

Economic Development and Planning

CHAPTER 116J

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT

GENERAL

- 116J.01 Department of Employment and Economic Development.
- 116J.011 Mission.
- 116J.0124 Plain language in written materials.
- 116J.0125 Annual report to legislature.
- 116J.014 Cooperation with other state agencies.
- 116J.03 Definitions.
- 116J.035 Powers of commissioner; rules.
- 116J.037 Certification of electronic-commerce-ready cities and counties.
- 116J.401 Designation; duties; data.
- 116J.402 Cooperative contracts.
- 116J.403 Rules.
- 116J.407 Dairy modernization.

DEVELOPMENT

- 116J.411 Definitions.
- 116J.412 Account allocation.
- 116J.413 Powers relating to rural development.
- 116J.415 Challenge grant program.
- 116J.421 Rural Policy and Development Center.
- 116J.422 Rural policy and development center fund.
- 116J.423 Minnesota minerals 21st century fund.
- 116J.424 IRRRB contribution.
- 116J.431 Greater Minnesota business development public infrastructure grant program.

FILM PRODUCTION JOBS PROGRAM

- 116J.543 Film production jobs program.

CONTAMINATION CLEANUP.

- 116J.551 Creation of accounts.
- 116J.552 Definitions.
- 116J.553 Grant applications.
- 116J.554 Grants.
- 116J.555 Priorities.
- 116J.556 Local match requirement.
- 116J.557 Cost recovery actions.
- 116J.558 Effect of issuance of grants.
- 116J.559 Loans.

GREATER MINNESOTA REDEVELOPMENT ACCOUNTS

- 116J.571 Creation of accounts.
- 116J.572 Definitions.
- 116J.573 Criteria for accounts and projects.
- 116J.574 Grant applications.
- 116J.575 Grants.

DEVELOPMENT

- 116J.58 Powers and duties.
- 116J.59 Imprest funds, use.
- 116J.60 Promotional expenses.
- 116J.61 Additional powers and duties.
- 116J.617 Tourism loan program.
- 116J.63 Sale of pamphlets and publications; fees; advertising.
- 116J.64 Loans to Indians.
- 116J.66 Business assistance.
- 116J.68 Bureau of Small Business.
- 116J.69 Uniform business licensing policy.

BUSINESS LICENSING

- 116J.70 Definitions.
- 116J.71 New licenses.
- 116J.72 Existing licenses.

BUREAU OF BUSINESS LICENSES

- 116J.73 Bureau of business licenses; declaration of purpose.
- 116J.74 Definitions.
- 116J.76 General functions; powers and duties.
- 116J.77 Assistance of other agencies.
- 116J.78 Comprehensive license information.
- 116J.79 Preapplication conferences.
- 116J.80 Master application procedure.
- 116J.81 License coordination and assistance to applicants.
- 116J.82 Consolidated hearings.
- 116J.83 License authority retained.
- 116J.84 Services provided at no charge.
- 116J.85 Federal and local government participation.
- 116J.86 Compilation and maintenance of statistical data.

DEVELOPMENT

- 116J.871 Financial assistance limitations; prevailing wage.
- 116J.8731 Minnesota investment fund.
- 116J.874 Affirmative enterprise program.
- 116J.8745 Microenterprise entrepreneurial assistance.
- 116J.8747 Job training program grant.

CAPITAL ACCESS PROGRAM

- 116J.876 Definitions.
- 116J.8761 Capital access program; creation; administration.
- 116J.8762 Commissioner; duties.
- 116J.8763 Eligible loans.
- 116J.8764 Enrollment of loans in program.
- 116J.8765 Reserve fund; premiums.
- 116J.8766 Claims by lender to reserve fund.
- 116J.8767 Subrogation of claims.
- 116J.8768 Excess reserve funds.
- 116J.8769 Termination.
- 116J.8770 Equity investments.
- 116J.8771 Waiver.

BIOMEDICAL INNOVATION AND COMMERCIALIZATION INITIATIVE

- 116J.885 Biomedical Innovation and Commercialization Initiative.

RURAL REHABILITATION REVOLVING ACCOUNT

- 116J.955 Rural rehabilitation revolving account.

TRADE PROMOTION

- 116J.966 Commissioner's trade promotion duties.

COMMUNITY DEVELOPMENT

- 116J.980 Community development.
- 116J.982 Community development corporations.

BOARD OF INVENTION

- 116J.987 Definitions.
- 116J.988 Board of Invention.
- 116J.989 Powers.
- 116J.990 Duties.

BUSINESS SUBSIDIES

- 116J.993 Definitions.
- 116J.994 Regulating local and state business subsidies.
- 116J.995 Economic grants.

## GENERAL

**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.

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. [Repealed, 2004 c 171 s 20]

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 four deputy commissioners in the unclassified service.

(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.

(d) The commissioner shall ensure that there are at least three employment and economic development officers in state offices in nonmetropolitan areas of the state who will work with local units of government on developing local employment and economic development.

Subd. 6. **Unclassified positions.** The commissioner may establish positions in the unclassified service in accordance with section 43A.08. The commissioner may appoint and define the duties of other subordinate officers and employees as the commissioner deems necessary to discharge the functions of the department.

The commissioner may establish the position of director of the state job training office in the unclassified service.

**History:** 1981 c 356 s 64; 1983 c 289 s 40-42; 1984 c 558 art 4 s 3; 1Sp1985 c 14 art 9 s 39; 1987 c 312 art 1 s 14; 1989 c 335 art 1 s 136,137; 1990 c 571 s 42; 1990 c 589 art 1 s 2; 1991 c 261 s 1; 1993 c 163 art 1 s 12; 1994 c 483 s 1; 1996 c 369 s 2,3; 1997 c 200 art 1 s 50; 2001 c 175 s 52; 2001 c 200 s 1,2; 1Sp2003 c 4 s 1; 2004 c 171 s 3; 2004 c 206 s 9,52

**NOTE:** Subdivision 4 was also amended by Laws 2004, chapter 206, section 8, to read as follows:

"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."

**116J.011 MISSION.**

The mission of the Department of Employment and Economic Development is to facilitate an economic environment that produces net new job growth in excess of the national average while improving the quality of the state workforce. These actions will support the economic success of Minnesota individuals, businesses, and communities by providing opportunities for growth. 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:** 1993 c 163 art 1 s 13; 1995 c 248 art 11 s 8; 1998 c 366 s 55; 2003 c 128 art 13 s 5; 1Sp2003 c 4 s 1; 2004 c 206 s 10

#### 116J.0124 PLAIN LANGUAGE IN WRITTEN MATERIALS.

(a) To the extent reasonable and consistent with the goals of providing easily understandable and readable materials and complying with federal and state laws governing the programs, all written materials relating to services and determinations of eligibility for or amounts of benefits that will be given to applicants for or recipients of assistance under a program administered or supervised by the commissioner of economic security must be understandable to a person of average intelligence and education.

(b) All written materials relating to determinations of eligibility for or amounts of benefits that will be given to applicants for or recipients of assistance under programs administered or supervised by the commissioner of economic security must be developed to satisfy the plain language requirements of the Plain Language Contract Act under sections 325G.29 to 325G.36. Materials may be submitted to the attorney general for review and certification. Regardless of section 325G.35, subdivision 1, the attorney general shall review submitted materials to determine whether they comply with the requirements of section 325G.31. The remedies available pursuant to sections 8.31 and 325G.33 to 325G.36 do not apply to these materials. Failure to comply with this section does not provide a basis for suspending the implementation or operation of other laws governing programs administered by the commissioner.

