agreements necessary to carry out the commissioner's responsibilities.

Subd. 2. **Gifts; grants.** The commissioner may apply for, accept, and disburse gifts, grants, loans, or other property from the United States, the state, private foundations, or any other source; may enter into an agreement required for the gifts, grants, or loans; and may hold, use, and dispose of its assets in accordance with the terms of the gift, grant, loan, or agreement. Money received by the commissioner under this subdivision must be deposited in a separate account in the state treasury and invested by the state board of investment. The amount deposited, including investment earnings, is appropriated to the commissioner to carry out duties under this section.

History: 1987 c 386 art 1 s 5; 1995 c 224 s 63; 1996 c 369 s 10,12

116J.414 RURAL INVESTMENT GUIDE.

The commissioner shall adopt a comprehensive state rural investment guide. The guide must recognize the community and economic needs, the food and agricultural policy, and the resources of rural Minnesota. The commissioner shall submit the guide to the appropriate committees of the legislature. The guide shall be prepared every fourth year.

History: 1987 c 386 art 1 s 8; 1995 c 232 s 7; 1996 c 369 s 11,12

116J.415 CHALLENGE GRANT PROGRAM.

Subdivision 1. **Organization.** The commissioner shall make challenge grants to regional organizations to encourage private investment, to provide jobs for low-income persons, and to promote economic development in the rural areas of the state.

Subd. 2. Funding regions. The commissioner shall divide the state outside of the metropolitan area as defined in section 473.121, subdivision 2, into six regions. A region's boundaries must be coterminous with the boundaries of one or more of the development regions established under section 462.385. The commissioner shall designate up to \$1,000,000 for each region, to be awarded over a period of three years. The money designated to each region must be used for revolving loans authorized in this section.

Subd. 3. Selection of organizations to receive challenge grants. The commissioner shall select at least one organization for each region to receive the challenge grants and shall enter into grant agreements with the organizations. An organization must be a nonprofit corporation and must demonstrate that:

(1) its board of directors includes citizens experienced in rural development, representatives of the regional development commissions, and representatives from all geographic areas in the region;

(2) it has the technical skills to analyze projects;

(3) it is familiar with other available public and private funding sources and economic development programs;

(4) it can initiate and implement economic development projects; and

(5) it can establish and administer a revolving loan account.

Subd. 4. Revolving loan fund. A regional organization shall establish a commissioner certified revolving loan fund to provide loans to new and expanding businesses in rural Minnesota to promote economic development. Eligible business enterprises include technologically innovative industries, value-added manufacturing, agriprocessing, information industries, and agricultural marketing. Loan applications given preliminary approval by the organization must be forwarded to the commissioner for final approval. The amount of state money allocated for each loan is appropriated from the rural rehabilitation account established in section 116J.955 to the organization's regional revolving loan fund when the commissioner gives final approval for each loan. The amount of money appropriated from the rural rehabilitation account may not exceed 50 percent for each loan. The amount of nonpublic money must equal at least 50 percent for each loan.

Subd. 5. Loan criteria. The following criteria apply to loans made under the challenge grant program:

(1) loans must be made to businesses that are not likely to undertake a project for which loans are sought without assistance from the challenge grant program;

(2) a loan must be used for a project designed principally to benefit low-income persons through the creation of job or business opportunities for them;

(3) the minimum loan is \$5,000 and the maximum is \$100,000;

(4) a loan may not exceed 50 percent of the total cost of an individual project;

(5) a loan may not be used for a retail development project; and

(6) a business applying for a loan, except a microenterprise loan under subdivision 6, must be sponsored by a resolution of the governing body of the local governmental unit within whose jurisdiction the project is located.

Subd. 6. Microenterprise loans. Challenge grants may be used to make microenterprise loans to small, beginning businesses, including a sole proprietorship. Microenterprise loans are subject to this section except that:

(1) they may also be made to qualified retail businesses;

(2) they may be for a minimum of \$1,000 and a maximum of \$10,000; and

(3) they do not require a match.

Subd. 7. Revolving fund administration. (a) The commissioner shall establish a minimum interest rate for loans to ensure that necessary management costs are covered.

(b) Loan repayment amounts equal to one-half of the principal and interest must be deposited in the rural rehabilitation revolving fund for challenge grants to the region from which the money was originally designated. The remaining amount of the loan repayment may be deposited in the regional revolving loan fund for further distribution by the regional organization, consistent with the loan criteria specified in subdivisions 4 and 5.

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(c) The first \$1,000,000 of revolving loans for each region must be matched by nonstate sources. The matching requirement does not apply to loans made under paragraph (b).

(d) Administrative expenses of each organization may be paid out of the interest earned on loans and on interest earned on money invested by the state board of investment under section 116J.413, subdivision 2.

Subd. 8. Rules. The commissioner shall adopt rules to implement the duties specified in this section.

Subd. 9. Local governmental unit loans. A local governmental unit may receive a loan under this section if the local governmental unit has established a local revolving loan fund and can provide at least an equal match to the loan received from a regional organization. For the purpose of providing the match to establish the local revolving loan fund, the local governmental unit may use any unencumbered money in the general fund of the unit. Revenues from tax increments derived from a district located within the boundaries of the local governmental unit may be used to fund a second local revolving loan fund only if (1) those revenues are loaned in a manner authorized in the district's tax increment financing plan to a business located within the tax increment district, and (2) the revenues are deposited in a loan fund that is separate from the loan fund in which general fund money is established. The local governmental unit may deposit up to \$50,000 of local public money in each of the local revolving funds that may be established under this subdivision. The maximum loan available to a local governmental unit under this section is \$50,000. The money loaned to a local governmental unit by a regional organization must be matched by the local revolving loan fund and used to provide loans to businesses to promote local economic development. One-half of the money loaned to a local governmental unit under this section by a regional organization must be repaid to the rural rehabilitation account. One-half of the money may be retained by the local governmental unit's revolving loan fund for further distribution by the local governmental unit.

Subd. 10. Regional cooperation. An organization that receives a challenge grant shall cooperate with other regional organizations, including regional development commissions, community development corporations, community action agencies, and the Minnesota small business development centers and satellites, in carrying out challenge grant program and technical assistance responsibilities.

Subd. 11. Reporting requirements. An organization that receives a challenge grant shall:

(1) submit an annual report to the commissioner by February 15 of each year that includes a description of projects supported by the challenge grant program, an account of loans made during the calendar year, the source and amount of money collected and distributed by the challenge grant program, the program's assets and liabilities, and an explanation of administrative expenses; and

(2) provide for an independent annual audit to be performed in accordance with generally accepted accounting practices and auditing standards and submit a copy of each annual audit report to the commissioner.

History: 1987 c 384 art 3 s 18; 1987 c 386 art 1 s 10; 1988 c 615 s 6; 1989 c 335 art 4 s 53,54,106; 1995 c 224 s 64-66; 1996 c 369 s 12

116J.42 Subdivision 1. [Renumbered 116K.04 subdivision 1]

Subd. 2. [Renumbered 116K.04 subd 2]

Subd. 3. [Repealed, 1983 c 289 s 119]

Subd. 4. [Renumbered 116K.04 subd 3]

Subd. 5. [Repealed, 1983 c 289 s 119]

Subd. 6. [Repealed, 1983 c 289 s 119]

Subd. 7. [Renumbered 116K.04 subd 4]

Subd. 8. [Renumbered 116K.04 subd 5]

Subd. 9. [Renumbered 116J.404]

116J.43 [Renumbered 116K.05]

116J.44 [Renumbered 116K.06]

116J.45 [Renumbered 116K.07]

116J.46 [Repealed, 1983 c 289 s 119]

116J.47 [Repealed, 1983 c 289 s 119]

116J.48 [Renumbered 116K.08]

116J.49 [Renumbered 116K.09]

116J.50 [Renumbered 116K.10]

116J.51 [Renumbered 116K.11]

116J.52 [Renumbered 116K.12]

116J.53 [Renumbered 116K.13]

116J.54 [Renumbered 116J.406]

116J.541 REPORT ON THE EFFECT OF TAX INCENTIVES UPON THE NUMBER OF JOBS.

On a biennial basis, the commissioner of trade and economic development shall analyze the effect of all business related tax reductions or waivers on the aggregate number of jobs created and wages paid in those new jobs. The commissioner of trade and economic development shall present the results of the analysis to the legislature.

History: 1995 c 264 art 5 s 2

116J.542 GOALS FOR NEW TAX EXPENDITURES.

Each newly enacted business related tax expenditure must include measurable goals for jobs and wages and require a biennial review conducted by the commissioner of trade and economic development for continuation based upon meeting those goals. The commissioner of trade and economic development shall report the results of the review to the legislature.

History: 1995 c 264 art 5 s 3

CONTAMINATION CLEANUP GRANTS

116J.551 CREATION OF ACCOUNT.

A contaminated site cleanup and development account is created in the general fund. Money in the account may be used, as appropriated by law, to make grants as provided in section 116J.554 and to pay for the commissioner's costs in reviewing applications and making grants.

History: 1993 c 375 art 13 s 1

116J.552 DEFINITIONS.

Subdivision 1. **Scope of application.** For purposes of sections 116J.551 to 116J.557, the following terms have the meanings given.

Subd. 2. **Cleanup costs.** "Cleanup costs" or "costs" means the costs of developing and implementing a response action plan, but does not include implementation costs incurred before the award of a grant unless the application for the grant was submitted within 180 days after the response action plan was approved by the commissioner of the pollution control agency.

Subd. 3. **Contaminant.** "Contaminant" means a hazardous substance or a pollutant or contaminant as those terms are defined in section 115B.02.

Subd. 4. **Development authority.** "Development authority" includes a statutory or home rule charter city, housing and redevelopment authority, economic development authority, and a port authority.

Subd. 5. **Metropolitan area.** "Metropolitan area" means the seven-county metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 6. **Municipality.** "Municipality" means the statutory or home rule charter city, town, or, in the case of unorganized territory, the county in which the site is located.

Subd. 7. **Project costs.** "Project costs" includes cleanup costs for the site and the cost of related site acquisition, demolition of existing improvements, and installation of public improvements necessary for the development authority to implement the response action plan.

Subd. 8. **Response action plan.** "Response action plan" means a response action plan approved by the commissioner of the pollution control agency, including a "development action response plan" that meets the requirements of section 469.174, subdivision 17; and a "voluntary response action plan" under section 115B.175, subdivision 3.

History: 1993 c 375 art 13 s 2; 1995 c 224 s 53; 1995 c 255 art 2 s 1

116J.553 GRANT APPLICATIONS.

Subdivision 1. **Application required.** To obtain a contamination cleanup development grant, the development authority shall apply to the commissioner. The governing body of the municipality must approve, by resolution, the application.

Subd. 2. **Required content.** The commissioner shall prescribe and provide the application form. The application must include at least the following information:

- (1) identification of the site;
- (2) an approved response action plan for the site, including the results of engineering and other tests showing the nature and extent of the release or threatened release of contaminants at the site;
- (3) a detailed estimate, along with necessary supporting evidence, of the total cleanup costs for the site;
- (4) an appraisal of the current market value of the property, separately taking into account the effect of the contaminants on the market value, prepared by a qualified independent appraiser using accepted appraisal methodology;
- (5) an assessment of the development potential or likely use of the site after completion of the response action plan, including any specific commitments from third parties to construct improvements on the site;
- (6) the manner in which the municipality will meet the local match requirement; and
- (7) any additional information or material that the commissioner prescribes.

History: 1993 c 375 art 13 s 3

116J.554 GRANTS.

Subdivision 1. **Authority.** The commissioner may make a grant to an applicant development authority to pay for up to 75 percent of the cleanup costs for a qualifying site, except the grant may not exceed 50 percent of the project costs. The determination of whether to make a grant for a qualifying site is within the sole discretion of the commissioner, subject to the process provided by this section, and available unencumbered money in the appropriation. The commissioner's decisions and application of the priorities under section 116J.555 are not subject to judicial review, except for abuse of discretion.

Subd. 1a. **Metropolitan livable communities.** The commissioner may not make a grant to a municipality in the metropolitan area unless it is participating in the local housing incentives program under section 473.254.

Subd. 2. **Qualifying sites.** A site qualifies for a grant under this section, if the following criteria are met:

- (1) the site is not scheduled for funding during the current or next fiscal year under the Comprehensive Environmental Response, Compensation, and Liability Act, United States Code, title 42, section 9601, et seq. or under the environmental response, and liability act under sections 115B.01 to 115B.24;
- (2) the appraised value of the site after adjusting for the effect on the value of the presence or possible presence of contaminants using accepted appraisal methodology (i) is less than 50 percent of the estimated cleanup costs for the site or (ii) is less than or equal to the estimated cleanup costs for the site and the cleanup costs equal or exceed \$3 per square foot for the site; and

(3) if the proposed cleanup is completed, it is expected that the site will be improved with buildings or other improvements and these improvements will provide a substantial increase in the property tax base within a reasonable period of time or the site will be used for an important publicly owned or tax-exempt facility.

History: 1993 c 375 art 13 s 4; 1995 c 255 art 2 s 3

116J.555 PRIORITIES.

Subdivision 1. **Priorities.** (a) The legislature expects that applications for grants will exceed the available appropriations and the agency will be able to provide grants to only some of the applicant development authorities.

(b) If applications for grants for qualified sites exceed the available appropriations, the agency shall make grants for sites that, in the commissioner's judgment, provide the highest return in public benefits for the public costs incurred and that meet all the requirements provided by law. In making this judgment, the commissioner shall consider the following factors:

(1) the recommendations or ranking of projects by the commissioner of the pollution control agency regarding the potential threat to public health and the environment that would be reduced or eliminated by completion of each of the response action plans;

(2) the potential increase in the property tax base of the local taxing jurisdictions, considered relative to the fiscal needs of the jurisdictions, that will result from developments that will occur because of completion of each of the response action plans;

(3) the social value to the community of the cleanup and redevelopment of the site, including the importance of development of the proposed public facilities on each of the sites;

(4) the probability that each site will be cleaned up without use of government money in the reasonably foreseeable future;

(5) the amount of cleanup costs for each site; and

(6) the amount of the commitment of municipal or other local resources to pay for the cleanup costs.

The factors are not listed in a rank order of priority; rather the commissioner may weigh each factor, depending upon the facts and circumstances, as the commissioner considers appropriate. The commissioner may consider other factors that affect the net return of public benefits for completion of the response action plan. The commissioner, notwithstanding the listing of priorities and the goal of maximizing the return of public benefits, shall make grants that distribute available money to sites both within and outside of the metropolitan area. The commissioner shall provide a written statement of the supporting reasons for each grant. Unless sufficient applications are not received for qualifying sites outside of the metropolitan area, at least 25 percent of the money provided as grants must be made for sites located outside of the metropolitan area.

Subd. 2. **Application cycles; reporting to LCWM.** (a) In making grants, the commissioner shall establish semiannual application deadlines in which grants will be authorized from all or part of the available appropriations of money in the account.

(b) After each semiannual cycle in which grants are awarded, the commissioner shall report to the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance the grants awarded and appropriate supporting information describing each grant made. This report must be made within 30 days after the grants are awarded.

(c) The commissioner shall annually report to the legislative commission on the status of the cleanup projects undertaken under grants made under the programs. The commissioner shall include in the annual report information on the cleanup and development activities undertaken for the grants made in that and previous fiscal years. The commissioner shall make this report no later than 120 days after the end of the fiscal year.

History: 1993 c 375 art 13 s 5; 1995 c 224 s 54; 1995 c 255 art 2 s 2; 1996 c 470 s

116J.556 LOCAL MATCH REQUIREMENT.

