

CHAPTER 116J

DEPARTMENT OF EMPLOYMENT AND
ECONOMIC DEVELOPMENT

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116J.01 DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT.

Subdivision 1. **Appointment.** The Department of Employment and Economic Development is supervised and controlled by the commissioner of employment and economic development, who is appointed by the governor and serves under section 15.06.

[For text of subs 2 to 5, see M.S.2002]

History: *1Sp2003 c 4 s 1*

116J.011 MISSION.

The mission of the Department of Employment 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, to improve the quality of existing jobs, 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) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and
- (7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

History: *2003 c 128 art 13 s 5; 1Sp2003 c 4 s 1*

116J.03 DEFINITIONS.

[For text of subd 1, see M.S.2002]

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

Subd. 3. **Department.** "Department" means the Department of Employment and Economic Development.

History: 1Sp2003 c 4 s 1

116J.037 CERTIFICATION OF ELECTRONIC-COMMERCE-READY CITIES AND COUNTIES.

A county or statutory or home rule charter city of Minnesota shall be designated an electronic-commerce-ready city or county by the Department of Employment and Economic Development and may be annually recertified as an electronic-commerce-ready city or county if it:

(1) has formed effective public-private partnerships with communication providers, the business community, banks, schools, health care, government, and nonprofit social and service organizations to become electronic commerce ready;

(2) makes available training and continuing education to develop an electronic-commerce-ready workforce;

(3) develops a plan for electronic commerce readiness that reflects resource integration across economic and government sectors, including current and future investments by business, government, education, and health care to achieve cooperative community and economic development benefits;

(4) uses local funding sources to catalyze and sustain information technology investments to adapt to new business priorities as electronic commerce grows; and

(5) maintains public access sites to ensure access to electronic commerce applications and community networking tools, such as electronic mail.

History: 1Sp2003 c 4 s 1

116J.401 POWERS AND DUTIES.

The commissioner of employment 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: 1Sp2003 c 4 s 1

116J.402 COOPERATIVE CONTRACTS.

The commissioner of employment 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 16C 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: *1Sp2003 c 4 s 1*

116J.411 DEFINITIONS.

[For text of subd 1, see M.S.2002]

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

Subd. 2a. **Job enhancement.** "Job enhancement" means:

(1) an increase in wages, and an increase in the responsibility or skill level of job duties; or

(2) the provision of additional training or education for employees in existing jobs.

Subd. 3. [Repealed, 2003 c 128 art 13 s 40]

[For text of subds 4 to 7, see M.S.2002]

History: *2003 c 128 art 13 s 6; 1Sp2003 c 4 s 1*

116J.415 CHALLENGE GRANT PROGRAM.

Subdivision 1. **Organization.** The commissioner shall make challenge grants to regional organizations, for the purpose of providing financial assistance to encourage private investment, to provide jobs or job enhancement 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 allocate all funds remaining in each regional subaccount of the rural rehabilitation account, as established under section 116J.955, to each respective regional organization. The money designated to each region must be used for assistance authorized in this section.

[For text of subd 3, see M.S.2002]

Subd. 4. **Revolving fund.** A regional organization shall establish a commissioner certified revolving fund to promote economic development in rural Minnesota. Funds may be used to provide loans, loan guarantees, interest buy-downs, and other forms of participation with private sources of financing, provided that the financial assistance must be for a principal amount that does not exceed one-half of the cost of the project for which financing is sought.

Subd. 5. **Assistance criteria.** Projects supported through the challenge grant program must be used principally to benefit low-income persons by:

- (1) creating new jobs, job enhancement, or retaining existing jobs;
- (2) increasing the local tax base;
- (3) demonstrating that investment of public dollars induces private funds;
- (4) providing higher wage levels to the community or adding value to current workforce skills;
- (5) retaining existing business; or
- (6) attracting out-of-state business.

Subd. 6. [Repealed, 2003 c 128 art 13 s 40]

Subd. 7. **Revolving fund administration.** Repayment amounts must be deposited in the regional revolving fund for further distribution by the regional organization, consistent with the loan criteria specified in subdivisions 4 and 5.