(c) The requirements of this section apply to all materials modified or developed by the commissioner on or after July 1, 1988. The requirements of this section do not apply to materials that must be submitted to a federal agency for approval, to the extent that application of the requirements prevents federal approval.

(d) Nothing in this section may be construed to prohibit a lawsuit brought to require the commissioner to comply with this section.

**History:** 1988 c 689 art 2 s 220; 1994 c 483 s 1; 1995 c 259 art 1 s 41; 1996 c 339 s 4; 1997 c 7 art 1 s 104; 2001 c 175 s 52; 2004 c 206 s 52

#### 116J.0125 ANNUAL REPORT TO LEGISLATURE.

The commissioner shall provide to the legislature no later than January 15 of each year a report of department programs and services. The report must include:

- (1) a description of the department's programs and services;
- (2) the number of clients served by each program or service;
- (3) an evaluation of each program or service; and
- (4) recommendations for changes or improvements to the programs or services.

**History:** 1996 c 339 s 5; 2004 c 206 s 52

#### 116J.014 COOPERATION WITH OTHER STATE AGENCIES.

To effectively coordinate job training and placement services with future job needs of the state the commissioner shall maintain close liaison, coordination and coopera-

tion with the commissioner of any other state agency involved in employment issues affecting the state.

**History:** 1977 c 430 s 13; 1981 c 356 s 186; 1983 c 289 s 115 subd 1; 1987 c 312 art 1 s 26 subd 2; 1Sp2003 c 4 s 1; 2004 c 206 s 41,52

**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 employment and economic development.

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

**History:** 1981 c 356 s 66,248; 1983 c 289 s 43; 1987 c 312 art 1 s 15; 1Sp2003 c 4 s 1

**116J.035 POWERS OF COMMISSIONER; RULES.**

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

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

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

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

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

(5) distribute informational material at no cost to the public upon reasonable request; and

(6) 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 16C.

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.

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

Subd. 4. **Delegation of powers.** The commissioner may delegate, in written orders filed with the secretary of state, any powers or duties subject to the commissioner's control to officers and employees in the department. Regardless of any other law, the commissioner may delegate the execution of specific contracts or specific types of contracts to the commissioner's deputies, an assistant commissioner, or a program director if the delegation has been approved by the commissioner of administration and filed with the secretary of state.

Subd. 5. **Demonstration projects.** The commissioner may conduct and administer demonstration projects to test methods and procedures for providing employment and training services. The demonstration must provide new methods and procedures of administration and must not conflict with the basic purposes, coverage, or benefits

# MINNESOTA STATUTES 2004

1317

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.037

provided by law. No demonstration project authorized by this section is effective until any required approval by a federal agency is obtained and the comprehensive plan, including the estimated project costs, is filed with the commissioner of administration.

Subd. 6. **Receipt of gifts, money.** The commissioner may accept gifts, bequests, grants, payments for services, and other public and private money to help finance the activities of the department.

**History:** 1984 c 604 s 2; 1Sp1985 c 14 art 9 s 4,39,40; 1986 c 444; 1987 c 403 art 2 s 129,130; art 3 s 50; 1989 c 282 art 5 s 123,124; 1990 c 571 s 42; 1990 c 589 art 1 s 2; 1994 c 483 s 1; 1995 c 186 s 34; 1995 c 248 art 11 s 19; 1995 c 259 art 1 s 40; 1996 c 339 s 2,3; 1997 c 7 art 5 s 34; 1997 c 66 s 80; 1997 c 85 art 4 s 26; 1997 c 245 art 4 s 6; 1998 c 265 s 2; 1998 c 366 s 65; 1998 c 386 art 2 s 33; 1999 c 107 s 66; 1999 c 159 s 119; 2000 c 343 s 4; 2001 c 79 s 3; 2001 c 175 s 52; 1Sp2001 c 9 art 10 s 61; 2002 c 379 art 1 s 113; 1Sp2003 c 14 art 1 s 106; 2004 c 206 s 11,40,52

**116J.036** [Repealed, 2004 c 171 s 20;2004 c 206 s 53]

## **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:** 1999 c 223 art 2 s 17; 1Sp2003 c 4 s 1

**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]
- 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]

# MINNESOTA STATUTES 2004

1319

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.401

**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 DESIGNATION; DUTIES; DATA.**

Subdivision 1. **State agency.** The commissioner of employment and economic development is designated the "state agency" as defined by United States Code, title 29, section 49c, the Wagner-Peyser Act, as amended.

Subd. 2. **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, administer, and supervise other state and federal grants and grant programs for planning, community affairs, community development purposes, employment and training services, and other state and federal programs assigned to the department by law or by the governor in accordance with section 4.07;

(5) 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;

(6) act as the agent of, and cooperate with, the federal government in matters of mutual concern, including the administration of any federal funds granted to the state to aid in the performance of functions of the commissioner;

(7) provide consistent, integrated employment and training services across the state;

(8) administer the Wagner-Peyser Act, the Workforce Investment Act, and other federal employment and training programs;

(9) establish the standards for all employment and training services administered under this chapter and chapters 116L, 248, 268, and 268A;

(10) administer the aspects of the Minnesota family investment program, general assistance, and food stamps that relate to employment and training services, subject to the contract under section 116L.86, subdivision 1;

# MINNESOTA STATUTES 2004

(11) obtain reports from local service units and service providers for the purpose of evaluating the performance of employment and training services;

(12) as requested, certify employment and training services, and decertify services that fail to comply with performance criteria according to standards established by the commissioner;

(13) develop standards for the contents and structure of the local service unit plans and plans for Indian tribe employment and training services, review and comment on those plans, and approve or disapprove the plans;

(14) supervise the county boards of commissioners, local service units, and any other units of government designated in federal or state law as responsible for employment and training programs;

(15) establish administrative standards and payment conditions for providers of employment and training services;

(16) enter into agreements with Indian tribes as necessary to provide employment and training services as appropriate funds become available;

(17) cooperate with the federal government and its employment and training agencies in any reasonable manner as necessary to qualify for federal aid for employment and training services and money;

(18) administer and supervise all forms of unemployment insurance provided for under federal and state laws;

(19) provide current state and substate labor market information and forecasts, in cooperation with other agencies;

(20) require all general employment and training programs that receive state funds to make available information about opportunities for women in nontraditional careers in the trades and technical occupations;

(21) consult with the Rehabilitation Council for the Blind on matters pertaining to programs and services for the blind and visually impaired;

(22) enter into agreements with other departments of the state and local units of government as necessary; and

(23) establish and maintain administrative units necessary to perform administrative functions common to all divisions of the department.

**Subd. 3. Classification of data on individuals.** Data collected on individuals pursuant to a program operated by the commissioner are private data on individuals as defined in section 13.02, subdivision 12, unless more restrictively classified by law.

**History:** 1984 c 558 art 4 s 4; 1Sp1985 c 14 art 9 s 40; 1987 c 312 art 1 s 26; 1987 c 403 art 2 s 129,130; art 3 s 50; 1989 c 282 art 5 s 123,124; 1993 c 172 s 78; 1994 c 483 s 1; 1995 c 248 art 11 s 19; 1995 c 259 art 1 s 40; 1996 c 339 s 2,3; 1997 c 7 art 5 s 34; 1997 c 66 s 80; 1997 c 85 art 4 s 26; 1997 c 245 art 4 s 6; 1998 c 265 s 2; 1998 c 366 s 65; 1999 c 107 s 66; 1999 c 159 s 119; 2000 c 343 s 4; 2001 c 79 s 3; 2001 c 175 s 52; 1Sp2001 c 9 art 10 s 61; 2002 c 379 art 1 s 113; 1Sp2003 c 4 s 1; 1Sp2003 c 14 art 1 s 106; 2004 c 206 s 12,40,52

## 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:** 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; 1998 c 386 art 2 s 34; 1Sp2003 c 4 s 1

#### 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]

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

#### 116J.407 DAIRY MODERNIZATION.

Subdivision 1. **Generally.** The commissioner shall make funds available to eligible regional or statewide development organizations defined under section 116J.8731 to be used for the purposes of this section.