(a) In order to qualify for a grant under sections 116J.551 to 116J.557, the municipality must pay for at least one-half of the project costs as a local match. The municipality shall pay an amount of the project costs equal to at least 12 percent of the cleanup costs from the municipality's general fund, a property tax levy for that purpose, or other unrestricted money available to the municipality (excluding tax increments). These unrestricted moneys may be spent for project costs, other than cleanup costs, and qualify for the local match payment equal to 12 percent of cleanup costs. The rest of the local match may be paid with tax increments, regional, state, or federal money available for the redevelopment of brownfields or any other money available to the municipality.

(b) If the development authority establishes a tax increment financing district or hazardous substance subdistrict on the site to pay for part of the local match requirement, the district or subdistrict is not subject to the state aid reductions under section 273.1399. In order to qualify for the exemption from the state aid reductions, the municipality must elect, by resolution, on or before the request for certification is filed that all tax increments from the district or subdistrict will be used exclusively to pay (1) for project costs for the site and (2) administrative costs for the district or subdistrict. The district or subdistrict must be decertified when an amount of tax increments equal to no more than three times the costs of implementing the response action plan for the site and the administrative costs for the district or subdistrict have been received, after deducting the amount of the state grant.

History: 1993 c 375 art 13 s 6; 1995 c 255 art 2 s 4

116J.557 COST RECOVERY ACTIONS.

Subdivision 1. Cause of action. The attorney general or a development authority or municipality that incurs cleanup costs to implement an approved response action plan pursuant to sections 116J.551 to 116J.557, may bring an action under section 115B.04 or other law to recover the reasonable and necessary cleanup costs incurred by the development authority or municipality. The attorney general, development authority, or municipality may recover all cleanup costs incurred whether paid from the proceeds of a grant under sections 116J.551 to 116J.557 or funds of the development authority or municipality. Recoverable costs include administrative and legal costs related to the development and implementation of the response action plan but do not include any cost associated with development or redevelopment of property. A development authority or municipality must have the consent of the attorney general to bring or settle an action under this subdivision to recover cleanup costs paid from the proceeds of a grant.

Subd. 2. Procedures. The commissioner shall notify the attorney general when a grant is awarded under sections 116J.551 to 116J.557. Upon request of the attorney general the development authority shall prepare and submit a certification of the cleanup costs and shall cooperate in any cost recovery action brought by the attorney general under subdivision 1. Certification by the development authority of the cleanup costs incurred to develop and implement the approved response action plan is prima facie evidence that the costs are reasonable and necessary in any action brought under this section.

Subd. 3. Attorney general assistance and costs. (a) The attorney general may assist a development authority or municipality, if requested to do so, in bringing an action under subdivision 1 by providing legal and technical advice or other appropriate assistance. The attorney general shall not assess any fee to the development authority or municipality for the assistance but may recover the cost of the assistance as provided in paragraph (b).

(b) If the attorney general brings or assists in an action brought under subdivision 1, the reasonable litigation expenses or other costs of legal or technical assistance incurred by the attorney general must be deducted from any recovery and paid to the attorney general before proceeds of the recovery are otherwise distributed. The attorney general shall deposit any money so deducted in the general fund.

Subd. 4. Disposition of recovered amounts. Amounts recovered from responsible persons, after any deduction under subdivision 3, and all other amounts otherwise received by the municipality, the agency, or the attorney general for the site shall be used to reimburse the municipality and the account in proportion to their respective payments for response costs.

The amount of recovered costs apportioned to tax increments must be treated by the municipality and development authority as an excess increment under section 469.176, subdivision 2.

History: 1993 c 375 art 13 s 7; 1994 c 465 art 2 s 1

116J.558 EFFECT OF ISSUANCE OF GRANTS.

The issuance of a contamination cleanup grant under sections 116J.551 to 116J.557 has no effect on the responsibility or the liability of the state, under chapter 115B or any other law, in relation to the contamination at a site or sites for which the grant is issued. The issuance of a grant neither implies any state responsibility for the contamination nor imposes any obligation on the state to participate in the cleanup of the contamination or in the cleanup costs beyond the amount of the grant.

History: 1994 c 643 s 54

DEVELOPMENT

116J.58 POWERS AND DUTIES.

Subdivision 1. **Enumeration.** The commissioner shall:

- (1) investigate, study, and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of Minnesota business, industry, and commerce, within and outside the state;
- (2) locate markets for manufacturers and processors and aid merchants in locating and contacting markets;
- (3) investigate and study conditions affecting Minnesota business, industry, and commerce and collect and disseminate information, and engage in technical studies, scientific investigations, and statistical research and educational activities necessary or useful for the proper execution of the powers and duties of the commissioner in promoting and developing Minnesota business, industry, and commerce, both within and outside the state;
- (4) plan and develop an effective business information service both for the direct assistance of business and industry of the state and for the encouragement of business and industry outside the state to use economic facilities within the state;
- (5) compile, collect, and develop periodically, or otherwise make available, information relating to current business conditions;
- (6) conduct or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop new products and industrial processes;
- (7) study trends and developments in the industries of the state and analyze the reasons underlying the trends; study costs and other factors affecting successful operation of businesses within the state; and make recommendations regarding circumstances promoting or hampering business and industrial development;
- (8) serve as a clearing house for business and industrial problems of the state; and advise small business enterprises regarding improved methods of accounting and bookkeeping;
- (9) cooperate with interstate commissions engaged in formulating and promoting the adoption of interstate compacts and agreements helpful to business, industry, and commerce;
- (10) cooperate with other state departments, and with boards, commissions, and other state agencies, in the preparation and coordination of plans and policies for the development of the state and for the use and conservation of its resources insofar as the use, conservation, and development may be appropriately directed or influenced by a state agency;
- (11) assemble and coordinate information relative to the status, scope, cost, and employment possibilities and the availability of materials, equipment, and labor in connection with public works projects, state, county, and municipal; recommend limitations on the public works; gather current progress information with reference to public and private works projects of the state and its political subdivisions with reference to conditions of employ-

ment; inquire into and report to the governor, when requested by the governor, with respect to any program of public state improvements and the financing thereof; and request and obtain information from other state departments or agencies as may be needed properly to report thereon;

(12) study changes in population and current trends and prepare plans and suggest policies for the development and conservation of the resources of the state;

(13) confer and cooperate with the executive, legislative, or planning authorities of the United States and neighboring states and provinces and of the counties and municipalities of such neighboring states, for the purpose of bringing about a coordination between the development of such neighboring provinces, states, counties, and municipalities and the development of this state;

(14) generally, gather, compile, and make available statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, and other like subjects in this state, with authority to call upon other departments of the state for statistical data and results obtained by them and to arrange and compile that statistical information in a manner that seems wise;

(15) prepare an annual report to the legislature estimating and, to the extent possible, describing the number of Minnesota companies which have left the state or moved to surrounding states or other countries. The report should include an estimate of the number of jobs lost by these moves, an estimate of the total employment payroll, average hourly wage of those jobs lost and those created in the new location, and to the extent possible, the reasons for each company moving out of state, if known;

(16) publish documents and annually convene regional meetings to inform businesses, local government units, assistance providers, and other interested persons of changes in state and federal law related to economic development;

(17) annually convene conferences of providers of economic development related financial and technical assistance for the purposes of exchanging information on economic development assistance, coordinating economic development activities, and formulating economic development strategies;

(18) provide business with information on the economic benefits of energy conservation and on the availability of energy conservation assistance; and

(19) prepare, as part of biennial budget process, performance measures for each business loan or grant program within the jurisdiction of the commissioner. Measures would include source of funds for each program, numbers of jobs proposed or promised at the time of application and the number of jobs created, estimated number of jobs retained, the average salary and benefits for the jobs resulting from the program, and the number of projects approved.

Subd. 2. Promotional contracts. In order to best carry out duties and responsibilities and to serve the people of the state in the promotion of tourism, trade, and economic development, the commissioner may engage in programs and projects jointly with a private person, firm, corporation or association and may enter into contracts under terms to be mutually agreed upon to carry out such programs and projects not including acquisition of land or buildings. Contracts may be negotiated and are not subject to the provisions of chapter 16B relating to competitive bidding.

Subd. 3. Commissioner may enter into project agreements. The commissioner may enter into project agreements with organizations or corporations for the purpose of developing the tourism potential of the state. If in the judgment of the commissioner a project will make a meaningful contribution to the tourism development of the state, the commissioner may enter into local or regional agreements.

Subd. 4. [Repealed, 1986 c 465 art 1 s 31]

History: 1947 c 587 s 6; 1967 c 299 s 5; 1979 c 333 s 98; 1981 c 284 s 1; 1981 c 356 s 207,248; 1983 c 289 s 54; 1984 c 582 s 1,23; 1984 c 640 s 32; 1985 c 248 s 30; 1Sp1985 c 14 art 8 s 63; 1986 c 444; 1987 c 312 art 1 s 16; 1989 c 335 art 1 s 140; 1993 c 163 art 1 s 15; 1993 c 252 s 1; 1995 c 232 s 1; 1996 c 369 s 4

116J.581 COMPETITIVENESS TASK FORCE.

Subdivision 1. **Creation.** There is created a task force on the state's economic future and competitiveness. The task force is composed of the governor (ex officio); the commissioners of the departments of economic security, trade and economic development, commerce, and labor and industry; the chancellor of the board of trustees of the Minnesota state colleges and universities; the president of the largest statewide Minnesota organized labor organization as measured by the number of its members in affiliated labor organizations; the deans of the business schools at the University of Minnesota and St. Thomas University and the Hubert H. Humphrey Institute of Public Affairs; the science and technology advisor to the governor; six representatives from private sector businesses appointed by the governor, two from companies with more than 1,000 employees, two from companies with 101 to 1,000 employees, and two from companies with less than 100 employees; two members representing environmental interests; and designees of the majority leader of the senate and the minority leader of the house of representatives. The chair of the task force shall be elected by the members from the private sector members. Terms of private sector members shall be for a minimum of three years and a maximum of five years.

Subd. 2. **Duties.** The task force shall:

- (1) monitor implementation of the state's economic blueprint, particularly as it pertains to the long-range competitiveness of Minnesota's companies, published by the department of trade and economic development in November 1992;
- (2) issue long-range policy recommendations for the state to achieve its long-range economic goals;
- (3) hold periodic forums and symposiums as appropriate, involving renowned experts in areas pertaining to economic development and job creation;
- (4) meet on call of the chair to receive reports and to provide ongoing counsel and advice to the legislature and the commissioner of trade and economic development;
- (5) make recommendations as to modification or numeric changes in the economic blueprint to maintain its relevance and significance;
- (6) ensure that goals, proposals, and recommendations should be quantified to the extent possible;
- (7) utilize modern modeling tools to determine the long-range competitive impact of past, present, and proposed legislative action; and
- (8) scrutinize all legislation that can impact the state's economic future or the competitiveness of Minnesota enterprise.

Subd. 3. **Reports.** The task force shall make annual reports to the governor and legislature on or before February 1. The first report is due by February 1, 1994.

Subd. 4. **Sunset of task force.** The task force shall expire on January 1, 1999.

History: 1993 c 252 s 2; 1994 c 483 s 1; 1995 c 212 art 4 s 64; 1996 c 369 s 5-7

116J.59 IMPREST FUNDS, USE.

The commissioner of trade and economic development may use the money in the imprest fund of the department in order to facilitate and expedite its business particularly in the making of advances of moneys to officers and employees of the department and members of the advisory committee for the purpose of defraying the expenses of travel, subsistence, and other similar expenses, and in meeting emergencies, and in accordance with such requirements therefor as may be prescribed by the commissioner of finance. The imprest fund shall be reimbursed for all moneys advanced in the manner prescribed by the rules of the commissioner of administration.

History: 1967 c 299 s 8; 1973 c 492 s 14; 1975 c 271 s 6; 1981 c 356 s 248; 1983 c 289 s 115 subd 1; 1986 c 444; 1987 c 312 art 1 s 26 subd 2

116J.60 PROMOTIONAL EXPENSES.

In the promotion of tourism, trade, and economic development of the state, the commissioner of trade and economic development may expend money appropriated by the legisla-

ture for these purposes in the same manner as private persons, firms, corporations, and associations make expenditures for these purposes. An expenditure for food, lodging, or travel is not governed by the travel rules of the commissioner of employee relations. No money shall be expended for the appearance in radio or television broadcasts by an elected public official.

History: *Ex*1967 c 48 s 84; 1973 c 492 s 14; 1977 c 455 s 84; 1981 c 356 s 248; 1983 c 289 s 55; 1987 c 312 art 1 s 17

116J.61 ADDITIONAL POWERS AND DUTIES.

The commissioner shall:

- (1) have control of the work of carrying on a continuous program of education for business people;
- (2) publish, disseminate, and distribute information and statistics;
- (3) promote and encourage the expansion and development of markets for Minnesota products;
- (4) promote and encourage the location and development of new business in the state as well as the maintenance and expansion of existing business and for that purpose cooperate with state and local agencies and individuals, both within and outside the state;
- (5) advertise and disseminate information as to natural resources, desirable locations, and other advantages for the purpose of attracting business to locate in this state;
- (6) aid the various communities in this state in attracting business to locate therein;
- (7) advise and cooperate with municipal, county, regional, and other planning agencies and planning groups within the state for the purpose of promoting coordination between the state and localities as to plans and development in order to maintain a high level of gainful employment in private profitable production and achieve commensurate advancement in social and cultural welfare; coordinate the activities of statewide and local planning agencies, correlate information secured from them and from state departments and disseminate information and suggestions to the planning agencies; and encourage and assist in the organization and functioning of local planning agencies where none exist; and may provide at the request of any governmental subdivision hereinafter mentioned planning assistance, which includes but is not limited to surveys, land use studies, urban renewal plans, technical services and other planning work to any city or other municipality in the state or perform similar planning work in any county, metropolitan or regional area in the state. The commissioner shall not perform the planning work with respect to a metropolitan or regional area which is under the jurisdiction for planning purposes of a county, metropolitan, regional or joint planning body, except at the request or with the consent of the respective county, metropolitan, regional or joint planning body. The commissioner is authorized to receive and expend money from municipal, county, regional and other planning agencies; and may accept and disburse grants and other aids for planning purposes from the federal government and from other public or private sources, and may utilize moneys so received for the employment of consultants and other temporary personnel to assist in the supervision or performance of planning work supported by money other than state appropriated money, and may enter into contracts with agencies of the federal government, units of local government or combinations thereof, and with private persons that are necessary in the performance of the planning assistance function of the commissioner. The commissioner may assist any local government unit in filling out application forms for the federal grants-in-aid. In furtherance of their planning functions, any city or town, however organized, may expend money and contract with agencies of the federal government, appropriate departments of state government, other local units of government and with private persons; and
- (8) adopt measures calculated to promote public interest in and understanding of the problems of planning and, to that end, may publish and distribute copies of any plan or any report and may employ other means of publicity and education that will give full effect to the provisions of sections 116J.58 to 116J.63.

History: 1947 c 587 s 7; 1957 c 842 s 1; 1959 c 598 s 1; 1969 c 1129 art 3 s 2; 1971 c 24 s 41; 1973 c 123 art 5 s 7; 1981 c 356 s 208,248; 1983 c 289 s 56; 1984 c 604 s 3; 1986 c 444; 1993 c 163 art 1 s 16

116J.613 [Renumbered 116K.14]**116J.615 OFFICE OF TOURISM.**

Subdivision 1. **Duties of director.** The director of tourism shall:

- (1) publish, disseminate, and distribute informational and promotional literature;
- (2) promote and encourage the expansion and development of international tourism marketing;
- (3) advertise and disseminate information about travel opportunities in the state of Minnesota;
- (4) aid various local communities to improve their tourism marketing programs;
- (5) coordinate and implement a comprehensive state tourism marketing program that takes into consideration all public and private businesses and attractions;
- (6) conduct market research and analysis to improve marketing techniques in the area of tourism;
- (7) investigate and study conditions affecting Minnesota's tourism industry, collect and disseminate information, and engage in technical studies, scientific investigations, and statistical research and educational activities necessary or useful for the proper execution of the powers and duties of the director in promoting and developing Minnesota's tourism industry, both within and outside the state;
- (8) apply for, accept, receive, and expend any funds for the promotion of tourism in Minnesota. All money received by the director under this subdivision shall be deposited in the state treasury and is appropriated to the director for the purposes for which the money has been received. The money does not cancel and is available until expended; and
- (9) plan and conduct information and publicity programs to attract tourists, visitors, and other interested persons from outside the state to this state; encourage and coordinate efforts of other public and private organizations or groups of citizens to publicize facilities and attractions in this state; and work with representatives of the hospitality and tourism industry to carry out its programs.