[For text of subd 8, see M.S.2002]

Subd. 9. [Repealed, 2003 c 128 art 13 s 40]

Subd. 10. [Repealed, 2003 c 128 art 13 s 40]

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

- (1) submit an annual report to the commissioner by August 30 for the preceding fiscal year that includes an account of loans made, written off, and fully paid during the calendar year, the source and amount of money collected and distributed by the regional revolving fund, and the funds' cash balance and loans receivable; 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: 2003 c 128 art 13 s 7-12

116J.423 MINNESOTA MINERALS 21ST CENTURY FUND.

Subdivision 1. **Created.** The Minnesota minerals 21st century fund is created as a separate account in the treasury. Money in the account is appropriated to the commissioner of employment and economic development for the purposes of this section. All money earned by the account, loan repayments of principal and interest, and earnings on investments must be credited to the account. For the purpose of this section, "fund" means the Minnesota minerals 21st century fund. The commissioner shall operate the account as a revolving account.

[For text of subs 2 to 5, see M.S.2002]

History: 1Sp2003 c 4 s 1

116J.424 IRRRB CONTRIBUTION.

The commissioner of the Iron Range Resources and Rehabilitation Board with approval of the board shall provide an equal match for any loan or equity investment made for a facility located in the tax relief area defined in section 273.134, paragraph (b), by the Minnesota minerals 21st century fund created by section 116J.423. The match may be in the form of a loan or equity investment, notwithstanding whether the fund makes a loan or equity investment. The state shall not acquire an equity interest because of an equity investment or loan by the board and the board at its sole discretion shall decide what interest it acquires in a project. The commissioner of employment and economic development may require a commitment from the board to make the match prior to disbursing money from the fund.

History: 1Sp2003 c 4 s 1

116J.543 FILM PRODUCTION JOBS PROGRAM.

The film production jobs program is created. The program shall be operated by the Minnesota Film Board with administrative oversight and control by the commissioner of employment and economic development. The program shall make payment to producers of long-form and narrative film productions that directly create new film jobs in Minnesota. To be eligible for a payment, a producer must submit documentation to the Minnesota Film Board of expenditures for wages for work on new film production jobs in Minnesota by resident Minnesotans. The film jobs include work such as technical crews, acting talent, set construction, soundstage or equipment rental, local postproduction film processing, and other film production jobs.

The Film Board must make recommendations to the commissioner about program payment, but the recommendations are not binding and the commissioner has the authority to make the final determination on payments. The commissioner's determination must be based on the amount of wages documented to the Film Board and the likelihood that the payment will lead to further documentable wage payments. Payment may not exceed \$100,000 for a single long-form and narrative film. No more than five percent of the funds appropriated for the program in any year may be expended for administration. Individual feature film projects shooting on or after January 1, 1997, will be eligible for fund allocations.

History: *1Sp2003 c 4 s 1*

116J.553 GRANT APPLICATIONS.

[For text of subd 1, see M.S.2002]

Subd. 2. **Required content.** (a) 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 licensed under chapter 82B using accepted appraisal methodology or, the estimated market value of the property for the latest year shown on the most recent valuation notice used under section 273.121;
 - (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.
- (b) A response action plan is not required as a condition to receive a grant under section 116J.554, subdivision 1, paragraph (c).

History: *2003 c 128 art 13 s 13*

116J.554 GRANTS.

[For text of subds 1 and 1a, see M.S.2002]

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, or the current market value of the site as issued under section 273.121, separately taking into account the effect of the contaminants on the market value, (i) is less than 75 percent of the estimated project 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: 2003 c 128 art 13 s 14

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-quarter 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 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: 2003 c 2 art 1 s 15

116J.59 IMPREST FUNDS, USE.

The commissioner of employment 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: 1Sp2003 c 4 s 1

116J.60 PROMOTIONAL EXPENSES.

In the promotion of tourism, trade, and economic development of the state, the commissioner of employment and economic development may expend money appropriated by the legislature 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: 1Sp2003 c 4 s 1

116J.617 TOURISM LOAN PROGRAM.

[For text of subs 1 to 4, see M.S.2002]

Subd. 5. [Repealed, 2003 c 128 art 13 s 40]

Subd. 6. [Repealed, 2003 c 128 art 13 s 40]

116J.64 LOANS TO INDIANS.

[For text of subd 1, see M.S.2002]

Subd. 2. "Indian" means a person who is an enrolled member of a federally recognized Minnesota based band or tribe.

[For text of subs 3 to 5, see M.S.2002]

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 commissioner of finance 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 commissioner of finance 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 commissioner of finance 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 commissioner of finance, 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.