Subd. 2. **Eligible expenditures.** Money may be used for loans for the acquisition, construction, or improvement of buildings or facilities, or the acquisition of equipment, for dairy animal housing, confinement, animal feeding, milk production, and waste management, including the following, if related to dairy animals:

- (1) free-stall barns;
- (2) fences;
- (3) watering facilities;
- (4) feed storage and handling equipment;
- (5) milking parlors;
- (6) robotic equipment;
- (7) scales;
- (8) milk storage and cooling facilities;
- (9) bulk tanks;
- (10) manure pumping and storage facilities;
- (11) digesters;
- (12) equipment used to produce energy;
- (13) capital investment in pasture; and
- (14) on-farm processing facilities.

Subd. 3. **Application process.** The commissioner of agriculture and the commissioner of employment and economic development shall establish a process by which an eligible dairy producer may make application for assistance under this section to the county in which the producer is located. The application must require the producer and county to provide information regarding the producer's existing business, the intended use of the requested funds, and other information the commissioners find necessary to

# MINNESOTA STATUTES 2004

evaluate the feasibility, likely success, and economic return of the project, and to ensure that money can be provided consistent with other state and federal laws.

**History:** 2004 c 254 s 24

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

## 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 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]

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; 2003 c 128 art 13 s 6; 1Sp2003 c 4 s 1

### 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 [Repealed, 2004 c 206 s 53]

### 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.

# MINNESOTA STATUTES 2004

1323

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.415

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.

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 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.

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

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:** 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; 1999 c 223 art 2 s 18; 2003 c 128 art 13 s 7-12

**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.421 RURAL POLICY AND DEVELOPMENT CENTER.**

Subdivision 1. **Established.** (a) The Rural Policy and Development Center is established at Mankato State University. The center may be established by the board as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code or the board may organize and operate the center in a manner and form that the board determines best allows the center to carry out its duties.

(b) If the board organizes the center as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code, staff of the center may participate in state insurance plans that apply to state employees generally, and are subject to regulation by the state Campaign Finance and Public Disclosure Board.

Subd. 2. **Governance.** The center is governed by a board of directors appointed to six-year terms by the governor comprised of:

(1) a representative from each of the two largest statewide general farm organizations;

(2) a representative from a regional initiative organization selected under section 116J.415, subdivision 3;

(3) the president of Mankato State University;

(4) a representative from the general public residing in a town of less than 5,000 located outside of the metropolitan area;

(5) a member of the house of representatives appointed by the speaker of the house and a member of the senate appointed by the subcommittee on committees of the senate committee on rules and administration appointed for two-year terms;

(6) three representatives from business, including one representing rural manufacturing and one rural retail and service business;

(7) three representatives from private foundations with a demonstrated commitment to rural issues;

(8) one representative from a rural county government; and

(9) one representative from a rural regional government.

The board shall appoint one additional member to the board of directors who shall represent the general public.

If the board concludes at any time that the composition of the board does not adequately reflect the ethnic and gender diversity of rural Minnesota, the board may appoint up to four additional members in order to better reflect this diversity. Members appointed by the board under this paragraph shall serve six-year terms. The board may not appoint additional members such that the board would have a total of more than 20 members.

Subd. 3. **Duties.** The center shall:

(1) research and identify present and emerging social and economic issues for rural Minnesota, including health care, transportation, crime, housing, and job training;

(2) forge alliances and partnerships with rural communities to find practical solutions to economic and social problems;

(3) provide a resource center for rural communities on issues of importance to them;

(4) encourage collaboration across higher education institutions to provide interdisciplinary team approaches to problem solving with rural communities; and

(5) involve students in center projects.

Subd. 4. **Statewide focus.** The center has a statewide mission. It may contract and collaborate with higher education and other institutions located throughout the state.

Subd. 5. **Powers.** The board has the power to do all things reasonable and necessary to carry out the duties of the center including, without limitation, the power to:

(1) enter into contracts for goods or services with individuals and private and public entities;

(2) sue and be sued;

(3) acquire, hold, lease, and transfer any interest in real and personal property;

(4) accept appropriations, gifts, grants, and bequests;

(5) hire employees; and

(6) delegate any of its powers.

Subd. 6. **Use of appropriation.** State appropriations to the board, whether from the general fund or the rural policy and development fund, may, at the discretion of the board, be expended for administration of the center and to carry out its duties under this section or under other law.

Subd. 7. **Board compensation.** Compensation and expense reimbursement of board members is as provided in section 15.0575, subdivision 3.

**History:** 1997 c 200 art 1 s 51; 1Sp1998 c 1 art 3 s 18,19; 1999 c 223 art 2 s 19-22; 2000 c 488 art 2 s 5; 2001 c 86 s 1

#### 116J.422 RURAL POLICY AND DEVELOPMENT CENTER FUND.

A rural policy and development center fund is established as an account in the state treasury. The commissioner of finance shall credit to the account the amounts authorized under this section and appropriations and transfers to the account. The state Board of Investment shall ensure that account money is invested under section 11A.24. All money earned by the account must be credited to the account. The principal of the account and any unexpended earnings must be invested and reinvested by the state Board of Investment.

Gifts and donations, including land or interests in land, may be made to the account. Noncash gifts and donations must be disposed of for cash as soon as the board prudently can maximize the value of the gift or donation. Gifts and donations of marketable securities may be held or be disposed of for cash at the option of the board. The cash receipts of gifts and donations of cash or capital assets and marketable securities disposed of for cash must be credited immediately to the principal of the account. The value of marketable securities at the time the gift or donation is made must be credited to the principal of the account and any earnings from the marketable securities are earnings of the account. The earnings in the account are annually appropriated to the board of the center for rural policy and development to carry out the duties of the center.

**History:** 1997 c 200 art 1 s 52

#### 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.

**Subd. 2. Use of fund.** The commissioner shall use money in the fund to make loans or equity investments in mineral processing facilities including, but not limited to, taconite processing, direct reduction processing, and steel production. The commissioner must, prior to making any loans or equity investments and after consultation with industry and public officials, develop a strategy for making loans and equity investments that assists the Minnesota mineral industry in becoming globally competitive. Money in the fund may also be used to pay for the costs of carrying out the commissioner's due diligence duties under this section.

**Subd. 3. Requirements prior to committing funds.** The commissioner, prior to making a commitment for a loan or equity investment must, at a minimum, conduct due diligence research regarding the proposed loan or equity investment, including contracting with professionals as needed to assist in the due diligence.

**Subd. 4. Requirements for fund disbursements.** The commissioner may make conditional commitments for loans or equity investments but disbursements of funds pursuant to a commitment may not be made until commitments for the remainder of a project's funding are made that are satisfactory to the commissioner and disbursements made from the other commitments sufficient to protect the interests of the state in its loan or investment.

**Subd. 5. Company contribution.** The commissioner may provide loans or equity investments that match, in a proportion determined by the commissioner, an investment made by the owner of a facility.