Subd. 2. [Repealed, 1993 c 163 art 1 s 35]

Subd. 3. [Repealed, 1991 c 238 art 1 s 26]

History: 1983 c 289 s 57; 1988 c 686 art 1 s 63

116J.616 SPECIFIC AGREEMENTS PROHIBITED.

The commissioner or director of tourism may not enter into an agreement which would obligate the state to pay any part of a debt incurred by a public or private facility, organization, or attraction.

History: 1989 c 335 art 1 s 138

116J.617 TOURISM LOAN PROGRAM.

Subdivision 1. **Establishment.** The commissioner may establish a tourism revolving loan program and a tourism guarantee loan program to provide loans, participate in loans, or guarantee loans to resorts, campgrounds, lodging facilities, and other tourism-related businesses. The commissioner shall work with financial institutions in making or participating in loans or guaranteeing loans under this section.

Subd. 2. **Eligible borrower.** To receive a loan under this section, the borrower must be a sole proprietorship, partnership, or corporation engaged in a tourism-related business or other entity that is defined by the standard industrial classification codes of 7011 and 7033 as set out in the Code of Federal Regulations, title 13, section 121.2. An eligible borrower under this section must maintain the business or other entity as a tourism-related entity as defined by this subdivision during the term of the loan. An eligible borrower may not receive a loan or loan guarantee under this section if the borrower has received a tourism-related loan, loan participation, or guarantee made by the state in the past 36 months.

Subd. 3. **Eligible loan.** The maximum loan made or participated in under this section may not be for more than 50 percent of the total cost of the project. Loan proceeds may be

used for the following purposes: acquisition of an existing building, building construction and improvement, land site improvement, equipment, other construction costs, and engineering costs. Project-related expenditures made more than 30 days before an application may not be financed by a loan made, guaranteed, or participated in under this section.

Subd. 4. **Loan terms.** The maximum term of a loan made, guaranteed, or participated in under this section may not exceed the useful life of the real property or 80 percent of the useful life of the equipment or machinery, or the following limits, whichever is less:

- (1) ten years for land, building, or other real property;
- (2) five years for equipment or machinery; or
- (3) a weighted average of the limits under clauses (1) and (2) for loans made, guaranteed, or participated in for a combination of real property and equipment or machinery.

The commissioner may establish interest rates for loans made under this section. All loans made must be secured by collateral.

Subd. 5. **Tourism loan account.** The tourism loan account is created in the special revenue fund. The fund consists of money appropriated or transferred to the account and interest collected through the tourism revolving loan program, and gifts, donations, and bequests made to the account. Money in the account is appropriated to the commissioner for purposes of this section. Fees collected through the tourism revolving loan program must be credited to the general fund.

Subd. 6. **Investment interest.** All interest and profits accruing from the investment of money from the tourism loan account are credited to the account, and any loss incurred in the principal of the investments of the account is debited to the account.

History: 1989 c 335 art 1 s 139; 1993 c 369 s 46

116J.62 [Repealed, 1983 c 289 s 119]

116J.63 SALE OF PAMPHLETS AND PUBLICATIONS; FEES; ADVERTISING.

Subdivision 1. The commissioner may sell reports, publications, or related publicity or promotional material of the department that the commissioner determines should not be supplied gratis to those who wish to employ them in the conduct of their business.

Subd. 2. Fees for reports, publications, or related publicity or promotional material are not subject to the rulemaking requirements of chapter 14 and are not subject to section 16A.1285. The fees prescribed by the commissioner must be commensurate with the distribution objective of the department for the material produced or with the cost of furnishing the services. All fees for materials and services must be deposited in the general fund.

Subd. 3. Department publications may contain advertising and may receive advertising revenue from profit and nonprofit organizations, associations, individuals and corporations, and other state, federal or local government agencies. Advertising revenues shall be deposited in the general fund. The commissioner shall set advertising rates and fees commensurate with services rendered and distribution objectives.

Subd. 4. The office of tourism may market tourism-related publications and media promotional material to businesses and organizations. The proceeds from the marketing must be placed in a special account and are appropriated to the commissioner to prepare and distribute the office's publications and media promotional materials.

History: 1947 c 587 s 14; 1979 c 333 s 99; 1981 c 356 s 248; 1986 c 444; 1987 c 312 art 1 s 19; 1989 c 335 art 1 s 141; 1996 c 305 art 3 s 20

116J.64 LOANS TO INDIANS.

Subdivision 1. For purposes of this section the following terms shall have the meanings ascribed to them herein.

Subd. 2. "Indian" means a person of one-quarter or more Indian blood and who is an enrolled member of a federally recognized Minnesota based band or tribe.

Subd. 3. "Person" means an individual Indian, or a partnership comprising Indians only, or a corporation whose stock is owned wholly by Indians.

Subd. 4. "Tribal council" means the reservation business committee or equivalent duly constituted tribal authority.

Subd. 5. "Agency" means the Indian affairs council.

Subd. 6. The remaining 20 percent of the tax revenue received by the county auditor under section 273.165, subdivision 1, shall be remitted by the county auditor to the state treasurer and shall be deposited in an account in the special revenue fund. The account is established under the jurisdiction and control of the agency, which may engage in a business loan program for American Indians as that term is defined in subdivision 2. The tribal councils may administer the account, provided that, before making any eligible loans, each tribal council must submit to the agency, for its review and approval, a plan for that council's loan program which specifically describes, as to that program, its content, utilization of money, administration, operation, implementation, and other matters required by the agency. All such programs must provide for a reasonable balance in the distribution of money appropriated pursuant to this section to make business loans between Indians residing on and off the reservations within the state. As a condition to the making of such eligible loans, the tribal councils shall enter into a loan agreement and other contractual arrangements with the agency to carry out this chapter, and shall agree that all official books and records relating to the business loan program shall be subject to audit by the legislative auditor in the same manner prescribed for agencies of state government.

Whenever money is appropriated by the state treasurer to the agency solely for the purposes in this subdivision, the agency shall record in the Indian business loan account the receipt and disbursement of the money and of the income, gain and loss from the investment and reinvestment of the money.

Subd. 7. An Indian desiring a loan for the purpose of starting a business enterprise, expanding an existing business, or for technical and management assistance, shall make application to the Indian affairs council. The Indian affairs council shall prescribe the necessary forms and advise the prospective borrower as to the conditions under which the application may be expected to receive favorable consideration. The application shall be forwarded to the appropriate tribal council, if it is participating in the program, for approval or disapproval, and shall be in conformity with the plans submitted by said tribal councils. If the tribal council is not participating in the program, the Indian affairs council may directly administer the loan. If the application is approved, the Indian affairs council shall forward the application, together with all relevant documents pertinent thereto, to the commissioner of finance, who shall draw a warrant in favor of the applicable tribal council or the Indian affairs council, if it is administering the loan, with appropriate notations identifying the borrower. The tribal council or the Indian affairs council, if it is administering the loan, shall thereafter reimburse suppliers and vendors for purchases of equipment, real estate and inventory made by the borrower pursuant to the conditions or guidelines established by the Indian affairs council. The tribal council or the Indian affairs council, if it is administering the loan, shall maintain records of transactions for each borrower in a manner consistent with good accounting practice. Simple interest at two percent of the amount of the debt owed shall be charged. When any portion of a debt is repaid, the tribal council or the Indian affairs council, if it is administering the loan, shall remit the amount so received plus interest paid thereon to the state treasurer through the Indian affairs council. The amount so received shall be credited to the Indian business loan account. The tribal council or the Indian affairs council, if it is administering the loan, shall secure a fidelity bond from a surety company, in favor of the state treasurer, in an amount equal to the maximum amount to the credit of its loan account during the fiscal year. On the placing of a loan, additional money equal to ten percent of the total amount made available to any tribal council or the Indian affairs council, if it is administering the loan, for loans during the fiscal year shall be paid to the council prior to December 31 for the purpose of financing administrative costs.

Subd. 8. Loans made under subdivision 7 shall be limited to a period of 20 years, if made for the purpose of financing nonreal estate purchases. Loans made for the purpose of financing real estate purchases, where such real property is to be used for nonresidential purposes only, shall be limited to a period of 40 years, and shall be a lien on the real property so acquired. Under no circumstances shall the state take a position junior to third lien. In instances where it is impossible or undesirable to secure a lien against real property, the state may secure a lien against personal property for an amount equal to the face value of the loan.

Subd. 9. Any person misrepresenting facts regarding the Indian ancestry of a prospective borrower for the purpose of securing a loan under subdivision 7, whether such borrower be an individual, partnership or corporation, shall be guilty of a gross misdemeanor.

Subd. 10. The county auditor shall remit the tax revenue received yearly to the state treasurer as required by subdivision 6 no later than December 15.

Subd. 11. There is appropriated annually an amount equal to the tax revenue allotted under subdivision 7.

History: 1973 c 254 s 3; 1973 c 492 s 14; 1973 c 650 art 20 s 4; 1977 c 430 s 25 subd 1; 1979 c 333 s 100–102; 1980 c 391 s 1–3; 1981 c 308 s 1–7; 1981 c 356 s 210,211,248; 1982 c 424 s 128; 1984 c 558 art 4 s 1,2; 1Sp1985 c 14 art 4 s 16; 1986 c 444; 1989 c 335 art 4 s 47; 1989 c 356 s 27

116J.645 [Repealed, 1993 c 163 art 1 s 35; 1993 c 337 s 20]

116J.65 [Renumbered 116M.04]

116J.655 [Renumbered 121.72]

116J.66 BUSINESS ASSISTANCE.

The commissioner shall establish within the department a business assistance center. The center shall consist of (1) a bureau of small business which shall have as its sole function the provision of assistance to small businesses in the state and (2) a bureau of licenses to assist all businesses in obtaining state licenses and permits. This center shall be accorded at least equal status with the other major operating units within the department.

History: 1978 c 709 s 2; 1979 c 246 s 2; 1981 c 356 s 214,248

116J.661 [Repealed, 1993 c 163 art 1 s 35]

116J.67 [Renumbered 116M.05]

116J.68 BUREAU OF SMALL BUSINESS.

Subdivision 1. The bureau of small business within the business assistance center shall serve as a clearinghouse and referral service for information needed by small businesses including small targeted group businesses and small businesses located in an economically disadvantaged area.

Subd. 2. The bureau shall:

(a) provide information and assistance with respect to all aspects of business planning and business management related to the start-up, operation, or expansion of a small business in Minnesota;

(b) refer persons interested in the start-up, operation, or expansion of a small business in Minnesota to assistance programs sponsored by federal agencies, state agencies, educational institutions, chambers of commerce, civic organizations, community development groups, private industry associations, and other organizations, or to the business assistance referral system established by the Minnesota Project Outreach Corporation;

(c) plan, develop, and implement a master file of information on small business assistance programs of federal, state, and local governments, and other public and private organizations so as to provide comprehensive, timely information to the bureau's clients;

(d) employ staff with adequate and appropriate skills and education and training for the delivery of information and assistance;

(e) seek out and utilize, to the extent practicable, contributed expertise and services of federal, state, and local governments, educational institutions, and other public and private organizations;

(f) maintain a close and continued relationship with the director of the procurement program within the department of administration so as to facilitate the department's duties and responsibilities under sections 16B.19 to 16B.22 relating to the small targeted group business and economically disadvantaged business program of the state;

(g) develop an information system which will enable the commissioner and other state agencies to efficiently store, retrieve, analyze, and exchange data regarding small business

development and growth in the state. All executive branch agencies of state government and the secretary of state shall to the extent practicable, assist the bureau in the development and implementation of the information system;

(h) establish and maintain a toll free telephone number so that all small business persons anywhere in the state can call the bureau office for assistance. An outreach program shall be established to make the existence of the bureau well known to its potential clientele throughout the state. If the small business person requires a referral to another provider the bureau may use the business assistance referral system established by the Minnesota Project Outreach Corporation;

(i) conduct research and provide data as required by the state legislature;

(j) develop and publish material on all aspects of the start-up, operation, or expansion of a small business in Minnesota;

(k) collect and disseminate information on state procurement opportunities, including information on the procurement process;

(l) develop a public awareness program through the use of newsletters, personal contacts, and electronic and print news media advertising about state assistance programs for small businesses, including those programs specifically for socially disadvantaged small business persons;

(m) enter into agreements with the federal government and other public and private entities to serve as the statewide coordinator or host agency for the federal small business development center program under United States Code, title 15, section 648; and

(n) assist providers in the evaluation of their programs and the assessment of their service area needs. The bureau may establish model evaluation techniques and performance standards for providers to use.

Subd. 3. [Repealed, 1984 c 604 s 5]

Subd. 4. [Repealed, 1984 c 604 s 5]

History: 1979 c 246 s 3; 1981 c 356 s 248; 1984 c 604 s 5; 1987 c 384 art 2 s 1; 1989 c 335 art 1 s 142; 1989 c 352 s 8,25; 1990 c 541 s 11,29; 1991 c 199 art 1 s 31; 1993 c 163 art 1 s 17; 1996 c 305 art 1 s 29

116J.69 UNIFORM BUSINESS LICENSING POLICY.

Subdivision 1. **Finding.** The legislature finds that a uniform policy on business licenses is necessary to maintain an adequate level of protection of the public welfare while preventing business licensing from becoming overly burdensome for the citizens and businesses of Minnesota.

Subd. 2. **Policy.** It is the policy of the state of Minnesota that to the extent practicable, when required, a business license:

(a) Should be necessary to protect the safety, health or welfare of the citizens of the state or to ensure fair competition, competency in business, responsible financial practices, or other ethical business conduct;

(b) Should not duplicate or significantly overlap any other business license;

(c) Should be issued and renewed for the longest period possible consistent with the need to review eligibility and compliance with the terms and conditions of the license;

(d) Should contain a termination or renewal date determined by the agency to be as convenient as possible for the license holder consistent with clause (c). When an agency issues more than one license to the same business these licenses should have the same calendar renewal date; and

(e) Should involve payment of a fee in an amount no greater than specified by statute. If a fee is authorized by statute and set by rule, the fee shall be no greater than necessary to recover the administrative cost of issuing or renewing the license or enforcing its terms and conditions. The fees and conditions may be different for different classes of businesses and for initial issuance and subsequent renewals.

History: 1981 c 342 art 2 s 2; 1981 c 356 s 248

116J.691 [Renumbered 116O.091]

116J.692 [Renumbered 116O.092]**116J.693 ADVANTAGE MINNESOTA, INC.**

Subdivision 1. **Establishment; purpose.** Advantage Minnesota, Inc. is established as a nonprofit public corporation under chapter 317A and is subject to the provisions of that chapter. The corporation is not a state agency. The purpose of the corporation is to market the economic development potential of the state in order to enhance the state's economic growth. Advantage Minnesota, Inc. objectives are to encourage businesses to remain in the state and promote in-state expansion of current and new Minnesota employers and businesses.

Subd. 2. **Board of directors.** (a) Advantage Minnesota, Inc. shall be governed by a board of directors consisting of voting and nonvoting members.