[For text of subs 8 and 9, see M.S.2002]

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

[For text of subd 11, see M.S.2002]

History: 2003 c 112 art 2 s 50; 2003 c 128 art 13 s 15

116J.693 [Repealed, 2003 c 128 art 13 s 40]

116J.70 DEFINITIONS.

[For text of subs 1 and 2, see M.S.2002]

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:

(i) abstracters regulated pursuant to chapter 386;

(ii) accountants regulated pursuant to chapter 326A;

(iii) adjusters regulated pursuant to chapter 72B;

(iv) architects regulated pursuant to chapter 326;

(v) assessors regulated pursuant to chapter 270;

(vi) athletic trainers regulated pursuant to chapter 148;

(vii) attorneys regulated pursuant to chapter 481;

(viii) auctioneers regulated pursuant to chapter 330;

(ix) barbers regulated pursuant to chapter 154;

(x) beauticians regulated pursuant to chapter 155A;

(xi) boiler operators regulated pursuant to chapter 183;

(xii) chiropractors regulated pursuant to chapter 148;

(xiii) collection agencies regulated pursuant to chapter 332;

(xiv) cosmetologists regulated pursuant to chapter 155A;

(xv) dentists, registered dental assistants, and dental hygienists regulated pursuant to chapter 150A;

(xvi) detectives regulated pursuant to chapter 326;

(xvii) electricians regulated pursuant to chapter 326;

(xviii) mortuary science practitioners regulated pursuant to chapter 149A;

(xix) engineers regulated pursuant to chapter 326;

(xx) insurance brokers and salespersons regulated pursuant to chapter 60A;

(xxi) certified interior designers regulated pursuant to chapter 326;

(xxii) midwives regulated pursuant to chapter 147D;

- (xxiii) nursing home administrators regulated pursuant to chapter 144A;
- (xxiv) optometrists regulated pursuant to chapter 148;
- (xxv) osteopathic physicians regulated pursuant to chapter 147;
- (xxvi) pharmacists regulated pursuant to chapter 151;
- (xxvii) physical therapists regulated pursuant to chapter 148;
- (xxviii) physician assistants regulated pursuant to chapter 147A;
- (xxix) physicians and surgeons regulated pursuant to chapter 147;
- (xxx) plumbers regulated pursuant to chapter 326;
- (xxxi) podiatrists regulated pursuant to chapter 153;
- (xxxii) practical nurses regulated pursuant to chapter 148;
- (xxxiii) professional fund-raisers regulated pursuant to chapter 309;
- (xxxiv) psychologists regulated pursuant to chapter 148;
- (xxxv) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;
- (xxxvi) registered nurses regulated pursuant to chapter 148;
- (xxxvii) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;
- (xxxviii) steamfitters regulated pursuant to chapter 326;
- (xxxix) teachers and supervisory and support personnel regulated pursuant to chapter 125;
- (xl) veterinarians regulated pursuant to chapter 156;
- (xli) water conditioning contractors and installers regulated pursuant to chapter 326;
- (xlii) water well contractors regulated pursuant to chapter 103I;
- (xliii) water and waste treatment operators regulated pursuant to chapter 115;
- (xliv) motor carriers regulated pursuant to chapter 221;
- (xlv) professional firms regulated under chapter 319B;
- (xlvi) real estate appraisers regulated pursuant to chapter 82B;
- (xlvii) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;
- (xlviii) licensed professional counselors regulated pursuant to chapter 148B;
- (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: 2003 c 118 s 1

116J.74 DEFINITIONS.

[For text of subs 1 to 4, see M.S.2002]

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of the Department of Employment and Economic Development.

[For text of subs 6 to 8, see M.S.2002]

History: 1Sp2003 c 4 s 1

116J.80 MASTER APPLICATION PROCEDURE.

[For text of subds 1 to 5, see M.S.2002]

Subd. 6. **Failure to provide accurate or pertinent information.** The provisions of subdivision 5 shall not apply if the commissioner of employment 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.