*History: 1999 c 223 art 2 s 23; 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: 1999 c 223 art 2 s 24; 1Sp2001 c 5 art 6 s 1; 1Sp2003 c 4 s 1*

#### **116J.43 [Renumbered 116K.05]**

#### **116J.431 GREATER MINNESOTA BUSINESS DEVELOPMENT PUBLIC INFRASTRUCTURE GRANT PROGRAM.**

**Subdivision 1. Grant program established.** The commissioner shall make grants to cities to provide up to 50 percent of the capital costs of public infrastructure necessary for an eligible economic development project. The city receiving a grant must provide for the remainder of the costs of the project, either in cash or in kind. In-kind contributions may include the value of site preparation other than the public infrastructure needed for the project.

For purposes of this section, "city" means a statutory or home rule charter city located outside the metropolitan area, as defined in section 473.121, subdivision 2.

"Public infrastructure" means publicly owned physical infrastructure necessary to support economic development projects, including, but not limited to, sewers, water supply systems, utility extensions, streets, wastewater treatment systems, stormwater management systems, and facilities for pretreatment of wastewater to remove phosphorus.

# MINNESOTA STATUTES 2004

1327

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.431

The purpose of the grants is to keep or enhance jobs in the area, increase the tax base, or to expand or create new economic development.

Subd. 2. **Eligible projects.** An economic development project for which a city may be eligible to receive a grant under this section includes:

- (1) manufacturing;
- (2) technology;
- (3) warehousing and distribution;
- (4) research and development;
- (5) agricultural processing, defined as transforming, packaging, sorting, or grading livestock or livestock products into goods that are used for intermediate or final consumption, including goods for nonfood use; or
- (6) industrial park development that would be used by any other business listed in this subdivision.

Subd. 3. **Ineligible projects.** The following projects are not eligible for a grant under this section:

- (1) retail development; or
- (2) office space development, except as incidental to an eligible purpose.

Subd. 4. **Application.** The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section. At a minimum, a city must include in its application a resolution of the city council certifying that the required local match is available. The commissioner must evaluate complete applications for eligible projects using the following criteria:

- (1) the project is an eligible project as defined under subdivision 2;
- (2) the project will result in substantial public and private capital investment and provide substantial economic benefit to the city in which the project would be located;
- (3) the project is not relocating substantially the same operation from another location in the state, unless the commissioner determines the project cannot be reasonably accommodated within the city in which the business is currently located, or the business would otherwise relocate to another state; and
- (4) the project will create or maintain full-time jobs.

The determination of whether to make a grant for a site is within the discretion of the commissioner, subject to this section. The commissioner's decisions and application of the priorities are not subject to judicial review, except for abuse of discretion.

Subd. 5. **Set asides.** (a) During the first two years of the program, \$2,000,000, must be used only for grants to cities with a population of less than 5,000.

(b) Twenty percent of the amount available must be used only for grants for industrial park developments.

Subd. 6. **Maximum grant amount.** A city may receive no more than \$1,000,000 in two years for one or more projects.

Subd. 7. **Cancellation of grant; return of grant money.** If after five years, the commissioner determines that a project has not proceeded in a timely manner and is unlikely to be completed, the commissioner must cancel the grant and require the grantee to return all grant money awarded for that project. For industrial park development projects, if after five years the industrial park is not developed and available for business use, the commissioner must cancel the grant and require the grantee to return all grant money for that project. If the industrial park is developed and available for use within five years, but no businesses have located in the park, the grantee is not required to return any grant money.

Subd. 8. **Appropriation.** Grant money returned to the commissioner is appropriated to the commissioner to make additional grants under this section.

**History:** 2002 c 393 s 46

**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 [Repealed, 2001 c 200 s 4]  
116J.542 [Repealed, 2001 c 200 s 4]

#### FILM PRODUCTION JOBS PROGRAM

##### 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:** 1997 c 200 art 1 s 53; 1Sp2003 c 4 s 1

#### CONTAMINATION CLEANUP

##### 116J.551 CREATION OF ACCOUNTS.

Subdivision 1. **Grant account.** A contaminated site cleanup and development grant 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.

Subd. 2. **Revolving loan account.** A revolving loan account is created in a special revenue fund for the Minnesota cleanup revolving loan fund, funded by the United States Environmental Protection Agency. Money in the account may be invested by the State Board of Investment. Money in the account must be used to provide loans and



# MINNESOTA STATUTES 2004

1329

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.553

grants in accordance with section 116J.559 and the Brownfields Revitalization and Environmental Restoration Act of 2001, Public Law 107-118, title II, under the authority of the United States Environmental Protection Agency, and to pay for the commissioner's cost in reviewing applications and making loans and/or grants.

**History:** 1993 c 375 art 13 s 1; 2004 c 206 s 13

## 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, county, 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; 1997 c 200 art 2 s 8

## 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.** (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;

# MINNESOTA STATUTES 2004

(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:** 1993 c 375 art 13 s 3; 1999 c 203 s 4; 2003 c 128 art 13 s 13

## 116J.554 GRANTS.

Subdivision 1. **Authority.** (a) The commissioner may make a grant to an applicant development authority to pay for up to 75 percent of the project costs for a qualifying site.

(b) The commissioner may also make a grant to an applicant development authority to pay up to 75 percent or \$50,000, whichever is less, toward the cost of performing contaminant investigations and the development of a response action plan for a qualifying site.

(c) The commissioner may also make a grant to an applicant to fill a site that would represent more than 50 percent of the remaining land in a city suitable for industrial development if it were properly filled.

(d) 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.

(e) The total amount of money provided in grants under paragraph (b) may not exceed \$250,000 per fiscal year.

(f) In making grants under paragraph (b), the commissioner shall give priority to applicants that have not received a grant under paragraph (a) or section 473.252 during the year ending on the date of application.

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.20;

(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:** 1993 c 375 art 13 s 4; 1995 c 255 art 2 s 3; 1997 c 246 s 14,15; 2003 c 128 art 13 s 14; 2004 c 228 art 1 s 73

**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 legislature.** (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 committees in paragraph (b) 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 27

**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:** 1993 c 375 art 13 s 6; 1995 c 255 art 2 s 4; 1997 c 246 s 16; 2003 c 2 art 1 s 15

**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

# MINNESOTA STATUTES 2004

1333

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.572

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

## 116J.559 LOANS.

The commissioner may provide loans and grants that meet the criteria of the Brownfields Revitalization and Environmental Restoration Act of 2001, Public Law 107-118, title II, under the authority of the United States Environmental Protection Agency, from the account established in section 116J.551, subdivision 2. The commissioner shall prioritize the projects pursuant to section 116J.555:

**History:** 2004 c 206 s 14

116J.561 [Repealed, 2002 c 393 s 91]

116J.562 [Repealed, 2002 c 393 s 91]

116J.563 [Repealed, 2002 c 393 s 91]

116J.564 [Repealed, 2002 c 393 s 91]

116J.565 [Repealed, 2002 c 393 s 91]

116J.566 [Repealed, 2002 c 393 s 91]

116J.567 [Repealed, 2002 c 393 s 91]

116J.57 [Expired, 1997 c 246 s 17]

## GREATER MINNESOTA REDEVELOPMENT ACCOUNTS

### 116J.571 CREATION OF ACCOUNTS.

Two greater Minnesota redevelopment accounts are created, one in the general fund and one in the bond proceeds fund. Money in the accounts may be used to make grants as provided in section 116J.575. Money in the bond proceeds fund may only be used for eligible costs for publicly owned property. Money in the general fund may be used to pay for the commissioner's costs in reviewing the applications.