(b) The voting members of the board shall be:

(1) representatives of business, professional, and industry organizations that have been certified by the commissioner as having made a financial contribution to Advantage Minnesota, Inc. for their period of service in accordance with matching funds requirements established by the commissioner;

(2) representatives of labor organizations and educational institutions, if any, as designated from time to time by the board;

(3) the governor or a designee of the governor;

(4) the commissioner; and

(5) other persons, if any, as designated from time to time by the board.

(c) The nonvoting members of the board shall be the majority and minority leaders of the senate, the speaker of the house of representatives and the minority leader of the house of representatives, or their designees.

(d) Meetings of the board are subject to section 471.705.

Subd. 3. **Executive committee; employees.** (a) The board of directors shall create an executive committee of 12 members of the board including the commissioner, the vice-chair of the board of directors, and two members of the legislature. The president of the corporation shall be appointed by the executive committee and ratified by the board. The executive committee shall oversee the daily operations of the corporation.

(b) Meetings of the executive committee are subject to section 471.705 except when security, trade secret, potential client lists, pending proposals, negotiations, employee matters, or labor relations information are discussed.

(c) The employees of the corporation are not state employees.

Subd. 4. **Bylaws.** Bylaws of Advantage Minnesota, Inc. shall provide for the qualification and removal of directors, and for filling vacancies on the board in a manner not inconsistent with this section.

Subd. 5. **Other committees.** The executive committee may, by resolution, create one or more committees, each consisting of directors designated by the executive committee. The duties, responsibilities, and limitations of each committee shall be outlined in the resolution creating such committees.

Subd. 6. **Articles of incorporation.** The articles of incorporation of Advantage Minnesota, Inc. must be filed with the secretary of state under chapter 317A and must be consistent with this section.

Subd. 7. **Audit.** Advantage Minnesota, Inc. shall contract with a certified public accounting firm to perform a financial and compliance audit of the corporation in accordance with generally accepted accounting standards.

Subd. 8. **Report.** The commissioner shall submit an annual report on the activities of Advantage Minnesota, Inc. by January 15 of each year to the appropriations, finance, and economic development committees of the legislature and to the governor. The report must include a description of the corporation's activities for the past year, a list of all contracts entered into by the corporation, and a financial report of revenues and expenditures of the corporation.

History: 1991 c 252 s 1; 1992 c 464 art 1 s 17; 1995 c 232 s 2-5

BUSINESS LICENSING

116J.70 DEFINITIONS.

Subdivision 1. **Application.** For the purposes of sections 116J.69 to 116J.71, the terms defined in this section have the meanings given them.

Subd. 2. **Business license.** "Business license" or "license" means any permit, registration, certification, or other form of approval authorized by statute or rule to be issued by any agency or instrumentality of the state of Minnesota as a condition of doing business in Minnesota. The term also includes, when applicable, the substantive and procedural criteria governing the qualifications for, and issuance and maintenance of, a business license.

Subd. 2a. **License; exceptions.** "Business license" or "license" does not include the following:

- (1) any occupational license or registration issued by a licensing board listed in section 214.01 or any occupational registration issued by the commissioner of health pursuant to section 214.13;
- (2) any license issued by a county, home rule charter city, statutory city, township, or other political subdivision;
- (3) any license required to practice the following occupation regulated by the following sections:
 - (a) abstracters regulated pursuant to chapter 386;
 - (b) accountants regulated pursuant to chapter 326;
 - (c) adjusters regulated pursuant to chapter 72B;
 - (d) architects regulated pursuant to chapter 326;
 - (e) assessors regulated pursuant to chapter 270;
 - (f) athletic trainers regulated pursuant to chapter 148;
 - (g) attorneys regulated pursuant to chapter 481;
 - (h) auctioneers regulated pursuant to chapter 330;
 - (i) barbers regulated pursuant to chapter 154;
 - (j) beauticians regulated pursuant to chapter 155A;
 - (k) boiler operators regulated pursuant to chapter 183;
 - (l) chiropractors regulated pursuant to chapter 148;
 - (m) collection agencies regulated pursuant to chapter 332;
 - (n) cosmetologists regulated pursuant to chapter 155A;
 - (o) dentists, registered dental assistants, and dental hygienists regulated pursuant to chapter 150A;
 - (p) detectives regulated pursuant to chapter 326;
 - (q) electricians regulated pursuant to chapter 326;
 - (r) embalmers regulated pursuant to chapter 149;
 - (s) engineers regulated pursuant to chapter 326;
 - (t) insurance brokers and salespersons regulated pursuant to chapter 60A;
 - (u) certified interior designers regulated pursuant to chapter 326;
 - (v) midwives regulated pursuant to chapter 148;
 - (w) morticians regulated pursuant to chapter 149;
 - (x) nursing home administrators regulated pursuant to chapter 144A;
 - (y) optometrists regulated pursuant to chapter 148;
 - (z) osteopathic physicians regulated pursuant to chapter 147;
 - (aa) pharmacists regulated pursuant to chapter 151;
 - (bb) physical therapists regulated pursuant to chapter 148;
 - (cc) physician assistants regulated pursuant to chapter 147A;
 - (dd) physicians and surgeons regulated pursuant to chapter 147;

- (ee) plumbers regulated pursuant to chapter 326;
- (ff) podiatrists regulated pursuant to chapter 153;
- (gg) practical nurses regulated pursuant to chapter 148;
- (hh) professional fund raisers regulated pursuant to chapter 309;
- (ii) psychologists regulated pursuant to chapter 148;
- (jj) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;
- (kk) registered nurses regulated pursuant to chapter 148;
- (ll) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;
- (mm) steamfitters regulated pursuant to chapter 326;
- (nn) teachers and supervisory and support personnel regulated pursuant to chapter 125;
- (oo) veterinarians regulated pursuant to chapter 156;
- (pp) water conditioning contractors and installers regulated pursuant to chapter 326;
- (qq) water well contractors regulated pursuant to chapter 103I;
- (rr) water and waste treatment operators regulated pursuant to chapter 115;
- (ss) motor carriers regulated pursuant to chapter 221;
- (tt) professional corporations regulated pursuant to chapter 319A;
- (uu) real estate appraisers regulated pursuant to chapter 82B;
- (vv) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;
- (4) any driver's license required pursuant to chapter 171;
- (5) any aircraft license required pursuant to chapter 360;
- (6) any watercraft license required pursuant to chapter 86B;
- (7) any license, permit, registration, certification, or other approval pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the resources of land, air, or water, which is required to be obtained from a state agency or instrumentality; and
- (8) any pollution control rule or standard established by the pollution control agency or any health rule or standard established by the commissioner of health or any licensing rule or standard established by the commissioner of human services.

History: 1981 c 342 art 2 s 3; 1981 c 356 s 248; 1Sp1981 c 4 art 4 s 14; 1982 c 413 s 1; 1983 c 70 s 1; 1983 c 216 art 1 s 23; 1984 c 654 art 5 s 7,58; 1Sp1986 c 3 art 1 s 12; 1990 c 391 art 8 s 28; 1992 c 464 art 1 s 18; 1992 c 507 s 1; 1993 c 232 s 1; 1993 c 245 s 1; 1993 c 366 s 17; 1995 c 186 s 36; 1995 c 205 art 2 s 1

116J.71 NEW LICENSES.

Any new business license authorized by the legislature or established by rule after June 2, 1981, shall conform to the policy in section 116J.69.

History: 1981 c 342 art 2 s 5; 1981 c 356 s 248

116J.72 EXISTING LICENSES.

Nothing in sections 116J.69 to 116J.71 shall affect the validity of duration of an existing issued license.

History: 1981 c 342 art 2 s 6; 1981 c 356 s 248; 1987 c 384 art 2 s 23

BUREAU OF BUSINESS LICENSES

116J.73 BUREAU OF BUSINESS LICENSES; DECLARATION OF PURPOSE.

It is the intent of the legislature that a program of business license assistance be established to provide a centralized state government office to which business license applicants

may obtain comprehensive license information and assistance. The program of business assistance will be directed to commercial business undertakings, projects, and activities rather than to the issuance of licenses for individual privileges, including the occupational licenses for practicing a trade or profession, licenses for operating a motor vehicle, and amateur sporting licenses, including, but not limited to, hunting and fishing.

History: 1981 c 342 art 3 s 1; 1981 c 356 s 248

116J.74 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 116J.73 to 116J.86, the following terms have the meanings given them.

Subd. 2. **Agency.** "Agency" has the meaning given it in section 14.02, subdivision 2.

Subd. 3. **Applicant.** "Applicant" means a person acting personally or authorized to act on behalf of any other person for the purpose of securing a license.

Subd. 4. **Bureau.** "Bureau" means the bureau of business licenses.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of the department of trade and economic development.

Subd. 6. **Director.** "Director" means the director of the bureau of business licenses.

Subd. 7. **Business license.** "Business license" or "license" has the meaning given it in section 116J.70, subdivision 2.

Subd. 7a. **Exception.** "Business license" or "license" does not include any license excepted in section 116J.70, subdivision 2a.

Subd. 8. **Person.** "Person" means any individual, proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to obtain one or more licenses.

History: 1981 c 342 art 3 s 2; 1981 c 356 s 248; 1982 c 424 s 130; 1983 c 289 s 115 subd 1; 1986 c 444; 1987 c 312 art 1 s 26 subd 2

116J.75 BUREAU OF BUSINESS LICENSES.

Subdivision 1. **Appointment of director.** The head of the bureau shall be the director of business licenses. The director shall be appointed by the commissioner in accordance with section 216C.23, and shall be in the classified service.

Subd. 2. **Director's powers and duties.** The director shall direct the work of the bureau. The director may, with the advice and consent of the commissioner, hire necessary employees, prescribe their duties, fix their compensation, and provide for the reimbursement of their expenses.

Subd. 3. **Director's report.** The director shall report to the commissioner or a designee on the activities of the bureau to ensure the consistency of those activities with the overall economic development policies of the state.

Subd. 4. **Coordination with other agencies.** The commissioner, working with other agency heads, shall assure that the activities of the bureau are fully coordinated with related activities of other agencies.

History: 1981 c 342 art 3 s 3; 1981 c 356 s 248; 1986 c 444; 1987 c 312 art 1 s 10 subd 1

116J.76 GENERAL FUNCTIONS; POWERS AND DUTIES.

The bureau, by and through the director or the director's duly authorized employees, shall have the following functions, powers, and duties:

(a) providing comprehensive information on licenses required for business undertakings, projects, and activities in the state and making the information available to applicants and other persons;

(b) providing interested persons with an opinion as to the number, kind, and source of required licenses and potential difficulties in obtaining the licenses, based on a review of a potential applicant's business concept at an early stage in its planning;

(c) developing with the assistance of other departments a master application procedure to expedite the identification and processing of these licenses;

(d) facilitating or recommending consolidation of hearings required pursuant to licensing applications when feasible and advantageous;

(e) encouraging and facilitating the participation of federal and local government agencies in licensing coordination;

(f) making recommendations for eliminating, consolidating, simplifying, expediting, or otherwise improving licensing procedures affecting business undertakings;

(g) serving as an advocate for small business license applicants with state, federal, and local agencies in the process of applying for licenses and complying with licensing standards and requirements; and

(h) adopting rules, procedures, instructions, and forms as are required to carry out the functions, powers, and duties imposed upon the bureau by sections 116J.73 to 116J.86.

History: 1981 c 342 art 3 s 4; 1981 c 356 s 248; 1Sp1985 c 13 s 247; 1986 c 444

116J.77 ASSISTANCE OF OTHER AGENCIES.

To effect the purposes of sections 116J.73 to 116J.86, and when requested by the commissioner, an agency shall to the extent practicable provide assistance, services, facilities, and data as will enable the bureau to carry out its functions, powers, and duties.

History: 1981 c 342 art 3 s 5; 1981 c 356 s 248

116J.78 COMPREHENSIVE LICENSE INFORMATION.

Subdivision 1. Reports by agencies. Not later than 90 days from June 2, 1981, each agency issuing licenses for business undertakings, projects, and activities shall report to the bureau, in a form prescribed by the bureau, on each and every type of license administered or issued by the agency. Application forms, applicable agency rules, fee schedules, and the estimated time period necessary for license application consideration based on experience and statutory or regulatory requirements shall accompany each report. The reports shall be updated every two years.

Subd. 2. Report supplementation. Each agency issuing licenses for business undertakings, projects, and activities shall, subsequent to its report pursuant to subdivision 1, provide the bureau with a report of any new license or modification of any existing license, or licensing procedures, together with applicable forms, rules, and information required under subdivisions 1 and 2 regarding new or modified licenses.

Subd. 3. Preparation of information file. The bureau shall prepare an information file on agency license requirements upon receipt of the agency reports and shall develop methods for its maintenance, revision, updating, and ready access.

Subd. 4. License information provided by bureau. The bureau shall provide comprehensive license information on the basis of information submitted in subdivisions 1 to 3. The bureau may prepare and distribute publications, guides, and other materials based upon the agency reports and the information file. These materials are designed to serve the convenience of license applicants and explain license requirements affecting business, including requirements having multiple license or multiple agency aspects.

History: 1981 c 342 art 3 s 6; 1981 c 356 s 248

116J.79 PREAPPLICATION CONFERENCES.

Subdivision 1. Requests for conference. The bureau, at the request of any person, proceeding in accordance with this section, may conduct a preapplication conference, pending the formal submission of application forms, in which affected agencies shall participate to the extent practicable in order to clarify the nature and scope of their interest, to provide guidance regarding license application and review procedures, and to coordinate agency actions and data collection or submission regarding license application.

Subd. 2. Multiple licenses; agencies to provide review and opinion. If, in the course of a preapplication conference, it becomes clear in the opinion of the director that a proposed

business undertaking: (a) may require multiple licenses from the same or different state departments; (b) will take place in phases over an extended period of time; (c) will involve substantial expense for preparation of detailed plans, specifications and license applications; or (d) is of a new or unique nature, then each affected agency shall, at the request of the director to the extent practicable, provide the applicant with a written review and opinion as to all licenses which the agency would require for the proposed undertaking, the standards and conditions which would have to be met in order to obtain the licenses, timetables involved, and any properly related circumstances or findings.

Subd. 3. Written opinions; time limits; extensions. Each agency participating in the review and opinion process shall render the written opinion within a period not exceeding 60 days from the date fixed by the director. This period may be extended by the director at the request of an interested agency for the further consideration of information provided in accordance with this section. The director shall advise the person having requested the review and opinion of the extension, the reasons for it, and the revised period fixed by the director for rendering the written opinion. The person shall be entitled to confer with the bureau and with any agency having been granted an extension of time to ascertain what further information, if any, is required to facilitate the rendering of the review and opinion.

Subd. 4. Effect of review and opinion procedure. A preapplication review and opinion shall not relieve the person from the responsibility of obtaining any required licenses and shall be contingent upon the submission of all detailed plans, specifications, and information required for license applications. An agency's written opinion as to required licenses shall remain in effect indefinitely for the proposed business undertaking, project, or activity as described in the applicant's submission. However, if new license requirements or related standards over which an agency has no control or discretion in establishing subsequently become effective, the new license requirements or standards shall not be considered to have been part of the preapplication review and opinion. The opinion of the agency may be modified or amended by the agency at any time and shall not prohibit the agency from requiring additional licenses as deemed necessary for the applicant.

Subd. 5. Rules of procedure. The bureau shall promulgate rules for the procedures to be followed in the conduct of preapplication reviews and opinions.

History: 1981 c 342 art 3 s 7; 1981 c 356 s 248

116J.80 MASTER APPLICATION PROCEDURE.

Subdivision 1. Development and implementation. The bureau shall develop and implement a master application procedure to expedite the identification and processing of licenses for business undertakings, projects, and activities. A master application shall be made on a form prescribed by the bureau. This form shall request concise and specific information necessary to determine those licenses which are or may be required for the undertaking, project, or activity in order to insure speedy issuance of the licenses when all necessary requirements are met.