[For text of subds 7 and 8, see M.S.2002]

History: 1Sp2003 c 4 s 1

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, which includes investments in technology and equipment that increase productivity and provide for a higher wage;

(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) improving the quality of existing jobs, based on increases in wages or improvements in the job duties, training, or education associated with those jobs;

(5) 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

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

[For text of subds 2 and 3, see M.S.2002]

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

(1) creation of new jobs, retention of existing jobs, or improvements in the quality of existing jobs as measured by the wages, skills, or education associated with those 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 \$1,000,000. 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 a Minnesota investment revolving loan account in the state treasury. Funds in the account are appropriated to the commissioner and must be used in the same manner as are funds appropriated to the Minnesota investment fund. Funds repaid to the state through existing Minnesota investment fund agreements must be credited to the Minnesota investment revolving loan account effective July 1, 2003. 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.

[For text of subd 6, see M.S.2002]

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 or job enhancement goals. A recipient that breaches the agreement must repay the grant directly to the commissioner. Repayments under this subdivision must be deposited in the Minnesota investment revolving loan account. If the commissioner determines, during the repayment period of a Minnesota investment fund loan, that the project for which the loan was made is in imminent danger of ceasing operations due to financial difficulties, the commissioner may elect to delay loan payments due on the loan for a period of no more than two years. In making a determination about whether a recipient qualifies for possible delay in payments, the commissioner must consider all available information regarding the health of the affected business and the industry in which it operates, the potential for displacement of workers in the event that operations cease, and the likelihood that a delay of payments will provide the business with a reasonable ability to improve its financial condition.

History: 2003 c 128 art 13 s 16-19

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 363A.03, subdivision 12.

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

Subd. 2. **Establishment.** The commissioner of employment 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.

[For text of subs 3 to 5, see M.S.2002]

History: 1Sp2003 c 4 s 1

116J.8745 MICROENTERPRISE ENTREPRENEURIAL ASSISTANCE.

Subdivision 1. **Technical assistance.** The commissioner of employment and economic development shall make grants to nonprofit organizations to provide technical assistance to individuals to support the startup and growth of self-employment and microbusinesses. Eligible businesses are microenterprises employing under five people plus the owner and requiring under \$25,000 or no capital to start or expand the business.

[For text of subs 2 and 3, see M.S.2002]

History: *1Sp2003 c 4 s 1*

116J.8747 JOB TRAINING PROGRAM GRANT.

Subdivision 1. **Grant allowed.** The commissioner may provide a grant to a qualified job training program from money appropriated for the purposes of this section as follows:

(1) a \$9,000 placement grant paid to a job training program upon placement in employment of a qualified graduate of the program; and

(2) a \$9,000 retention grant paid to a job training program upon retention in employment of a qualified graduate of the program for at least one year.

Subd. 2. **Qualified job training program.** To qualify for grants under this section, a job training program must satisfy the following requirements:

(1) the program must be operated by a nonprofit corporation that qualifies under section 501(c)(3) of the Internal Revenue Code;

(2) the program must spend at least \$15,000 per graduate of the program;

(3) the program must provide education and training in:

(i) basic skills, such as reading, writing, mathematics, and communications;

(ii) thinking skills, such as reasoning, creative thinking, decision making, and problem solving; and

(iii) personal qualities, such as responsibility, self-esteem, self-management, honesty, and integrity;

(4) the program must provide income supplements, when needed, to participants for housing, counseling, tuition, and other basic needs;

(5) the program's education and training course must last for at least six months;

(6) individuals served by the program must:

(i) be 18 years of age or older;

(ii) have federal adjusted gross income of no more than \$11,000 per year in the two years immediately before entering the program;

(iii) have assets of no more than \$7,000, excluding the value of a homestead; and

(iv) not have been claimed as a dependent on the federal tax return of another person in the previous taxable year; and

(7) the program must be certified by the commissioner of employment and economic development as meeting the requirements of this subdivision.

Subd. 3. **Graduation and retention grant requirements.** For purposes of a placement grant under this section, a qualified graduate is a graduate of a job training program qualifying under subdivision 2 who is placed in a job in Minnesota that pays at least \$9 per hour or its equivalent plus health care benefits. To qualify for a retention grant under this section for a retention fee, a job in which the graduate is retained must pay at least \$10 per hour or its equivalent plus health care benefits at the end of the first year of employment.

Subd. 4. **Duties of program.** (a) A program certified by the commissioner under subdivision 2 must comply with the requirements of this subdivision.

(b) A program must maintain records for each qualified graduate. The records must include information sufficient to verify the graduate's eligibility under this section,

identify the employer, and describe the job including its compensation rate and benefits.