**History:** 2002 c 393 s 47

### 116J.572 DEFINITIONS.

Subdivision 1. **Scope of application.** For purposes of sections 116J.571 to 116J.575, the terms in this section have the meanings given.

Subd. 2. **Development authority.** "Development authority" includes a statutory or home rule charter city, county, housing and redevelopment authority, economic development authority, or port authority located outside the seven-county metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 3. **Eligible costs or costs.** "Eligible costs" or "costs" means the costs of land acquisition, stabilizing unstable soils, demolition, infrastructure improvements, ponding or other environmental infrastructure; building construction, design and engineering; and adaptive reuse of buildings. Eligible costs do not include project administration and legal fees.

Subd. 4. **Redevelopment.** "Redevelopment" means recycling obsolete, abandoned, or underutilized properties for new industrial, commercial, or residential uses.

**History:** 2002 c 393 s 48

### 116J.573 CRITERIA FOR ACCOUNTS AND PROJECTS.

Subdivision 1. **Accounts.** Criteria for use of the accounts created in section 116J.571 must be consistent with and promote the purposes of sections 116J.571 to 116J.575. They include, but are not limited to:

- (1) creating and preserving living wage jobs in greater Minnesota;
- (2) creating incentives for communities to include a full range of housing opportunities;
- (3) creating incentives for all communities to implement compact, efficient, and mixed-use development; and
- (4) creating incentives to assist communities in maintaining a unique sense of place by preserving local, cultural assets.

Subd. 2. **Projects.** To be eligible for funding by the greater Minnesota redevelopment account, a project must:

- (1) interrelate redevelopment with other public investments in transportation, housing, schools, energy, utilities information infrastructure, and other public services;
- (2) interrelate affordable housing and employment growth areas;
- (3) intensify land use that leads to more compact redevelopment;
- (4) involve redevelopment that mixes incomes of residents in housing, including introducing or reintroducing higher value housing in lower income areas to achieve a mix of housing opportunities;
- (5) involve participation from citizens and the business community in the planning and development of the proposed redevelopment plan;
- (6) encourage public infrastructure investments which attract private sector redevelopment investment in commercial, industrial, and residential properties adjacent to public improvements, and provide project area residents with expanded opportunities for private sector employment; or
- (7) be sustainable at the local level and reduce the probability of future requests for state development, maintenance, or replacement assistance.

Subd. 3. **Other factors.** The factors listed in subdivisions 1 and 2 are not ranked in 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 including, but not limited to, blight reduction, community stabilization, and property tax base maintenance or improvement.

Subd. 4. **Partnerships.** The commissioner shall give priority to proposals using innovative financial partnerships between government, private for-profit, and nonprofit sectors as well as to proposals that meet current tax increment financing requirements for a redevelopment district and contribute tax increment financing towards the project.

Subd. 5. **Annual report.** The commissioner shall prepare and submit to the legislature an annual report on the greater Minnesota redevelopment account. The report must include information on the amount of money in the account, the amount distributed, to whom the grants were distributed and for what purposes, and an evaluation of the effectiveness of the projects funded in meeting the policies and goals of the program.

**History:** 2002 c 393 s 49

**116J.574 GRANT APPLICATIONS.**

Subdivision 1. **Application required.** To obtain a grant, a development authority shall apply to the commissioner.

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) a detailed budget, including necessary supporting evidence, of the total costs for the site including the total eligible redevelopment costs;
- (3) a complete redevelopment plan, including any specific commitments from third parties to construct improvements on the site;
- (4) a complete financing plan, including the manner in which the development authority uses innovative financial partnerships between government, private for-profit, and nonprofit sectors; and
- (5) any additional information or material that the commissioner prescribes.

**History:** 2002 c 393 s 50

**116J.575 GRANTS.**

Subdivision 1. **Commissioner discretion.** The commissioner may make a grant for up to 50 percent of the eligible costs of a project. The determination of whether to make a grant for a site is within the discretion of the commissioner, subject to this section and sections 116J.571 to 116J.574 and available unencumbered money in the greater Minnesota redevelopment account. The commissioner's decisions and application of the priorities under this section are not subject to judicial review, except for abuse of discretion.

Subd. 2. **Application cycles.** In making grants, the commissioner shall establish semiannual application deadlines in which grants will be authorized from all or part of the available money in the account.

**History:** 2002 c 393 s 51

**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;

# MINNESOTA STATUTES 2004

(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 clearinghouse 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 employment; 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) 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;

(16) 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;

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

(18) 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



# MINNESOTA STATUTES 2004

1337

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.61

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 16C 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; 1998 c 386 art 2 s 35; 2002 c 380 art 2 s 2

**116J.581** [Repealed, 1997 c 200 art 1 s 74]

## **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:** 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; 1Sp2003 c 4 s 1

## **116J.60 PROMOTIONAL EXPENSES.**

In the promotion of 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:** Ex1967 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; 1Sp2003 c 4 s 1; 2004 c 171 s 4

## **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** Subdivision 1. [Repealed, 2004 c 171 s 20]

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

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

**116J.616** [Repealed, 2004 c 171 s 20]

#### **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

# MINNESOTA STATUTES 2004

1339

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.64

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

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

**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. **Sale.** 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.** 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. **Advertising.** 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. [Repealed, 2004 c 171 s 20]

**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; 1999 c 223 art 2 s 25

## **116J.64 LOANS TO INDIANS.**

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

# MINNESOTA STATUTES 2004

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

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

Subd. 4. **Tribal government.** "Tribal government" means the reservation business committee, board of trustees, tribal council, federally recognized tribal entity, or equivalent duly constituted tribal authority.

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

Subd. 5a. **Eligible organization.** "Eligible organization" means any organization approved by a tribal government to administer its portion of the Indian business loan fund allotted to the tribal government.

Subd. 6. **Administration.** (a) 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 Indians as that term is defined in subdivision 2.

(b) The tribal governments or eligible organization may administer the account, provided that, before making any eligible loans, each tribal government must submit to the agency, for its review and approval, a plan for that government's loan program which specifically describes, as to that program, its content, the application and reporting forms, utilization of money, administration, operation, implementation, and other matters required by the agency. The plan may provide for the tribal government to contract with an eligible organization to administer its loan program.

(c) All such plans 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. Each tribal government may allocate all, or a portion of, the funds in its account to one or more other tribal governments for purposes of making eligible loans. As a condition to the making of such eligible loans, the tribal governments 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.

(d) 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. **Processing.** (a) An Indian desiring a loan for the purpose of starting a business enterprise or expanding an existing business shall make application to the appropriate tribal government. The application shall be forwarded to the appropriate eligible organization, if it is participating in the program, for consideration in conformity with the plans submitted by said tribal governments. The tribal government may approve the application if it determines that the loan would advance the goals of the Indian business loan program. If the tribal government is not participating in the program, the agency may directly approve or deny the loan application.

(b) If the application is approved, the tribal government shall forward the application, together with all relevant documents pertinent thereto, to the commissioner of the agency, who shall cause a warrant to be drawn in favor of the applicable tribal government, or the agency, if it is administering the loan, with appropriate notations identifying the borrower.

(c) The tribal government, eligible organization, or the agency, if it is administering the loan, shall maintain records of transactions for each borrower in a manner consistent with good accounting practice. The interest rate on a loan shall be established by the tribal government or the agency, but may be no less than two percent

# MINNESOTA STATUTES 2004

1341

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.68

per annum nor more than ten percent per annum. When any portion of a debt is repaid, the tribal government, eligible organization, or the agency, if it is administering the loan, shall remit the amount so received plus interest paid thereon to the commissioner of finance through the agency. The amount so received shall be credited to the Indian business loan account.