Subd. 2. Bureau assistance in preparing. Use of the master application procedure shall be at the option of any person proposing a business undertaking, project, or activity. Upon request, the bureau shall assist any person in preparing a master application, describe the procedures involved, and provide other information from the comprehensive license information file as may be helpful or necessary.

Subd. 3. Receipt of application; notification to agencies. Upon receipt of a master application the bureau shall immediately notify in writing each agency having a possible interest in the proposed business undertaking, project, or activity with respect to licenses which are or may be required.

Subd. 4. Agency response. Each agency so notified shall respond to the bureau within 20 days of receipt of the notice and shall advise the bureau whether one or more licenses under its jurisdiction are or may be required for the business undertaking, project, or activity described in the master application. The response shall specify the licenses which in the opinion of the agency are or may be required, if any, and shall indicate the fees to be charged.

Subd. 5. Consequences of negative or nonresponses. Any agency so notified which responds that it does not have an interest in the license requirements of the business undertak-

ing, project, or activity described in the master application, or which does not respond within the time period specified in subdivision 4, shall not require a license for the undertaking, project, or activity described in the master application. Except that where unusual circumstances have prevented an agency from notifying the bureau, and the agency establishes that failure to require a license would result in substantial harm to the public health or welfare, the commissioner may order that the license be required.

Subd. 6. Failure to provide accurate or pertinent information. The provisions of subdivision 5 shall not apply if the commissioner of trade and economic development determines that the master application contained false, misleading, or deceptive information, or failed to include pertinent information, the lack of which could reasonably lead an agency to misjudge the applicability of licenses under its jurisdiction, or if new license requirements or related standards subsequently became effective for which an agency had no discretion in establishing the effective date.

Subd. 7. Notification to applicant. The bureau, following the 20 day notice and response period, shall promptly provide the person having submitted a master application with application forms and related information for all licenses specified by the interested agencies and shall advise the person:

(a) That all forms are to be completed and submitted to the interested agencies; and

(b) At the option of the applicant, that the bureau will receive all forms as a package with the fees to be charged, if any, and that the bureau will immediately separate and submit the forms and any allocable fees to the appropriate agencies.

Subd. 8. Withdrawal of application. An applicant may withdraw a master application at any time without forfeiture of any license approval applied for or obtained under the master application procedures contained in this section.

History: 1981 c 342 art 3 s 8; 1981 c 356 s 248; 1983 c 289 s 115 subd 1; 1987 c 312 art 1 s 26 subd 2

116J.81 LICENSE COORDINATION AND ASSISTANCE TO APPLICANTS.

Subdivision 1. Authorization. Any applicant for licenses required for a business undertaking, project, or activity may confer with the bureau to obtain assistance in the prompt and efficient processing and review of applications.

Subd. 2. Duties of the bureau. The bureau shall, so far as possible, render assistance; and the director may designate an officer or employee of the bureau to act as an expeditor for the purpose of:

(a) Facilitating contacts for the applicant with agencies responsible for processing and reviewing license applications;

(b) Arranging conferences to clarify the interest and requirements of any agency with respect to license applications;

(c) Considering with agencies the feasibility of consolidating hearings and data required of the applicant; and

(d) Assisting the applicant in the resolution of outstanding issues identified by agencies, including delays experienced in license review.

History: 1981 c 342 art 3 s 9; 1981 c 356 s 248

116J.82 CONSOLIDATED HEARINGS.

Subdivision 1. Bureau may request. The bureau may request the office of administrative hearings to consolidate hearings insofar as it is feasible and agreeable to all parties.

Subd. 2. Rules of procedure. A consolidated hearing shall be conducted in a manner consistent with sections 14.001 to 14.69, and the applicable rules of the office of administrative hearings.

Subd. 3. Prehearing conference. The office of administrative hearings, with the consent of the agencies having license jurisdiction, may provide for a prehearing conference to assist in the disposition of the type, time, place, and parties of the consolidated hearing, the

simplification of the issues, the stipulations as to agreed facts and necessary documents, and other relevant matters.

History: 1981 c 342 art 3 s 10; 1981 c 356 s 248; 1982 c 424 s 130; 1987 c 384 art 2 s 1; 1990 c 422 s 10

116J.83 LICENSE AUTHORITY RETAINED.

Each agency having jurisdiction to approve or deny a license shall have the continuing power vested in it to make such determinations. The provisions of sections 116J.73 to 116J.86 shall not lessen or reduce these powers and shall modify the procedures followed in carrying out these powers only to the extent provided in sections 116J.73 to 116J.86.

History: 1981 c 342 art 3 s 11; 1981 c 356 s 248

116J.84 SERVICES PROVIDED AT NO CHARGE.

Services rendered by the bureau shall be made available without charge. Nothing contained in this section shall relieve an applicant of any part of the fees or charges established for the review and approval of license applications or relieve an applicant of any of the apportioned costs of a consolidated hearing conducted under sections 116J.79 and 116J.80.

History: 1981 c 342 art 3 s 12; 1981 c 356 s 248

116J.85 FEDERAL AND LOCAL GOVERNMENT PARTICIPATION.

Subdivision 1. Encouragement. Federal and local government license agencies shall be encouraged to participate in the business license information, coordination, and assistance services of the bureau and to make information available to applicants through the bureau with respect to any business undertaking, project, or activity which is referred to the bureau under the provisions of sections 116J.73 to 116J.86.

Subd. 2. Assistance to federal and local agency license applicants. The bureau shall, so far as is practicable, advise applicants of federal and local agency license requirements and shall maintain an information file on licenses for which the state has delegated issuance authority to local government agencies.

Subd. 3. Coordination of license review procedures. The director shall consult with local government officials with respect to cooperation in coordinating state and local license application and review procedures and shall recommend to the governor and the legislature any actions which would facilitate this coordination.

History: 1981 c 342 art 3 s 13; 1981 c 356 s 248

116J.86 COMPILATION AND MAINTENANCE OF STATISTICAL DATA.

The bureau shall obtain and keep on an annual basis appropriate statistical data regarding the number of licenses issued by agencies, the amount of time necessary for the licenses to be issued, the cost of obtaining the licenses, the types of projects for which specific licenses are issued, a geographic distribution of licenses issued, and other pertinent data which the director deems appropriate. The bureau shall analyze the data by type of license and by agency responsible and shall make its findings available to the public.

History: 1981 c 342 art 3 s 14; 1981 c 356 s 248

116J.87 [Repealed, 1987 c 404 s 191]

DEVELOPMENT

116J.871 FINANCIAL ASSISTANCE LIMITATIONS; PREVAILING WAGE.

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

(b) "Economic development" means financial assistance provided to a person directly or to a local unit of government or nonprofit organization on behalf of a person who is en-

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gaged in the manufacture or sale of goods and services. Economic development does not include (i) financial assistance for rehabilitation of existing housing or (ii) financial assistance for new housing construction in which total financial assistance at a single project site is less than \$100,000.

(c) "Financial assistance" means (i) a grant awarded by a state agency for economic development related purposes if a single business receives \$200,000 or more of the grant proceeds; (ii) a loan or the guaranty or purchase of a loan made by a state agency for economic development related purposes if a single business receives \$500,000 or more of the loan proceeds; or (iii) a reduction, credit, or abatement of a tax assessed under chapter 297A where the tax reduction, credit, or abatement applies to a geographic area smaller than the entire state and was granted for economic development related purposes. Financial assistance does not include payments by the state of aids and credits under chapter 273 or 477A to a political subdivision.

(d) "Project site" means the location where improvements are made that are financed in whole or in part by the financial assistance; or the location of employees that receive financial assistance in the form of employment and training services as defined in section 268.0111, subdivision 4, or customized training from a technical college.

(e) "State agency" means any agency defined under section 16B.01, subdivision 2, Minnesota Technology, Inc., and the iron range resources and rehabilitation board.

Subd. 2. Prevailing wage required. A state agency may provide financial assistance to a person only if the person receiving or benefiting from the financial assistance certifies to the commissioner of labor and industry that laborers and mechanics at the project site during construction, installation, remodeling, and repairs for which the financial assistance was provided will be paid the prevailing wage rate as defined in section 177.42, subdivision 6.

Subd. 3. Prevailing wage; penalty. It is a misdemeanor for a person who has certified that prevailing wages will be paid to laborers and mechanics under subdivision 2 to subsequently fail to pay the prevailing wage. This misdemeanor is punishable by a fine of not more than \$700, or imprisonment for not more than 90 days, or both. Each day a violation of this subdivision continues is a separate offense.

Subd. 4. Notification. A state agency shall notify any person applying for financial assistance from the state agency of the requirements under subdivision 2 and of the penalties under subdivision 3.

Subd. 5. Exception. Nothing in this section denies any financial assistance granted to or qualified for by a person whose construction, installation, remodeling, or repairs commenced prior to August 1, 1990.

History: 1990 c 604 art 10 s 7; 1991 c 322 s 19

116J.873 [Repealed, 1996 c 452 s 40]

116J.8731 MINNESOTA INVESTMENT FUND.

Subdivision 1. Purpose. The Minnesota investment fund is created to provide financial assistance, through partnership with communities, for the creation of new employment or to maintain existing employment, and for business start-up, expansions, and retention. It shall accomplish these goals by the following means:

(1) creation or retention of permanent private-sector jobs in order to create above-average economic growth consistent with environmental protection;

(2) stimulation or leverage of private investment to ensure economic renewal and competitiveness;

(3) increasing the local tax base, based on demonstrated measurable outcomes, to guarantee a diversified industry mix;

(4) improvement of employment and economic opportunity for citizens in the region to create a reasonable standard of living, consistent with federal and state guidelines on low- to moderate-income persons; and

(5) stimulation of productivity growth through improved manufacturing or new technologies, including cold weather testing.

Subd. 2. Administration. The commissioner shall administer the fund as part of the small cities development block grant program. Funds shall be made available to local communities and recognized Indian tribal governments in accordance with the rules adopted for economic development grants in the small cities community development block grant program, except that all units of general purpose local government are eligible applicants for Minnesota investment funds. A home rule charter or statutory city, county, or town may loan or grant money under this section to a regional development commission to provide the local match required for capitalization of a regional revolving loan fund.

Subd. 3. Eligible expenditures. The money appropriated for this section may be used to provide grants for infrastructure, loans, loan guarantees, interest buy-downs, and other forms of participation with private sources of financing, provided that a loan to a private enterprise must be for a principal amount not to exceed one-half of the cost of the project for which financing is sought.

Subd. 4. Eligible projects. Assistance must be evaluated on the existence of the following conditions:

- (1) creation of new jobs or retention of existing jobs;
- (2) increase in the tax base;
- (3) the project can demonstrate that investment of public dollars induces private funds;
- (4) the project can demonstrate an excessive public infrastructure or improvement cost beyond the means of the affected community and private participants in the project;
- (5) the project provides higher wage levels to the community or will add value to current workforce skills;
- (6) whether assistance is necessary to retain existing business; and
- (7) whether assistance is necessary to attract out-of-state business.

A grant or loan cannot be made based solely on a finding that the conditions in clause (6) or (7) exist. A finding must be made that a condition in clause (1), (2), (3), (4), or (5) also exists.

Applications recommended for funding shall be submitted to the commissioner.

Subd. 5. Grant limits. A Minnesota investment fund grant may not be approved for an amount in excess of \$500,000. This limit covers all money paid to complete the same project, whether paid to one or more grant recipients and whether paid in one or more fiscal years. The portion of a Minnesota investment fund grant that exceeds \$100,000 must be repaid to the state when it is repaid to the local community or recognized Indian tribal government by the person or entity to which it was loaned by the local community or Indian tribal government. Money repaid to the state must be credited to the general fund. A grant or loan may not be made to a person or entity for the operation or expansion of a casino or a store which is used solely or principally for retail sales. Persons or entities receiving grants or loans must pay each employee total compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four.

Subd. 6. Sports facility. A Minnesota investment fund grant or loan cannot be used for a project related to a sports facility. For the purpose of this subdivision, "sports facility" means a building that has a professional sports team as a principal tenant.

Subd. 7. Contractual obligation. A business receiving Minnesota investment fund grants must demonstrate why the grant is necessary for a project and enter into an agreement with the local grantor. The agreement, among other things, must obligate the recipient to pay the minimum compensation set by this section and meet job creation goals. A recipient that breaches the agreement must repay the grant directly to the commissioner. Repayments under this subdivision must be deposited in the general fund.

History: 1996 c 452 s 29

116J.874 AFFIRMATIVE ENTERPRISE PROGRAM.

Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Business entity" means a sole proprietorship, partnership, limited liability company, or corporation.

(c) "Disabled person" means a person with a disability as defined under section 363.01, subdivision 13.

(d) "Full-time employee" means an employee who is employed for at least 35 hours per week.

Subd. 2. Establishment. The commissioner of trade and economic development shall establish the affirmative enterprise program for the purpose of encouraging the full-time employment of disabled persons in areas of economic need. The commissioner shall determine areas of economic need based on present and past levels of unemployment and population loss, and present and past reductions in industrial and business activity.

Subd. 3. Eligibility. A business entity is eligible for an affirmative enterprise grant if it meets the following criteria:

(1) except in the case of a business entity with fewer than ten employees, it employs at least 25 percent of its full-time employees from persons who are not disabled;

(2) it employs at least 50 percent of its full-time employees from disabled persons;

(3) it maintains an integrated work force of nondisabled and disabled persons at the highest possible level;

(4) every full-time employee has an employee status with all accompanying rights and responsibilities;

(5) the following benefits are provided to each full-time employee:

(i) paid vacation;

(ii) paid holidays;

(iii) paid sick leave;

(iv) a personalized career plan;

(v) retirement with employer participation; and

(vi) a copayment health insurance plan;

(6) a full-time employee selected by all employees of the business entity meets with the business entity's management at least once a month;

(7) each full-time employee is informed of other less restrictive employment when it becomes available;

(8) all full-time employees are required to participate in at least two evaluations per year with accompanying wage adjustments; and

(9) profit-sharing based on the business entity's performance is provided to all full-time employees.

Subd. 4. Grants. Affirmative enterprise grants must be used by the business to provide training and support services to disabled persons in conjunction with economic development.

Subd. 5. Preference. Preference for grant awards must be given to a business entity that: (1) offers ownership options or individual personal improvement plans with employer-sponsored training, has a long-term business plan, and is working collaboratively with the local economic development authority or organization; or (2) has a higher percentage of disabled employees than another eligible entity.

Subd. 6. [Repealed, 1995 c 224 s 126]

History: 1993 c 369 s 48

116J.875 [Renumbered 116M.02]

CAPITAL ACCESS PROGRAM

116J.876 DEFINITIONS.

Subdivision 1. Terms. For the purposes of this section and sections 116J.8761 to 116J.8769, the terms defined in this section have the meanings given them.

Subd. 2. Agreement. "Agreement" means an agreement between a lender and the commissioner under which a lender may participate in the program.

Subd. 3. **Borrower.** "Borrower" means the recipient of a loan which is, has been, or will be filed by the lender for enrollment under the program and meets the following requirements:

(1) the borrower is a corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity, whether profit or nonprofit, which is authorized to conduct business in the state; and

(2) the borrower is not an executive officer, director, or principal shareholder of the lender, or a member of the immediate family of an executive officer, director, or principal shareholder of the lender, or an entity controlled by an executive officer, director, principal shareholder, or member of the immediate family.

Subd. 4. **Capital access account; account.** "Capital access account" or "account" means an account created in the special revenue fund for the purposes of the capital access program.

Subd. 5. **Claim.** "Claim" means any claim filed by the lender under section 116J.8767.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of trade and economic development.