(c) A program must report by January 1 of each year to the commissioner. The report must include, at least, information on:

- (1) the number of graduates placed;
- (2) demographic information on the graduates;
- (3) the type of position in which each graduate is placed, including compensation information;
- (4) the tenure of each graduate at the placed position or in other jobs;
- (5) the amount of employer fees paid to the program;
- (6) the amount of money raised by the program from other sources; and
- (7) the types and sizes of employers with which graduates have been placed and retained.

History: 2003 c 128 art 13 s 20; 1Sp2003 c 4 s 1

116J.876 DEFINITIONS.

[For text of subs 1 to 5, see M.S.2002]

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

[For text of subs 6a to 13, see M.S.2002]

History: 1Sp2003 c 4 s 1

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

A capital access program is created in the Department of Employment 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. Capital may be provided in the form of equity investments for community development venture capital funds or loans for all other assistance under the program. 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: 1Sp2003 c 4 s 1

116J.8764 ENROLLMENT OF LOANS IN PROGRAM.

[For text of subs 1 and 2, see M.S.2002]

Subd. 2a. **Enrollment of loans without commissioner's full premium payment.** The commissioner may continue to accept loans for enrollment into the program even if the amount of funds contained in the account is zero or an amount less than the full amount that is required to be transferred under section 116J.8765, subdivision 2, paragraph (a), (b), or (c).

[For text of subs 3 to 5, see M.S.2002]

History: 2003 c 128 art 13 s 21

116J.8771 WAIVER.

The capital access program is exempt from section 16C.05, subdivision 2, paragraph (b).

History: *1Sp2003 c 1 art 2 s 64*

116J.885 BIOMEDICAL INNOVATION AND COMMERCIALIZATION INITIATIVE.

Subdivision 1. **Established.** The commissioner of employment and economic development shall establish the Biomedical Innovation and Commercialization Initiative (BICI) as a collaborative economic development initiative between the University of Minnesota, Minnesota's medical technology industry, and investors. BICI is not a state agency.

The board established in subdivision 2 shall organize and operate BICI as a for-profit entity and in a manner and form that the board determines best allows BICI to carry out its objectives. Any distribution from BICI must be returned to all investors, including the state, in the same proportion as funds were contributed.

[For text of subs 2 to 6, see M.S.2002]

History: *1Sp2003 c 4 s 1*

116J.955 RURAL REHABILITATION REVOLVING ACCOUNT.

[For text of subd 1, see M.S.2002]

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, as may be amended or modified by, the United States Secretary of Agriculture as provided in Public Law 499, 81st Congress, enacted May 3, 1950 and as allowed under Laws 1987, chapter 386, article 1. Not more than three percent of the combined book value of the Minnesota rural rehabilitation account and the regional revolving funds may be used for administrative purposes in a year without approval of the United States Secretary of Agriculture. Any funds used for administrative purposes may only be drawn from money remaining in the Minnesota rural rehabilitation account.

[For text of subd 3, see M.S.2002]

History: *2003 c 128 art 13 s 22*

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;

(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 section 16C.06; and

(12) 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 employment 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.

(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 and the commissioner of employment and economic development shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of agriculture has primary responsibility for promoting state agricultural interests to international markets. The commissioner of agriculture is 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 and international marketing of state agricultural products.

History: 2003 c 128 art 13 s 23; 1Sp2003 c 4 s 1

116J.9665 [Repealed, 2003 c 128 art 13 s 40]

116J.980 COMMUNITY DEVELOPMENT.

Subdivision 1. **Duties.** The Department of Employment 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.

[For text of subs 2 and 3, see M.S.2002]

History: *1Sp2003 c 4 s 1*

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 employment 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 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 employment 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 363A.

(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.

[For text of subs 4 to 6, see M.S.2002]

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 employment and economic development or housing finance if the certified development corporation meets the requirements of the program.

[For text of subd 7a, see M.S.2002]

History: 1Sp2003 c 4 s 1

116J.994 REGULATING LOCAL AND STATE BUSINESS SUBSIDIES.

[For text of subd 1, see M.S.2002]

Subd. 2. Developing a set of criteria. A business subsidy may not be granted until the grantor has adopted criteria after a public hearing for awarding business subsidies that comply with this section. The criteria may not be adopted on a case-by-case basis. The criteria must set specific minimum requirements that recipients must meet in order to be eligible to receive business subsidies. The criteria must include a specific wage floor for the wages to be paid for the jobs created. The wage floor may be stated as a specific dollar amount or may be stated as a formula that will generate a specific dollar amount. A grantor may deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to the department. The commissioner of employment and economic development may assist local government agencies in developing criteria. A copy of the criteria must be submitted to the Department of Employment and Economic Development along with the first annual report following the enactment of this section or with the first annual report after it has adopted criteria, whichever is earlier.