(d) On the placing of a loan, additional money equal to ten percent of the total amount made available to any tribal government, eligible organization, or the agency, if it is administering the loan, for loans during the fiscal year shall be paid to the tribal government, eligible organization, or the agency, prior to December 31 for the purpose of financing administrative costs.

**Subd. 8. Loan period.** Loans made under subdivision 7 shall be limited to a period of ten 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 20 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, or greater than, the face value of the loan to ensure that adequate collateral is provided.

**Subd. 9. Penalty.** 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 is an individual, partnership or corporation, shall be guilty of a gross misdemeanor.

**Subd. 10. Tax revenue.** 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.

**Subd. 11. Appropriation.** 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; 2003 c 112 art 2 s 50; 2003 c 128 art 13 s 15; 2004 c 206 s 15-21

**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. **Generally.** The Bureau of Small Business within the business assistance center shall serve as a clearinghouse and referral service for information

# MINNESOTA STATUTES 2004

needed by small businesses including small targeted group businesses and small businesses located in an economically disadvantaged area.

Subd. 2. **Duties.** 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 16C.16 to 16C.19 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; 1998 c 386 art 2 s 36

#### 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 [Repealed, 2003 c 128 art 13 s 40]

### 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:

- (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 and cosmetologists regulated pursuant to chapter 154;
- (x) boiler operators regulated pursuant to chapter 183;
- (xi) chiropractors regulated pursuant to chapter 148;
- (xii) collection agencies regulated pursuant to chapter 332;
- (xiii) dentists, registered dental assistants, and dental hygienists regulated pursuant to chapter 150A;
- (xiv) detectives regulated pursuant to chapter 326;
- (xv) electricians regulated pursuant to chapter 326;
- (xvi) mortuary science practitioners regulated pursuant to chapter 149A;
- (xvii) engineers regulated pursuant to chapter 326;
- (xviii) insurance brokers and salespersons regulated pursuant to chapter 60A;
- (xix) certified interior designers regulated pursuant to chapter 326;
- (xx) midwives regulated pursuant to chapter 147D;
- (xxi) nursing home administrators regulated pursuant to chapter 144A;
- (xxii) optometrists regulated pursuant to chapter 148;
- (xxiii) osteopathic physicians regulated pursuant to chapter 147;
- (xxiv) pharmacists regulated pursuant to chapter 151;
- (xxv) physical therapists regulated pursuant to chapter 148;
- (xxvi) physician assistants regulated pursuant to chapter 147A;
- (xxvii) physicians and surgeons regulated pursuant to chapter 147;
- (xxviii) plumbers regulated pursuant to chapter 326;
- (xxix) podiatrists regulated pursuant to chapter 153;
- (xxx) practical nurses regulated pursuant to chapter 148;
- (xxxi) professional fund-raisers regulated pursuant to chapter 309;
- (xxxii) psychologists regulated pursuant to chapter 148;
- (xxxiii) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;
- (xxxiv) registered nurses regulated pursuant to chapter 148;
- (xxxv) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;
- (xxxvi) steamfitters regulated pursuant to chapter 326;
- (xxxvii) teachers and supervisory and support personnel regulated pursuant to chapter 125;
- (xxxviii) veterinarians regulated pursuant to chapter 156;
- (xxxix) water conditioning contractors and installers regulated pursuant to chapter 326;
- (xl) water well contractors regulated pursuant to chapter 103I;
- (xli) water and waste treatment operators regulated pursuant to chapter 115;
- (xlii) motor carriers regulated pursuant to chapter 221;



- (xliii) professional firms regulated under chapter 319B;
- (xliv) real estate appraisers regulated pursuant to chapter 82B;
- (xlv) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;
- (xlvi) 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:** 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; 1997 c 174 art 12 s 70; 1997 c 215 s 3; 1999 c 86 art 1 s 25; 2000 c 260 s 16; 2001 c 109 art 2 s 2; 2003 c 118 s 1; 2004 c 269 art 3 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 Employment 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; 1Sp2003 c 4 s 1

**116J.75** [Repealed, 2001 c 200 s 4]

### **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 consider-

ation 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 undertaking, 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 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.

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; 1Sp2003 c 4 s 1

#### 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 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 expediter for the purpose of:

(1) facilitating contacts for the applicant with agencies responsible for processing and reviewing license applications;

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

(3) considering with agencies the feasibility of consolidating hearings and data required of the applicant; and

(4) 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

# MINNESOTA STATUTES 2004

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 engaged 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

# MINNESOTA STATUTES 2004

1351

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.8731

defined in section 116L.19, 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 \$1,000, 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; 2004 c 206 s 52; 2004 c 228 art 1 s 72

**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, 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.

**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 received from repayment of funds awarded under this section to a regional development commission, other regional entity, or statewide community capital fund as determined by the commissioner, to

# MINNESOTA STATUTES 2004

capitalize or to provide the local match required for capitalization of a regional or statewide 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, 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.

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 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:** 1996 c 452 s 29; 2001 c 102 s 1; 1Sp2001 c 4 art 2 s 2; 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.

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 co-payment 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; 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.

Subd. 2. **Grant eligibility and allocation.** Nonprofit organizations must apply for grants under this section following procedures established by the commissioner. To be eligible for a grant, an organization must demonstrate to the commissioner that it has the appropriate expertise. The commissioner shall give preference for grants to organizations that target nontraditional entrepreneurs such as women, members of a minority, low-income individuals, or persons seeking work who are currently on or recently removed from welfare assistance.

An application must include:

- (1) the local need for microenterprise support;
- (2) proposed criteria for business eligibility;
- (3) proposals for identifying and serving eligible businesses;
- (4) a description of technical assistance to be provided to eligible businesses;
- (5) proposals to coordinate technical assistance with financial assistance;
- (6) a demonstration of ability to collaborate with other agencies including educational and financial institutions; and
- (7) project goals identifying the number of eligible businesses to be assisted with the state funds awarded under the grant.

Subd. 3. **Grant evaluations.** Grant recipients must report to the commissioner by February 1 in each of the two years succeeding the year of receipt of the grant. The report must detail the number of customers served, the number of businesses started, stabilized, or expanded, the number of jobs created and retained, and business success rates. The commissioner shall report to the legislature on the microenterprise entrepreneurial assistance. The report shall contain an evaluation of the results, recommendations to continue or change the program, and a suggested level of funding.

**History:** 1997 c 200 art 1 s 55; 1999 c 223 art 2 s 26,27; 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:

# MINNESOTA STATUTES 2004

1355

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.877

- (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.875** [Renumbered 116M.02]

**116J.8755** [Repealed, 2001 c 200 s 4]

## 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 employment and economic development.

Subd. 6a. **Community development venture capital fund.** "Community development venture capital fund" means a regional or local venture capital fund that makes equity investments in small or emerging companies and has a financial as well as a social mission.

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; 2001 c 153 s 1; 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:** 1989 c 335 art 1 s 147; 2001 c 153 s 2; 1Sp2003 c 4 s 1

### 116J.8762 COMMISSIONER; DUTIES.

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

(1) with respect to loans:

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

(ii) 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

(iii) 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; and

(2) with respect to equity investments:

(i) market the program to businesses and community development venture capital funds; and

(ii) enter into appropriate contracts and agreements with community development venture capital funds.

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; 2001 c 153 s 3

### 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;

# MINNESOTA STATUTES 2004

(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 charges 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. 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).

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

# MINNESOTA STATUTES 2004

1359

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.8765

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; 2003 c 128 art 13 s 21

## 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

# MINNESOTA STATUTES 2004

1363

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.885

covered under the program may not be increased beyond the covered amount as previously enrolled.