Subd. 7. **Early loan.** "Early loan" means an enrolled loan where at the time of enrollment the amount of previously enrolled loans made by the lender under the program was less than \$5,000,000.

Subd. 8. **Eligible loan.** "Eligible loan" means a loan made by the lender to a borrower that meets the requirements of section 116J.8764.

Subd. 9. **Enrolled loan.** "Enrolled loan" means a loan enrolled by the commissioner under the terms of section 116J.8764.

Subd. 10. **Lender.** "Lender" means a financial institution as defined in section 13A.01, subdivision 2, that has entered into an agreement with the commissioner to participate in the program.

Subd. 11. **Passive real estate ownership.** "Passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rentals, except that the term does not include (1) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate; or (2) ownership of real estate for the purpose of construction or renovation until the completion of the construction or renovation phase.

Subd. 12. **Program.** "Program" means the capital access program created by sections 116J.876 to 116J.8769.

Subd. 13. **Reserve fund.** "Reserve fund" means an administrative account maintained by the commissioner for funds accumulated under an agreement with the commissioner to cover losses sustained by the lender on enrolled loans.

History: 1989 c 335 art 1 s 146

116J.8761 CAPITAL ACCESS PROGRAM; CREATION; ADMINISTRATION.

A capital access program is created in the department of trade and economic development. The purpose of the capital access program is to provide capital to businesses, particularly small and medium-sized businesses, to foster economic development. Loans made under this program are to be slightly riskier than conventional loans, but still offer a high degree of soundness in connection with the capital access program.

The commissioner has the power to administer the program, enter into contracts, and take action reasonably necessary to ensure compliance with the program. The lender shall provide the commissioner with information regarding its participation in the program as the commissioner may reasonably require. Upon notice to the lender, the commissioner may inspect the files of the lender relating to any loans enrolled under the program during normal business hours of the lender.

A lender is eligible to participate in the program upon entering into an agreement with the commissioner governing the duties of the commissioner and the lender under the program.

History: 1989 c 335 art 1 s 147

116J.8762 COMMISSIONER; DUTIES.

Subdivision 1. **Duties.** The commissioner must:

(1) market the capital access program to businesses and other persons in the state in cooperation with financial institutions and statewide associations representing financial institutions;

(2) establish a reservation or allocation system so that lenders may reserve an allocation of funds in the account before or after the lender enters into a loan agreement or contract with a borrower; and

(3) develop the program, in cooperation with financial institutions and statewide associations representing financial institutions, so that the degree of flexibility for the commissioner and the participating lenders is maximized and the state oversight of individual loans is minimized, and the fiscal integrity of the program is maintained.

Subd. 2. **Interests of commissioner.** Except upon the exercise of the commissioner's right of subrogation under section 116J.8767, the commissioner has no legal or equitable interest in any collateral, security, or other right of recovery in connection with any loan enrolled in the program, and the commissioner's consent is not necessary for any amendment to the lender's loan documents.

History: 1989 c 335 art 1 s 148

116J.8763 ELIGIBLE LOANS.

Subdivision 1. **Loan types.** Eligible loans may include:

(1) loans made for industrial, commercial, or agricultural purposes;

(2) refinancing of loans made for the purposes in clause (1); and

(3) lines of credit agreements established between the lender and borrower which are used for the purposes in clause (1).

Subd. 2. **Loan restrictions.** Eligible loans must meet the following criteria:

(1) the lender has not made the loan in order to enroll in the program prior debt which is not covered under the program and which is or was owed by the borrower to the lender;

(2) the proceeds of the loan will not be used for that portion of a project or development devoted to housing;

(3) the proceeds of the loan will not be used to finance passive real estate ownership; and

(4) the proceeds of the loan will be used to finance a project or enterprise located within this state which will foster economic development in Minnesota.

Subd. 3. **Loan provisions.** An eligible loan may provide for an interest rate, fees, and other terms and conditions as the lender and borrower may agree. If the loan amount to be borrowed is determined by a commitment agreement that establishes a line of credit, the amount of the loan is the maximum amount available to the borrower under the agreement.

History: 1989 c 335 art 1 s 149

116J.8764 ENROLLMENT OF LOANS IN PROGRAM.

Subdivision 1. **Filing requirements.** (a) To enroll a loan under this program, the lender must file a completed loan enrollment form with the commissioner. The lender must also certify the following to the commissioner as part of the filing:

(1) the lender has no substantial reason to believe that the loan is being made to a borrower who does not meet the requirements of section 116J.876, subdivision 3;

(2) that the lender has received from the borrower a written representation, warranty, pledge, and waiver stating that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the reserve fund established to cover losses sustained by the lender on enrolled loans;

(3) the loan being filed for enrollment is an eligible loan under section 116J.8763; and

(4) premium changes required of the borrower and lender under this section have been deposited in the reserve fund.

(b) The lender shall file the loan enrollment form within ten business days after the lender makes the loan. The date on which the lender makes a loan is the date on which the lender

first disburses proceeds of the loan to the borrower or an earlier date on which the loan documents have been executed and the lender has obligated itself to disburse proceeds of the loan. The filing date of a loan enrollment form is the date on which the lender delivers the required documentation to the commissioner, delivers it to a professional courier service for delivery to the commissioner, or mails it to the commissioner by certified mail.

Subd. 2. Commissioner enrollment; acknowledgment. When the commissioner receives the loan enrollment form, the commissioner shall enroll the loan, unless the information provided under subdivision 1 indicates that the loan is not an eligible loan, and shall deliver to the lender within five business days of receipt an acknowledgment of enrollment, signed by the commissioner or designee, including documentation of the amount being transferred by the commissioner into the reserve fund under this section.

Subd. 3. Amount covered. When filing a loan enrollment form, the lender may specify an amount to be covered under the program. The amount may be less than the total amount of the loan. Unless the context clearly requires otherwise, when used in connection with a loan or loans, the words "amount" and "proceeds" refer only to the amount covered under the agreement.

Subd. 4. Amount covered in refinancings. (a) In the case of a loan to refinance a loan previously made to the borrower by the lender that was not enrolled under the program, the lender may obtain coverage under the program for an amount not exceeding the amount of additional financing.

(b) If an enrolled loan is refinanced and the total amount to be covered under the program does not exceed the covered amount of the loan as previously enrolled, the refinanced loan may continue as an enrolled loan without payment of additional premium charges or transfers by the commissioner to the reserve fund.

(c) If an enrolled loan is refinanced in an amount exceeding the amount of the loan as previously enrolled, the lender may obtain coverage of the amount of the refinanced loan that exceeds the amount covered when the loan was previously enrolled by refiling the loan for enrollment under subdivision 1.

(d) Fluctuations in the outstanding balance of a line of credit, without increasing the enrolled amount under the program, are not a refinancing of the loan.

Subd. 5. Termination of enrollment. If the outstanding balance of an enrolled loan which is not a line of credit is reduced to zero, the loan is no longer an enrolled loan. If an enrolled loan which is a line of credit has an outstanding balance of zero for a 12-month period, the line of credit is no longer an enrolled loan, unless, before the expiration of the 12-month period, the lender reaffirms in writing to the borrower that the line of credit will remain open and the borrower acknowledges the reaffirmation in writing.

History: 1989 c 335 art 1 s 150

116J.8765 RESERVE FUND; PREMIUMS.

Subdivision 1. Creation. Upon execution of an agreement between the lender and the commissioner, the commissioner shall establish a reserve fund account with the lender in the name of the commissioner for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the commissioner under sections 116J.876 to 116J.8769.

Subd. 2. Premium payments and transfers to reserve fund. The premium charges payable to the reserve fund by the lender and the borrower in connection with a loan filed for enrollment are determined by the lender. The premium paid by the borrower may not be less than 1.5 percent nor greater than 3.5 percent of the amount of the loan. The premium paid by the lender shall be equal to the amount of the premium paid by the borrower. The lender may recover from the borrower the cost of the lender's premium payment, in any manner in which the lender and borrower agree. When enrolling a loan, the commissioner shall transfer into the reserve fund from the account premium amounts determined as follows:

(a) If the amount of any loan, plus the amount of loans previously enrolled by the lender, is less than \$2,000,000, the premium amount transferred must be equal to 150 percent of the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(b) If, prior to the enrollment of the loan, the amount of loans previously enrolled by the lender equals or exceeds \$2,000,000, the premium amount transferred must be equal to the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(c) If the amount of loans previously enrolled by the lender is less than \$2,000,000, but the enrollment of a loan will cause the aggregate amount of all enrolled loans made by the lender to exceed \$2,000,000, the premium amount transferred must be equal to a percentage of the combined amount paid by the lender and the borrower. The percentage must be determined by (1) multiplying by 150 that portion of the loan which when added to the amount of all previously enrolled loans totals \$2,000,000, (2) multiplying the balance of the loan by 100, and (3) adding the products of the two amounts and dividing the sum by the total amount of the loan.

Subd. 3. Limitation of transfers. A maximum premium amount of \$150,000 may be transferred into the reserve funds of all lenders participating in the program by the commissioner over any three-year period in connection with any one borrower or any group of borrowers among which a common enterprise exists. This maximum premium amount may be exceeded upon the written request by a lender only if the commissioner approves in writing the transfer of an amount in excess of \$150,000. For the purpose of this subdivision, the term "common enterprise" has the meaning given it in Code of Federal Regulations, title 12, section 32, as amended.

Subd. 4. Control and investment of reserve fund. (a) All money credited to the reserve fund is under the exclusive control of the commissioner. The commissioner may not withdraw money from the reserve fund except as specifically provided in this subdivision and sections 116J.8766 and 116J.8768.

(b) Money in the reserve fund must be deposited by the commissioner in an account with the lender unless the commissioner determines that the lender is not in substantial compliance with the requirements of the agreement. If money in the reserve fund is not deposited by the commissioner in an account with the lender, it must be invested or reinvested by the commissioner in (1) direct obligations of the United States or the state of Minnesota or in obligations the principal and interest of which are unconditionally guaranteed by the United States or the state of Minnesota, or (2) a deposit account at a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(c) Interest or income earned on the money credited to the reserve fund is part of the reserve fund. The commissioner may withdraw at any time from the reserve fund 50 percent of all interest or income that has been credited to the reserve fund, except that after the first withdrawal the commissioner may not withdraw more than 50 percent of all interest or income that has been credited to the reserve fund since the time of the last withdrawal. Any withdrawal made under this subdivision may be made prior to paying any claim. None of the amounts withdrawn need to be transferred back to the reserve fund. Any withdrawal under this subdivision must be credited in the capital access account.

Subd. 5. Pledge of the reserve fund. The commissioner shall pledge to the lender that the money in the reserve fund will be available to pay claims under section 116J.8766, that the lender will have a first security interest in the money in the reserve fund to pay the claims, and that the commissioner will not encumber or pledge the money to any other party.

Subd. 6. Quarterly reports; inspections. (a) If the reserve fund is not maintained with the lender, the commissioner shall provide to the lender quarterly transaction reports indicating the balance in the reserve fund, payments and transfers into the reserve fund, withdrawals from the reserve fund, and interest or income earned on money credited to the reserve fund.

(b) The records of the commissioner with respect to all payments and transfers into the reserve fund, withdrawals from the reserve fund, and interest or income earned on the money credited to the reserve fund, are available to the lender at the offices of the commissioner during normal business hours.

History: 1989 c 335 art 1 s 151

116J.8766 CLAIMS BY LENDER TO RESERVE FUND.

Subdivision 1. **Claim process.** (a) If the lender charges off all or part of an enrolled loan, the lender may file a claim with the commissioner. The claim must be filed contemporaneously with the charge-off.

(b) The lender's claim may include, in addition to the amount of principal charged off plus accrued interest, one-half of the documented out-of-pocket expenses incurred in pursuing its collection efforts, including preservation of collateral. The amount of principal and accrued interest included in the claim may not exceed the principal amount covered under the program upon enrollment, plus accrued interest attributable to the covered principal amount.

(c) The lender shall determine when and how much to charge off on an enrolled loan in a manner consistent with its normal method for making these determinations on similar loans which are not enrolled loans.

(d) If the lender files two or more claims contemporaneously and there are insufficient funds in its reserve fund at that time to cover the entire amount of the claims, the lender may designate the order of priority in which the commissioner shall pay the claims.

Subd. 2. **Disbursement of reserve fund.** (a) Upon receipt by the commissioner of a claim filed by the lender, the commissioner shall, within ten business days, pay or authorize the lender to withdraw from the reserve fund the amount of the claim as submitted, unless the information provided by the lender was known by the lender to be false at the time the loan was filed for enrollment. No other violation of sections 116J.876 to 116J.8769 or the agreement is grounds for denial of a claim. All money transferred or credited to the reserve fund from any source is appropriated to the commissioner to pay claims under this section.

(b) If there is insufficient money in the reserve fund to cover the entire amount of the lender's claim, the commissioner shall pay to the lender or authorize the lender to withdraw an amount equal to the current balance in the reserve fund and the following shall apply:

(1) If the enrolled loan for which the claim has been filed is not an early loan, the payment fully satisfies the claim, and the lender has no right to receive any further amount from the reserve fund with respect to that claim.

(2) If the loan is an early loan, the partial payment does not satisfy the lender's claim, and at any time that the remaining balance of the claim is not greater than 75 percent of the balance in the reserve fund at the time of the loss, the commissioner, upon request of the lender, shall pay the remaining balance of the claim.

Subd. 3. **Recovery by lender subsequent to claim.** If, subsequent to payment of a claim by the commissioner, the lender recovers from a borrower any amount for which payment of the claim was made, the lender shall promptly pay to the commissioner for deposit in the reserve fund the amount recovered, less one-half of any documented out-of-pocket expenses incurred. The lender need pay to the commissioner for deposit in the reserve fund only amounts in excess of the amount of recovery needed to fully cover the lender's loss on an enrolled loan.

For the purposes of this subdivision and section 116J.8767, the lender's loss on an enrolled loan includes any losses on the loan including principal, accrued interest, and one-half of the documented out-of-pocket expenses attributable to principal amounts in excess of the amount covered under the program or the principal amount included in the claim.

Subd. 4. **Technical assistance.** When a borrower becomes 60 days delinquent in the payments of an enrolled loan or before a lender files a claim with the commissioner, the lender must notify the commissioner of the delinquency. The commissioner, after notification, shall inform the borrower of the technical assistance providers in the borrower's area that may assist in solving any business or management problems experienced by the borrower.

History: 1989 c 335 art 1 s 152; 1990 c 423 s 4; 1991 c 345 art 1 s 72

116J.8767 SUBROGATION OF CLAIMS.

Subdivision 1. **Limitation.** The commissioner may exercise the right of subrogation under this section if the commissioner determines, in the commissioner's discretion, that the lender has not exercised reasonable care and diligence in its collection activities with respect to the loan or that there is a reasonable basis for believing that the lender will not exercise reasonable care and diligence in the future with respect to the collection activities.

Subd. 2. Assignment of rights. If the payment of a claim has fully covered the lender's loss on an enrolled loan, or if the payment of a claim when combined with any recovery from the borrower has fully covered the lender's loss, the commissioner, upon request, is subrogated to the rights of the lender with respect to any collateral, security, or other right of recovery in connection with the loan that has not been realized by the lender. The lender thereafter shall assign to the commissioner any right, title, or interest to any collateral, security, or other right of recovery in connection with the loan.

Subd. 3. Lender obligations. If an assignment has been made, the commissioner is not required to undertake any obligations of the lender under its loan documents, except for any obligations directly related to the commissioner's assigned rights of recovery in connection with the loan. The lender shall fulfill any other obligations it may have under the loan documents in the same manner and to the same degree as required had the assignment not been made. The lender shall provide the commissioner with all reasonable assistance the commissioner requests in proceeding with respect to any collateral, security, or other right of recovery, except that the lender need not incur any out-of-pocket expenses.