[For text of subd 3, see M.S.2002]

Subd. 4. Wage and job goals. The subsidy agreement, in addition to any other goals, must include: (1) goals for the number of jobs created, which may include separate goals for the number of part-time or full-time jobs, or, in cases where job loss is specific and demonstrable, goals for the number of jobs retained; (2) wage goals for any jobs created or retained; and (3) wage goals for any jobs to be enhanced through increased wages. After a public hearing, if the creation or retention of jobs is determined not to be a goal, the wage and job goals may be set at zero.

In addition to other specific goal time frames, the wage and job goals must contain specific goals to be attained within two years of the benefit date.

[For text of subs 5 to 7, see M.S.2002]

Subd. 8. Reports by grantors. (a) Local government agencies of a local government with a population of more than 2,500 and state government agencies, regardless of whether or not they have awarded any business subsidies, must file a report by April 1 of each year with the commissioner. Local government agencies of a local government with a population of 2,500 or less are exempt from filing this report if they have not awarded a business subsidy in the past five years. The report must include a list of recipients that did not complete the recipient report required under subdivision 7 and a

list of recipients that have not met their job and wage goals within two years and the steps being taken to bring them into compliance or to recoup the subsidy.

If the commissioner has not received the report by April 1 from an entity required to report, the commissioner shall issue a warning to the government agency. If the commissioner has still not received the report by June 1 of that same year from an entity required to report, then that government agency may not award any business subsidies until the report has been filed.

(b) The commissioner of employment and economic development must provide information on reporting requirements to state and local government agencies.

Subd. 9. Compilation and summary report. The Department of Employment and Economic Development must publish a compilation and summary of the results of the reports for the previous calendar year by August 1 of 2004 and every other year thereafter. The reports of the government agencies to the department and the compilation and summary report of the department must be made available to the public.

The commissioner must coordinate the production of reports so that useful comparisons across time periods and across grantors can be made. The commissioner may add other information to the report as the commissioner deems necessary to evaluate business subsidies. Among the information in the summary and compilation report, the commissioner must include:

- (1) total amount of subsidies awarded in each development region of the state;
- (2) distribution of business subsidy amounts by size of the business subsidy;
- (3) distribution of business subsidy amounts by time category;
- (4) distribution of subsidies by type and by public purpose;
- (5) percent of all business subsidies that reached their goals;
- (6) percent of business subsidies that did not reach their goals by two years from the benefit date;
- (7) total dollar amount of business subsidies that did not meet their goals after two years from the benefit date;
- (8) percent of subsidies that did not meet their goals and that did not receive repayment;
- (9) list of recipients that have failed to meet the terms of a subsidy agreement in the past five years and have not satisfied their repayment obligations;
- (10) number of part-time and full-time jobs within separate bands of wages; and
- (11) benefits paid within separate bands of wages.

Subd. 10. Compilation. The Department of Employment and Economic Development must publish a compilation of granting agencies' criteria policies adopted in the previous two calendar years by August 1 of 2004 and every other year thereafter.

History: 2003 c 128 art 13 s 24-26; 1Sp2003 c 4 s 1

116J.995 ECONOMIC GRANTS.

An appropriation rider in an appropriation to the Department of Employment and Economic Development that specifies that the appropriation be granted to a particular business or class of businesses must contain a statement of the expected benefits associated with the grant. At a minimum, the statement must include goals for the number of jobs created or enhanced, wages paid, and the tax revenue increases due to the grant. The wage and job goals must contain specific goals to be attained within two years of the benefit date. The statement must specify the recipient's obligation if the recipient does not attain the goals. At a minimum, the statement must require a recipient failing to meet the job and wage goals to pay back the assistance plus interest to the Department of Employment and Economic Development provided that repayment may be prorated to reflect partial fulfillment of goals. The interest rate must be set at no less than the implicit price deflator as defined under section 116J.994, subdivision 6. The legislature, after a public hearing, may extend for up to one year the period for meeting the goals provided in the statement.

History: 2003 c 128 art 13 s 27; 1Sp2003 c 4 s 1