**History:** 1989 c 335 art 1 s 155

## 116J.8770 EQUITY INVESTMENTS.

The commissioner may invest funds from the capital access account to make equity investments in community development venture capital funds for the purpose of providing capital for small and emerging businesses. The community development venture capital fund must have experience in equity investments with small businesses and the ability to raise private capital.

**History:** 2001 c 153 s 4

## 116J.8771 WAIVER.

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

**History:** 2001 c 153 s 5; 1Sp2003 c 1 art 2 s 64

## 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]

## BIOMEDICAL INNOVATION AND COMMERCIALIZATION INITIATIVE

### 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

# MINNESOTA STATUTES 2004

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.

Subd. 2. **Board.** BICI is governed by a board of directors, appointed to six-year terms, comprised of:

- (1) a representative chosen by the governor;
- (2) a representative chosen by the University of Minnesota; and
- (3) five representatives from the state's medical technology industry, chosen by private sector investors.

The board may use up to five percent of its total capitalization to establish a management and administrative budget, including the hiring of staff and for professional management expenses. Members of the staff are not state employees.

Subd. 3. **Duties of BICI.** BICI shall:

- (1) add business and financial expertise to technologies that are being developed by University of Minnesota faculty and staff to enhance commercial value;
- (2) promote the depth, breadth, and value of technologies being developed by the biomedical academic community;
- (3) catalyze the development of functional, mutually advantageous relationships between industry, faculty, staff, the university, and extended research community;
- (4) provide a financial return on commercialization efforts to the stakeholders in BICI; and
- (5) directly commercialize technologies through the startup of new Minnesota companies or enhance the marketing of technologies to existing companies creating expanded economic development opportunities.

Subd. 4. **Statewide focus.** BICI may contract and collaborate with higher education and other research institutions located throughout the state.

Subd. 5. **Powers of board.** The board has the power to do all things reasonable and necessary to carry out the duties of BICI including, without limitation, the power to:

- (1) enter into contracts for goods and services with individuals and private and public entities;
- (2) sue and be sued;
- (3) acquire, hold, lease, and transfer any interest in real and personal property;
- (4) accept appropriations, gifts, grants, and bequests;
- (5) hire employees for BICI; and
- (6) delegate any of its powers.

Subd. 6. **Board compensation.** Compensation and expense reimbursement of board members is as provided in section 15.0575, subdivision 1.

**History:** *1Sp2001 c 5 art 19 s 1; 1Sp2003 c 4 s 1*

## 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]

# MINNESOTA STATUTES 2004

1365

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT

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, 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.

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 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; 2003 c 128 art 13 s 22

**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;

(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.

(c) The commissioner shall notify the chairs of the senate Finance and house Ways and Means 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

# MINNESOTA STATUTES 2004

States Department of Agriculture. The commissioner of agriculture is also responsible for promoting the national and international 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; 1998 c 386 art 2 s 37; 2000 c 260 s 17; 2003 c 128 art 13 s 23; 1Sp2003 c 4 s 1; 2004 c 206 s 22; 2004 c 228 art 1 s 27; 2004 c 284 art 2 s 12

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

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

**116J.9671** [Repealed, 2001 c 200 s 4]

**116J.9672** [Repealed, 2002 c 380 art 2 s 21]

**116J.9673** [Repealed, 2002 c 380 art 2 s 21]

**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]

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

**116J.975** [Repealed, 1997 c 7 art 1 s 40]

## COMMUNITY DEVELOPMENT

### **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 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, the Minnesota cleanup revolving loan fund program created under the Brownfields Revitalization and Environmental Restoration Act of 2001, Public Law 107-118, title II, under the authority of the United States Environmental Protection Agency, and land and water conservation programs;

(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



# MINNESOTA STATUTES 2004

1369

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.982

most recent housing affordability plan and do not duplicate existing state housing programs.

Subd. 4. [Repealed, 2001 c 200 s 4]

**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; 1Sp2003 c 4 s 1; 2004 c 206 s 23

**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 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,

# MINNESOTA STATUTES 2004

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.

**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 employment 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; ISp2003 c 4 s 1

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

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

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

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

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

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

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

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

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

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

Subd. 11. [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. [Repealed, 1997 c 200 art 1 s 74]

**History:** 1993 c 369 s 53

116J.991 [Repealed, 1999 c 243 art 12 s 4]

116J.992 [Repealed, 2001 c 200 s 4]

## BUSINESS SUBSIDIES

### 116J.993 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 116J.993 to 116J.995, the terms defined in this section have the meanings given them.

Subd. 2. **Benefit date.** "Benefit date" means the date that the recipient receives the business subsidy. If the business subsidy involves the purchase, lease, or donation of physical equipment, then the benefit date begins when the recipient puts the equipment into service. If the business subsidy is for improvements to property, then the benefit date refers to the earliest date of either:

(1) when the improvements are finished for the entire project; or

(2) when a business occupies the property. If a business occupies the property and the subsidy grantor expects that other businesses will also occupy the same property, the grantor may assign a separate benefit date for each business when it first occupies the property.

Subd. 3. **Business subsidy.** "Business subsidy" or "subsidy" means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business.

The following forms of financial assistance are not a business subsidy:

(1) a business subsidy of less than \$25,000;

(2) assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria;

# MINNESOTA STATUTES 2004

1373

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.993

(3) public improvements to buildings or lands owned by the state or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;

(4) redevelopment property polluted by contaminants as defined in section 116J.552, subdivision 3;

(5) assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50 percent of the total cost;

(6) assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services;

(7) assistance for housing;

(8) assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance subdistrict as defined under section 469.174, subdivision 23;

(9) assistance for energy conservation;

(10) tax reductions resulting from conformity with federal tax law;

(11) workers' compensation and unemployment insurance;

(12) benefits derived from regulation;

(13) indirect benefits derived from assistance to educational institutions;

(14) funds from bonds allocated under chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;

(15) assistance for a collaboration between a Minnesota higher education institution and a business;

(16) assistance for a tax increment financing soils condition district as defined under section 469.174, subdivision 19;

(17) redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value;

(18) general changes in tax increment financing law and other general tax law changes of a principally technical nature;

(19) federal assistance until the assistance has been repaid to; and reinvested by, the state or local government agency;

(20) funds from dock and wharf bonds issued by a seaway port authority;

(21) business loans and loan guarantees of \$75,000 or less; and

(22) federal loan funds provided through the United States Department of Commerce, Economic Development Administration.

Subd. 4. **Grantor.** "Grantor" means any state or local government agency with the authority to grant a business subsidy.

Subd. 5. **Local government agency.** "Local government agency" includes a statutory or home rule charter city, housing and redevelopment authority, town, county, port authority, economic development authority, community development agency, nonprofit entity created by a local government agency, or any other entity created by or authorized by a local government with authority to provide business subsidies.

Subd. 6. **Recipient.** "Recipient" means any for-profit or nonprofit business entity that receives a business subsidy. Only nonprofit entities with at least 100 full-time equivalent positions and with a ratio of highest to lowest paid employee, that exceeds ten to one, determined on the basis of full-time equivalent positions, are included in this definition.

Subd. 7. **State government agency.** "State government agency" means any state agency that has the authority to award business subsidies.

**History:** 1999 c 243 art 12 s 1; 2000 c 482 s 1; 2004 c 206 s 52

#### 116J.994 REGULATING LOCAL AND STATE BUSINESS SUBSIDIES.

Subdivision 1. **Public purpose.** A business subsidy must meet a public purpose which may include, but may not be limited to, increasing the tax base. Job retention may only be used as a public purpose in cases where job loss is specific and demonstrable.