Subd. 4. Payment of lender's loss. If the commissioner decides to exercise the right of subrogation in connection with an enrolled loan and would be entitled to exercise the right except for the fact that the lender's loss has not been fully covered, the commissioner may pay from money in the reserve fund an amount sufficient to fully cover the lender's loss even though the payment may cover a principal amount not covered under the program or not included in the lender's claim. Upon making the payment, the commissioner is subrogated to the rights of the lender.

Subd. 5. Recovered funds. Any money received by the commissioner as a result of enforcement actions taken with respect to any collateral, security, or other rights of recovery must be promptly deposited by the commissioner in the reserve fund, less any out-of-pocket expenses incurred by the commissioner in taking such enforcement actions.

History: 1989 c 335 art 1 s 153

116J.8768 EXCESS RESERVE FUNDS.

Subdivision 1. Reports. The lender shall file quarterly reports with the commissioner indicating the number and aggregate outstanding balance of all enrolled loans as of the end of each quarter. A quarterly report is not required for any quarter that ends with a balance in the reserve fund of zero, except that a calendar year-end report must be filed. In computing the aggregate outstanding balance of all enrolled loans, the balance of any loan may not be greater than the covered amount of the loan as enrolled.

Subd. 2. Withdrawal of excess reserve funds. (a) If reports filed under this section indicate that for the immediately preceding 24-month period the balance in the reserve fund continually exceeded the aggregate outstanding balance of all enrolled loans, the commissioner may withdraw from the reserve fund, on or before the last day of the month for which a report is due, an amount not greater than the amount by which the reserve fund balance exceeded the aggregate outstanding balance of all enrolled loans as of the most recent report, unless the lender has provided to the commissioner adequate documentation that at some time during that 24-month period the aggregate outstanding balance of all enrolled loans exceeded the balance then in the reserve fund. Any amounts withdrawn from the reserve fund must be transferred to the account.

(b) If a report is not filed within 30 days of its original due date, the commissioner may withdraw from the reserve fund based on the commissioner's determination from an inspection of the lender's files an amount not greater than the amount by which the reserve fund balance exceeded the aggregate outstanding balance of all enrolled loans as of the date for which the report was required to be filed.

History: 1989 c 335 art 1 s 154

116J.8769 TERMINATION.

The commissioner may terminate the obligation to a lender to enroll loans under the program if the commissioner determines that the lender is not in substantial compliance with the requirements of the program. The termination takes effect on the date specified in the

notice of termination, except that the termination does not apply to any loan made on or before the date on which the notice of termination is received by the lender. If the commissioner is terminating the enrollment of loans for all participating lenders under the program, the commissioner shall provide notice of at least 90 days to the lender. Any terminations under this section are prospective only and do not apply to any loans previously refinanced. After termination, the amount covered under the program may not be increased beyond the covered amount as previously enrolled.

History: 1989 c 335 art 1 s 155

116J.88 Subdivision 1. [Renumbered 116M.03 subdivision 1]

- Subd. 2. [Renumbered 116M.03 subd 2]
- Subd. 3. [Repealed, 1983 c 289 s 119]
- Subd. 3a. [Renumbered 116M.03 subd 3]
- Subd. 4. [Renumbered 116M.03 subd 4]
- Subd. 4a. [Renumbered 116M.03 subd 5]
- Subd. 4b. [Renumbered 116M.03 subd 6]
- Subd. 4c. [Renumbered 116M.03 subd 7]
- Subd. 5. [Renumbered 116M.03 subd 8]
- Subd. 6. [Renumbered 116M.03 subd 9]
- Subd. 6a. [Renumbered 116M.03 subd 10]
- Subd. 7. [Renumbered 116M.03 subd 11]
- Subd. 7a. [Renumbered 116M.03 subd 12]
- Subd. 7b. [Renumbered 116M.03 subd 13]
- Subd. 8. [Renumbered 116M.03 subd 14]
- Subd. 8a. [Renumbered 116M.03 subd 15]
- Subd. 8b. [Renumbered 116M.03 subd 16]
- Subd. 9. [Renumbered 116M.03 subd 17]
- Subd. 10. [Renumbered 116M.03 subd 18]
- Subd. 11. [Renumbered 116M.03 subd 19]
- Subd. 12. [Renumbered 116M.03 subd 20]
- Subd. 13. [Renumbered 116M.03 subd 21]
- Subd. 14. [Renumbered 116M.03 subd 22]
- Subd. 15. [Renumbered 116M.03 subd 23]
- Subd. 16. [Renumbered 116M.03 subd 24]
- Subd. 17. [Renumbered 116M.03 subd 25]
- Subd. 18. [Renumbered 116M.03 subd 26]

116J.89 Subdivision 1. [Renumbered 116M.06 subdivision 1]

- Subd. 1a. [Renumbered 116M.06 subd 2]
- Subd. 1b. [Renumbered 116M.06 subd 3]
- Subd. 1c. [Renumbered 116M.06 subd 4]
- Subd. 1d. [Renumbered 116M.06 subd 5]
- Subd. 2. [Renumbered 116M.06 subd 6]
- Subd. 3. [Renumbered 116M.06 subd 7]
- Subd. 4. [Renumbered 116M.06 subd 8]
- Subd. 5. [Renumbered 116M.06 subd 9]
- Subd. 6. [Renumbered 116M.06 subd 10]
- Subd. 7. [Repealed, 1983 c 213 s 25]
- Subd. 8. [Renumbered 116M.06 subd 11]
- Subd. 9. [Renumbered 116M.06 subd 12]
- Subd. 10. [Renumbered 116M.06 subd 13]

116J.90 Subdivision 1. [Renumbered 116M.07 subdivision 1]

- Subd. 2. [Renumbered 116M.07 subd 2]
- Subd. 2a. [Renumbered 116M.07 subd 3]
- Subd. 3. [Renumbered 116M.07 subd 4]
- Subd. 3a. [Renumbered 116M.07 subd 5]
- Subd. 3b. [Renumbered 116M.07 subd 6]
- Subd. 3c. [Renumbered 116M.07 subd 7]
- Subd. 4. [Renumbered 116M.07 subd 8]
- Subd. 4a. [Renumbered 116M.07 subd 9]
- Subd. 5. [Renumbered 116M.07 subd 10]
- Subd. 5a. [Renumbered 116M.07 subd 11]
- Subd. 6. [Renumbered 116M.07 subd 12]
- Subd. 7. [Renumbered 116M.07 subd 13]

116J.91 Subdivision 1. [Renumbered 116M.08 subdivision 1]

- Subd. 2. [Renumbered 116M.08 subd 2]
- Subd. 3. [Renumbered 116M.08 subd 3]
- Subd. 4. [Renumbered 116M.08 subd 4]
- Subd. 5. [Renumbered 116M.08 subd 5]
- Subd. 6. [Renumbered 116M.08 subd 6]
- Subd. 7. [Renumbered 116M.08 subd 7]
- Subd. 8. [Renumbered 116M.08 subd 8]
- Subd. 9. [Renumbered 116M.08 subd 9]
- Subd. 10. [Renumbered 116M.08 subd 10]
- Subd. 11. [Renumbered 116M.08 subd 11]
- Subd. 12. [Renumbered 116M.08 subd 12]
- Subd. 13. [Renumbered 116M.08 subd 13]
- Subd. 14. [Renumbered 116M.08 subd 14]
- Subd. 15. [Renumbered 116M.08 subd 15]
- Subd. 16. [Renumbered 116M.08 subd 16]
- Subd. 17. [Renumbered 116M.08 subd 17]
- Subd. 18. [Renumbered 116M.08 subd 18]
- Subd. 19. [Renumbered 116M.08 subd 19]
- Subd. 19a. [Renumbered 116M.08 subd 20]
- Subd. 20. [Renumbered 116M.08 subd 21]

116J.921 [Renumbered 116M.09]**116J.922** [Repealed, 1984 c 583 s 37]**116J.923** Subdivision 1. [Renumbered 116M.10 subdivision 1]

- Subd. 2. [Repealed, 1984 c 583 s 37]
- Subd. 3. [Renumbered 116M.10 subd 2]
- Subd. 4. [Renumbered 116M.10 subd 3]
- Subd. 5. [Renumbered 116M.10 subd 4]
- Subd. 6. [Renumbered 116M.10 subd 5]
- Subd. 7. [Renumbered 116M.10 subd 6]
- Subd. 8. [Renumbered 116M.10 subd 7]
- Subd. 9. [Renumbered 116M.10 subd 8]
- Subd. 10. [Renumbered 116M.10 subd 9]
- Subd. 11. [Renumbered 116M.10 subd 10]
- Subd. 12. [Repealed, 1984 c 583 s 37]

116J.924 Subdivision 1. [Repealed, 1984 c 583 s 37]

Subd. 2. [Renumbered 116M.11 subdivision 1]

Subd. 3. [Renumbered 116M.11 subd 2]

Subd. 4. [Renumbered 116M.11 subd 3]

Subd. 5. [Renumbered 116M.11 subd 4]

116J.925 [Renumbered 116M.12]

116J.926 [Renumbered 116M.13]

116J.94 [Repealed, 1987 c 314 s 5]

116J.941 [Repealed, 1987 c 316 s 4; 1989 c 335 art 1 s 270]

116J.942 [Repealed, 1987 c 316 s 4; 1989 c 335 art 1 s 270]

116J.951 [Repealed, 1987 c 386 art 1 s 13]

RURAL REHABILITATION REVOLVING ACCOUNT

116J.955 RURAL REHABILITATION REVOLVING ACCOUNT.

Subdivision 1. **Establishment.** The rural rehabilitation account is in the special revenue fund. The money transferred to the state as a result of liquidating the rural rehabilitation corporation trust, and money derived from transfer of the trust to the state, must be credited to the rural rehabilitation account. The principal amount of the rural rehabilitation account must be invested by the state investment board. The income attributable to investment of the principal is appropriated to the commissioner for the purposes of Laws 1987, chapter 386, article 1.

Subd. 2. **Expenditure of account.** The commissioner may use the rural rehabilitation account for the purposes that are allowed under the Minnesota rural rehabilitation corporation's charter and agreement with the United States Secretary of Agriculture as provided in Public Law Number 499, 81st Congress, enacted May 3, 1950 and as allowed under Laws 1987, chapter 386, article 1. Not more than three percent of the book value of the Minnesota rural rehabilitation corporation's assets may be used for administrative purposes in a year without approval of the United States Secretary of Agriculture.

Subd. 3. **Transfer of authorized records to commissioner.** The authority, assets, books, and records held by the Minnesota rural rehabilitation corporation and later by the state executive council under Public Law Number 499, 81st Congress, May 3, 1950, is transferred to the commissioner.

History: 1985 c 254 s 2; 1987 c 386 art 1 s 1,2; 1989 c 335 art 4 s 49,50

116J.961 [Repealed, 1987 c 386 art 1 s 13]

116J.965 [Repealed, 1987 c 386 art 1 s 13]

TRADE PROMOTION

116J.966 COMMISSIONER'S TRADE PROMOTION DUTIES.

Subdivision 1. **Generally.** (a) The commissioner shall promote, develop, and facilitate trade and foreign investment in Minnesota. In furtherance of these goals, and in addition to the powers granted by section 116J.035, the commissioner may:

(1) locate, develop, and promote international markets for Minnesota products and services;

(2) arrange and lead trade missions to countries with promising international markets for Minnesota goods, technology, services, and agricultural products;

(3) promote Minnesota products and services at domestic and international trade shows;

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(4) organize, promote, and present domestic and international trade shows featuring Minnesota products and services;

(5) host trade delegations and assist foreign traders in contacting appropriate Minnesota businesses and investments;

(6) develop contacts with Minnesota businesses and gather and provide information to assist them in locating and communicating with international trading or joint venture counterparts;

(7) provide information, education, and counseling services to Minnesota businesses regarding the economic, commercial, legal, and cultural contexts of international trade;

(8) provide Minnesota businesses with international trade leads and information about the availability and sources of services relating to international trade, such as export financing, licensing, freight forwarding, international advertising, translation, and custom brokering;

(9) locate, attract, and promote foreign direct investment and business development in Minnesota to enhance employment opportunities in Minnesota;

(10) provide foreign businesses and investors desiring to locate facilities in Minnesota information regarding sources of governmental, legal, real estate, financial, and business services;

(11) enter into contracts or other agreements with private persons and public entities, including agreements to establish and maintain offices and other types of representation in foreign countries, to carry out the purposes of promoting international trade and attracting investment from foreign countries to Minnesota and to carry out this section, without regard to sections 16B.07 and 16B.09;

(12) enter into administrative, programming, and service partnerships with the Minnesota world trade center; and

(13) market trade-related materials to businesses and organizations, and the proceeds of which must be placed in a special revolving account and are appropriated to the commissioner to prepare and distribute trade-related materials.

(b) The programs and activities of the commissioner of trade and economic development and the Minnesota trade division may not duplicate programs and activities of the commissioner of agriculture or the Minnesota world trade center corporation.

(c) The commissioner shall notify the chairs of the senate finance and house appropriations committees of each agreement under this subdivision to establish and maintain an office or other type of representation in a foreign country.

Subd. 2. Agricultural promotion. The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade division shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade division have primary responsibility for promoting state agricultural interests to international markets. The commissioner of trade and economic development and the director of the Minnesota trade division are also responsible for the promotion of national trade programs related to international marketing. The commissioner of agriculture has primary responsibility for promoting the agriculture interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture. The commissioner of agriculture is also responsible for promoting the national marketing of state agricultural products.

History: 1987 c 312 art 1 s 20; 1988 c 686 art 1 s 65; 1993 c 163 art 1 s 20; 1994 c 632 art 4 s 45

116J.967 [Repealed, 1991 c 345 art 1 s 117]

116J.9671 TRADE AND EXPORT DEVELOPMENT.

The commissioner of the department of trade and economic development shall encourage and develop commerce and devise ways and means of removing trade barriers hampering the free flow of commerce between this and other states.

History: 1983 c 289 s 6; 1987 c 312 art 1 s 26 subd 1; 1987 c 396 art 10 s 3,8

116J.9672 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of section 116J.9673, the following terms have the meanings given them.

Subd. 2. **Finance authority.** "Finance authority" means the export finance authority.

Subd. 3. **Preexport.** "Preexport" means that period of time between the formation of a sale and the actual shipment of the goods.

Subd. 4. **Postexport.** "Postexport" means the period of time between a shipment of goods and receipt of final payment for the goods.

History: 1983 c 289 s 7; 1984 c 461 s 1; 1987 c 312 art 1 s 26 subd 1; 1987 c 396 art 10 s 8

116J.9673 EXPORT FINANCE AUTHORITY.

Subdivision 1. **Creation; purpose.** The export finance authority is created to aid and facilitate the financing of exports from this state. The finance authority powers shall be used exclusively to meet the credit needs of Minnesota exporters.

Subd. 2. **Board of directors.** The governor shall appoint seven members to the authority's board of directors. Six members shall be knowledgeable in international finance, exporting, or international law and one member shall represent a company specializing in agricultural trade.

The commissioner of the department of trade and economic development shall be chair of the board. Membership, terms, compensation and removals are governed by section 15.0575. Board members shall perform their duties in a non-self-serving manner and in compliance with section 10A.07.

Subd. 3. **Powers.** The finance authority has the power and authority to perform the following functions and may:

(1) insure, coinsure, and guarantee against commercial preexport and postexport credit risks;

(2) sue and be sued;

(3) enter into agreements and transactions with any person, partnership, or corporation, both foreign and domestic, state, federal, and foreign governments and governmental agencies;

(4) acquire and hold personal and real property pursuant to the provisions of insurance and the granting of guarantees;

(5) pledge and appropriate collateral;

(6) charge premiums, interest, and fees;

(7) provide administrative, consultative, and technical services to assist in the financing of exports;

(8) prepare and receive reports regarding credit, insurance, and guarantees with respect to export finance;

(9) perform all necessary and appropriate operations, administration, processing, and marketing functions related to the authority's functions; and

(10) adopt rules necessary to carry out responsibilities under this section.

Subd. 4. **Working capital account.** An export finance authority working capital account is created as a special account in the state treasury. All premiums and interest collected under subdivision 3, clause (6), must be deposited into this account. Fees collected must be credited to the general fund. The balance in the account may exceed \$918,000 on June 30, 1994, and \$1,000,000 on June 30 of each subsequent year through accumulated earnings.

Any balance in excess of \$918,000 on June 30, 1994, and \$1,000,000 on June 30 of every subsequent year must be transferred to the general fund. Money in the account including interest earned and appropriations made by the legislature for the purposes of this section, is appropriated annually to the finance authority for the purposes of this section. The balance in the account may decline below \$918,000 on June 30, 1994, and \$1,000,000 on June 30 of each subsequent year as required to pay defaults on guaranteed loans.

Subd. 5. **Annual report.** The chair and board of directors shall submit to the governor an annual report on the activities of the finance authority.

Subd. 6. **Liability limitation.** The finance authority may not have at any one time net liabilities greater than four times its capital and reserves.

Subd. 7. **Insurance and guarantees.** The finance authority may provide insurance and guarantees to the following extent:

(1) The finance authority may provide to any one person insurance or guarantees for preexport transactions or for postexport transactions. When insuring, coinsuring, or guaranteeing the postexport portion of transactions, the finance authority shall retain not more than ten percent of the commercial risk, or alternatively, the normal and standard deductible of the insurance policy.

(2) The policy of the finance authority is to provide insurance and guarantees for export credits that would otherwise not be made and that the chair and the board deem to represent a reasonable risk and have a sufficient likelihood of repayment.

(3) The finance authority shall contract with, among others, the Foreign Credit Insurance Association, the United States Export-Import Bank, and private insurers to secure insurance or reinsurance for country and commercial risks for the finance authority's insurance program. The finance authority may purchase insurance policies using money from the finance authority's appropriations.

(4) Losses incurred by the finance authority that relate to its insurance or guarantee activities shall be solely borne by the finance authority to the extent of its capital and reserves.

Subd. 8. **Staffing.** The commissioner of the department of trade and economic development shall provide staff to work for the finance authority.

History: 1983 c 289 s 8; 1984 c 461 s 2-5; 1986 c 444; 1987 c 312 art 1 s 26 subd 1; 1987 c 396 art 10 s 8; 1988 c 686 art 1 s 46; 1989 c 335 art 4 s 51; 1992 c 513 art 4 s 33; 1992 c 602 s 10,11; 1994 c 632 art 4 s 46

116J.968 [Repealed, 1989 c 335 art 4 s 109]

116J.970 [Repealed, 1988 c 629 s 23; 1991 c 322 s 20]

116J.971 [Repealed, 1988 c 629 s 23; 1991 c 322 s 20]

INTERNATIONAL PARTNERSHIP PROGRAM

116J.974 [Repealed, 1996 c 310 s 1]

116J.975 PARTNERSHIP PROGRAM PROJECT.

The commissioner may establish an international partnership project as part of the review procedure under section 116J.974, clause (7). The commissioner may solicit applications and proposals from Minnesota companies and nonprofit organizations for projects that will achieve the goals of the international partnership program. The grants may be used for planning or for participation in joint venture programs. Applications or proposals must:

(1) contain a detailed description of the project or activities that will be used to achieve the goals of the partnership program;

(2) identify the source of the matching funds as required by section 116J.974;

(3) identify the participating country or countries and their financial or other contributions to the project;

(4) identify the expected outcomes from the project; and

(5) contain any other information the commissioner determines necessary to award grants.

The commissioner may establish priorities for applications. The commissioner may adopt rules as necessary for the administration of the grants under this section.

History: 1991 c 220 s 2; 1993 c 337 s 6

COMMUNITY DEVELOPMENT

116J.980 COMMUNITY DEVELOPMENT.

Subdivision 1. Duties. The department of trade and economic development shall:

(1) be responsible for administering all state community development and assistance programs, including the economic recovery account, the outdoor recreation grant program, the rural development programs, the Minnesota public facilities authority loan and grant programs, and the enterprise zone program;

(2) be responsible for state administration of federally funded community development and assistance programs, including the small cities development grant program and land and water conservation program;

(3) provide technical assistance to rural communities for community development in cooperation with regional development commissions;

(4) coordinate the development and review of state rural development policies; and

(5) be responsible for coordinating community assistance and development programs in cooperation with regional development commissions.

Subd. 2. General complement authority. The department may combine all related state and federal complement positions into general fund positions, to carry out the responsibilities under subdivision 1. The number of general fund positions must not exceed the aggregate number of all state and federal positions that are to be combined. Records of the actual number of employee hours charged to each state and federal account must be maintained for each general fund position.

Subd. 3. Coordination required for housing related grants. The commissioner must coordinate with the commissioner of the Minnesota housing finance agency to ensure that housing related grant applications for the small cities community development block grant program under section 116J.401 are consistent with the agency's most recent housing affordability plan and do not duplicate existing state housing programs.

Subd. 4. Preference for outdoor recreation grants. In awarding grants under the outdoor recreation grant program, the commissioner shall give special consideration to proposed outdoor recreation projects for which particular need has been demonstrated by the applicant based on, but not limited to, the following factors:

(1) low to moderate income status of persons living adjacent to or most likely to make use of the proposed facility;

(2) lack of adequate transportation or access to existing outdoor recreation facilities by those most likely to use the proposed facility;

(3) the need for outdoor recreation facilities designed to accommodate handicapped persons and other special populations that would be met by the proposed facility;

(4) the overall inadequacy or lack of outdoor recreation facilities within the area to be served by the proposed project;

(5) the need for acquisition of land in fully developed areas with limited opportunities for recreation facility development; and

(6) a high population of school-aged children in the area to be served by the proposed outdoor recreation facility and a lack of appropriate recreation facilities for children.

The commissioner shall incorporate into the annual project ranking process a procedure for awarding additional ranking points to those project applications which demonstrate a special need based on the above or similar factors.

History: 1987 c 312 art 1 s 26 subd 2; 1987 c 386 art 4 s 1; 1989 c 335 art 4 s 106; 1990 c 429 s 1; 1991 c 157 s 1; 1993 c 163 art 1 s 21,22; 1996 c 369 s 9

116J.981 [Repealed, 1996 c 310 s 1; 1996 c 369 s 13]

116J.982 COMMUNITY DEVELOPMENT CORPORATIONS.

Subdivision 1. Definitions. For the purposes of this section, the terms in this subdivision have the meanings given them:

(a) "Commissioner" means the commissioner of trade and economic development.

(b) "Economic development region" means an area so designated in the governor's executive order number 83-15, dated March 15, 1983.

(c) "Federal poverty level" means the income level published annually by the United States Department of Health and Human Services under authority of the Omnibus Budget Reconciliation Act of 1981, Public Law Number 97-35, title VI, section 673(2).

(d) "Low income" means an annual income below the federal poverty level.

(e) A "low-income area" means an area in which (1) ten percent of the population have low incomes, or (2) there is one or more recognized subareas such as a census tract, city, township, or county in which 15 percent of the population have low incomes.

Subd. 2. Administration. The commissioner shall administer this section except for subdivision 6, which shall be administered by the commissioner of housing finance. The commissioners of trade and economic development and housing finance may, separately or jointly, adopt rules necessary to implement this section.

Subd. 3. Certification; corporations eligible. (a) The commissioner shall certify a community development corporation under this section if the corporation is a nonprofit corporation incorporated under chapter 317A and meets the other criteria in this subdivision.

(b) The corporation, in its articles of incorporation or bylaws, must designate a low-income area as the specific geographic community within which it will operate. Within cities of the first class, a designated community must be an identifiable neighborhood or a combination of neighborhoods but may not be the entire city. Outside cities of the first class, a designated community may be an identifiable neighborhood or neighborhoods, or home rule charter or statutory cities, townships, unincorporated areas, or combinations of those entities, but may not be an entire economic development region nor cross existing economic development region boundaries except as provided in this section.

(c) The corporation's major purpose, in its articles of incorporation or bylaws, must be economic development, redevelopment, or housing in its designated community.

(d) The corporation must be tax exempt under section 501, paragraph (c), clause (3), of the Internal Revenue Code of 1986, as amended.

(e) The membership and board of directors of the corporation must be representative of the designated community. At least 20 percent of the directors shall have low incomes or shall reside in low-income areas described in subdivision 1, paragraph (e), clause (1), or the low-income subarea described in subdivision 1, paragraph (e), clause (2). At least 60 percent of the directors must be residents of, or be employed in, the designated community. Other directors shall be business, financial, or civic leaders or representatives-at-large of the designated community. At least 40 percent of the directors must reside in the designated community. Notwithstanding the requirements of this paragraph, a corporation which meets board structure requirements for a community housing development corporation under Code of Federal Regulations, title 24, part 92.2, is deemed to meet the board membership requirements of this subdivision.

(f) The corporation shall not discriminate against any persons on the basis of a status protected under chapter 363.

(g) The corporation shall demonstrate that it has or can obtain the technical skills to analyze projects, that it is familiar with available public and private funding sources and economic development, redevelopment, and housing programs, and that it is capable of packaging economic development, redevelopment, and housing projects.

(h) The corporation must have completed two or more economic development, redevelopment, or housing projects within its designated community during the last three years.

Subd. 4. Approval for certification. The commissioner shall certify as a community development corporation any organization which meets the criteria in subdivision 3. The

certification is for two years from the date of certification and is renewable. The commissioner shall certify as a community development corporation for a nonrenewable period of three years from the date of certification an organization which meets all the criteria in subdivision 3, except for paragraphs (d) and (h), but which plans to meet those requirements by the end of the three years.

As part of the certification process, the commissioner shall resolve disputes concerning boundaries of the designated community of a community development corporation.

Subd. 5. Grants; economic development contracts. The commissioner may make a grant to a community development corporation and enter into contracts with certified community development corporations for:

(1) specific economic development projects within the designated community, such as development of a proposal for a venture grant, or for establishment of a business venture, including assistance to an existing business venture, purchase of partial or full ownership of a business venture, real estate development, strategic development planning, infrastructure development, or development of resources or facilities necessary for the establishment of a business venture;

(2) dissemination of information about, or taking applications for, programs operated by the commissioner; and

(3) developing the internal organizational capacity to engage in economic development activities such as the partnership activities listed in clause (1).

Subd. 6. Housing contracts. The commissioner of the housing finance agency may enter into contracts with certified community development corporations for purposes of housing activities associated with economic development activity under subdivision 5.

Subd. 6a. [Repealed, 1993 c 163 art 1 s 35]

Subd. 7. Other programs. A certified community development corporation is eligible to participate in a program available to nonprofit organizations which is operated by the commissioners of trade and economic development or housing finance if the certified development corporation meets the requirements of the program.

Subd. 7a. Real estate license exemption. A certified community development corporation is exempt from the licensure requirements of section 82.20.

Subd. 8. [Repealed, 1993 c 163 art 1 s 35]

Subd. 9. [Repealed, 1993 c 163 art 1 s 35]

History: 1987 c 312 art 1 s 26 subd 2; 1987 c 386 art 4 s 3; 1988 c 580 s 2; 1989 c 304 a 137; 1993 c 369 s 49; 1995 c 224 s 57

116J.983 [Repealed, 1993 c 163 art 1 s 35]

116J.984 Subdivision 1. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 2. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 3. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 4. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 5. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 6. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 7. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 8. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 9. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 10. MS 1992 [Repealed, 1993 c 163 art 1 s 35]

Subd. 11. MS 1992 [Repealed, 1993 c 163 art 1 s 35; 1993 c 337 s 20]

116J.985 [Repealed, 1993 c 177 s 15]

116J.986 [Repealed, 1996 c 310 s 1]

BOARD OF INVENTION

116J.987 DEFINITIONS.

Subdivision 1. Application. The definitions in this section apply to sections 116J.987 to 116J.990.

Subd. 2. **Board.** "Board" means the board of invention.

Subd. 3. **Commercial invention.** "Commercial invention" means new and useful processes, machines, manufacturing procedures, or any new and useful improvements or applications of commercial inventions, regardless of whether or not the invention is patentable.

Subd. 4. **Invention.** "Invention" means creative activity resulting in new and potentially useful and applied products or ideas of commercial and social merit. Invention includes commercial and social inventions.

Subd. 5. **Social invention.** "Social invention" means new procedures, new uses for known procedures, and organizations that change the way in which people relate to their environment or to each other.

History: 1993 c 369 s 50

116J.988 BOARD OF INVENTION.

Subdivision 1. **Membership.** The board of invention consists of 11 members appointed by the governor, subject to the advice and consent of the senate. One member must be appointed from each of the congressional districts. The remaining members may be appointed at large.

Subd. 2. **Terms.** The membership terms, removal, and filling of vacancies of board members are as provided in section 15.0575.

Subd. 3. **Chair; other officers.** The board shall annually elect a chair and other officers as necessary from its members.

Subd. 4. **Staff.** The board may employ an executive director who is knowledgeable in invention and has demonstrated proficiency in the administration of programs relating to invention. The executive director shall perform the duties that the board may require in carrying out its responsibilities.

History: 1993 c 369 s 51

116J.989 POWERS.

Subdivision 1. **Contracts.** The board may enter into contracts and grant agreements necessary to carry out its responsibilities.

Subd. 2. **Gifts; grants.** The board may apply for, accept, and disburse gifts, grants, or other property from the United States, the state, private foundations, or any other source. It may enter into an agreement required for the gifts or grants and may hold, use, and dispose of its assets in accordance with the terms of the gift, grant, or agreement. Money received by the board under this subdivision must be deposited in the state treasury. The amount deposited is appropriated to the board to carry out its duties.

History: 1993 c 369 s 52

116J.990 DUTIES.

Subdivision 1. **General duties.** The board shall encourage the creation, performance, and appreciation of invention in the state. The board shall investigate and evaluate new methods to enhance invention.

Subd. 2. **Grant program.** The board shall establish an invention grant program to award grants to individuals, nonprofits, or private organizations to encourage the development of both commercial and social inventions.

Subd. 3. **Technical assistance.** The board shall provide information services relating to invention to the general public.

Subd. 4. **Coordination.** The board may review all public and private programs relating to invention and innovation.

Subd. 5. **Budget.** The board shall adopt an annual budget and work program.

Subd. 6. **Report.** The board shall submit a report to the legislature and the governor by January 31 of each year. The report must include a review of invention activities in the state, a review of the board's activities, a listing of grants made under the invention grant program, an evaluation of invention initiatives, and recommendations concerning state support of invention activities.

Subd. 7. State funding prohibited. No state money may be appropriated to the board. The board must utilize private funds and nonstate public money to fund its activities.

History: 1993 c 369 s 53

DEVELOPMENT

116J.991 PUBLIC ASSISTANCE TO BUSINESS; WAGE AND JOB REQUIREMENTS.

A business that receives state or local government assistance for economic development or job growth purposes must create a net increase in jobs in Minnesota within two years of receiving the assistance.

The government agency providing the assistance must establish wage level and job creation goals to be met by the business receiving the assistance. A business that fails to meet the goals must repay the assistance to the government agency.

Each government agency must report the wage and job goals and the results for each project in achieving those goals to the department of trade and economic development. The department shall compile and publish the results of the reports for the previous calendar year by June 1 of each year. The reports of the agencies to the department and the compilation report of the department shall be made available to the public.

For the purpose of this section, "assistance" means a grant or loan in excess of \$25,000 or tax increment financing.

History: 1995 c 224 s 58