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.

Subd. 3. **Subsidy agreement.** (a) A recipient must enter into a subsidy agreement with the grantor of the subsidy that includes:

- (1) a description of the subsidy, including the amount and type of subsidy, and type of district if the subsidy is tax increment financing;
- (2) a statement of the public purposes for the subsidy;
- (3) measurable, specific, and tangible goals for the subsidy;
- (4) a description of the financial obligation of the recipient if the goals are not met;
- (5) a statement of why the subsidy is needed;
- (6) a commitment to continue operations in the jurisdiction where the subsidy is used for at least five years after the benefit date;
- (7) the name and address of the parent corporation of the recipient, if any; and
- (8) a list of all financial assistance by all grantors for the project.

(b) Business subsidies in the form of grants must be structured as forgivable loans. For other types of business subsidies, the agreement must state the fair market value of the subsidy to the recipient, including the value of conveying property at less than a fair market price, or other in-kind benefits to the recipient.

(c) If a business subsidy benefits more than one recipient, the grantor must assign a proportion of the business subsidy to each recipient that signs a subsidy agreement. The proportion assessed to each recipient must reflect a reasonable estimate of the recipient's share of the total benefits of the project.

(d) The state or local government agency and the recipient must both sign the subsidy agreement and, if the grantor is a local government agency, the agreement must be approved by the local elected governing body, except for the St. Paul Port Authority and a seaway port authority.

(e) Notwithstanding the provision in paragraph (a), clause (6), a recipient may be authorized to move from the jurisdiction where the subsidy is used within the five-year period after the benefit date if, after a public hearing, the grantor approves the recipient's request to move. For the purpose of this paragraph, if the grantor is a state government agency other than the Iron Range Resources and Rehabilitation Board, "jurisdiction" means a city or township.

# MINNESOTA STATUTES 2004

1375

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT 116J.994

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.

Subd. 5. **Public notice and hearing.** (a) Before granting a business subsidy that exceeds \$500,000 for a state government grantor and \$100,000 for a local government grantor, the grantor must provide public notice and a hearing on the subsidy. A public hearing and notice under this subdivision is not required if a hearing and notice on the subsidy is otherwise required by law.

(b) Public notice of a proposed business subsidy under this subdivision by a state government grantor, other than the Iron Range Resources and Rehabilitation Board, must be published in the State Register. Public notice of a proposed business subsidy under this subdivision by a local government grantor or the Iron Range Resources and Rehabilitation Board must be published in a local newspaper of general circulation. The public notice must identify the location at which information about the business subsidy, including a summary of the terms of the subsidy, is available. Published notice should be sufficiently conspicuous in size and placement to distinguish the notice from the surrounding text. The grantor must make the information available in printed paper copies and, if possible, on the Internet. The government agency must provide at least a ten-day notice for the public hearing.

(c) The public notice must include the date, time, and place of the hearing.

(d) The public hearing by a state government grantor other than the Iron Range Resources and Rehabilitation Board must be held in St. Paul.

(e) If more than one nonstate grantor provides a business subsidy to the same recipient, the nonstate grantors may designate one nonstate grantor to hold a single public hearing regarding the business subsidies provided by all nonstate grantors. For the purposes of this paragraph, "nonstate grantor" includes the iron range resources and rehabilitation board.

Subd. 6. **Failure to meet goals.** The subsidy agreement must specify the recipient's obligation if the recipient does not fulfill the agreement. At a minimum, the agreement must require a recipient failing to meet subsidy agreement goals to pay back the assistance plus interest to the grantor or, at the grantor's option, to the account created under section 116J.551 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 for government consumption expenditures and gross investment for state and local governments prepared by the Bureau of Economic Analysis of the United States Department of Commerce for the 12-month period ending March 31 of the previous year. The grantor, after a public hearing, may extend for up to one year the period for meeting the wage and job goals under subdivision 4 provided in a subsidy agreement. A grantor may extend the period for meeting other goals under subdivision 3, paragraph (a), clause (3), by documenting in writing the reason for the extension and attaching a copy of the document to its next annual report to the department.

A recipient that fails to meet the terms of a subsidy agreement may not receive a business subsidy from any grantor for a period of five years from the date of failure or until a recipient satisfies its repayment obligation under this subdivision, whichever occurs first.

Before a grantor signs a business subsidy agreement, the grantor must check with the compilation and summary report required by this section to determine if the recipient is eligible to receive a business subsidy.

Subd. 7. **Reports by recipients to grantors.** (a) A business subsidy grantor must monitor the progress by the recipient in achieving agreement goals.

(b) A recipient must provide information regarding goals and results for two years after the benefit date or until the goals are met, whichever is later. If the goals are not met, the recipient must continue to provide information on the subsidy until the subsidy is repaid. The information must be filed on forms developed by the commissioner in cooperation with representatives of local government. Copies of the completed forms must be sent to the local government agency that provided the subsidy or to the commissioner if the grantor is a state agency. If the Iron Range Resources and Rehabilitation Board is the grantor, the copies must be sent to the board. The report must include:

- (1) the type, public purpose, and amount of subsidies and type of district, if the subsidy is tax increment financing;
- (2) the hourly wage of each job created with separate bands of wages;
- (3) the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;
- (4) the date the job and wage goals will be reached;
- (5) a statement of goals identified in the subsidy agreement and an update on achievement of those goals;
- (6) the location of the recipient prior to receiving the business subsidy;
- (7) why the recipient did not complete the project outlined in the subsidy agreement at their previous location, if the recipient was previously located at another site in Minnesota;
- (8) the name and address of the parent corporation of the recipient, if any;
- (9) a list of all financial assistance by all grantors for the project; and
- (10) other information the commissioner may request.

A report must be filed no later than March 1 of each year for the previous year. The local agency and the Iron Range Resources and Rehabilitation Board must forward copies of the reports received by recipients to the commissioner by April 1.

(c) Financial assistance that is excluded from the definition of "business subsidy" by section 116J.993, subdivision 3, clauses (4), (5), (8), and (16), is subject to the reporting requirements of this subdivision, except that the report of the recipient must include instead:

- (1) the type, public purpose, and amount of the financial assistance, and type of district if the assistance is tax increment financing;
- (2) progress towards meeting goals stated in the assistance agreement and the public purpose of the assistance;
- (3) if the agreement includes job creation, the hourly wage of each job created with separate bands of wages;
- (4) if the agreement includes job creation, the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;
- (5) the location of the recipient prior to receiving the assistance; and
- (6) other information the grantor requests.

(d) If the recipient does not submit its report, the local government agency must mail the recipient a warning within one week of the required filing date. If, after 14 days of the postmarked date of the warning, the recipient fails to provide a report, the recipient must pay to the grantor a penalty of \$100 for each subsequent day until the report is filed. The maximum penalty shall not exceed \$1,000.

**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.



# MINNESOTA STATUTES 2004

1377

DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT . 116J.995

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 two calendar years by December 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 December 1 of 2004 and every other year thereafter.

**History:** 1999 c 243 art 12 s 2; 2000 c 482 s 2-11; 2001 c 7 s 28; 2003 c 128 art 13 s 24-26; 1Sp2003 c 4 s 1; 2004 c 206 s 24,25

## 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:** 1999 c 243 art 12 s 3; 2000 c 482 s 12; 2001 c 7 s 29; 2003 c 128 art 13 s 27; 1Sp2003 c 4 s 1.