

Sec. 23. **REPEALER.**

Sections 1, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 are repealed effective January 1, 1986.

Sec. 24. **EFFECTIVE DATE.**

This act is effective the day after final enactment.

Approved April 26, 1984

CHAPTER 583 — H.F.No. 1775

An act relating to energy and economic development; energy and economic development authority; adding definitions; clarifying duties and powers of the energy and economic development authority; correcting statutory references; amending Minnesota Statutes 1982, sections 116J.88, as amended; 116J.89, subdivision 4; 116J.90, by adding a subdivision; 116J.91, subdivisions 15, 17, 18, and by adding a subdivision; 474.01, subdivisions 7 and 7a; Minnesota Statutes 1983 Supplement, sections 116J.89, subdivisions 1, 1a, 1b, 1c, 2, 6, and 8; 116J.90, subdivisions 1, 2, 3, 5, and 6; 116J.91, subdivisions 1, 4, 11, 12, 16, 19, and 20; 116J.923, subdivision 7; 116J.924, subdivision 3; 116J.925, subdivisions 1 and 3; 275.125, subdivision 12a; Laws 1983, chapter 323, section 5, subdivision 2; proposing new law coded as Minnesota Statutes, chapter 116M; repealing Minnesota Statutes 1983 Supplement, sections 116J.922; 116J.923, subdivisions 2 and 12; and 116J.924, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 116J.88, as amended by Laws 1983, chapter 289, sections 63, 64, 65, 66, 67, 68, and 69, is amended to read:

116J.88 SMALL BUSINESS FINANCE AGENCY, MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY; DEFINITIONS.

Subdivision 1. **SCOPE.** Each term defined in this section has the meaning given it whenever used in sections ~~116J.63 and 116J.88~~ 116J.875 to 116J.9116J.926.

Subd. 2. **AUTHORITY.** "Authority" means the Minnesota energy and economic development authority created in section 116J.89.

Subd. 3a. **BUSINESS.** "Business" means any person engaged in a trade or business of any nature that is operated for profit or not for profit.

Subd. 4. **ELIGIBLE SMALL BUSINESS.** "Eligible small business" means an enterprise determined by the authority to constitute a small business concern as defined in regulations of the United States small business administration pursuant to United States Code, title 15, sections 631 to 647, as amended from time to time.

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Subd. 4a. PERSON. "Person" means any person, including individuals, firms, partnerships, associations, societies, trusts, public or private corporations, or other legal entities, including public or governmental bodies as well as natural persons. "Person" includes the plural as well as the singular.

Subd. 5. TARGETED SMALL BUSINESS. "Targeted small business" for the purpose of section 116J.90, subdivision 5, means a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association, or cooperative, which entity business:

(a) has 20 or fewer full-time employees or not more than the equivalent of \$1,000,000 in annual gross revenues in the preceding fiscal year; and

(b) is not at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in its field of operation. For the purpose of this subdivision, "dominant in its field of operation" means having more than 20 full-time employees and more than \$1,000,000 in annual gross revenues.

"Targeted small business" includes may include a farm business engaged in farming, agricultural production or processing, or storage of agricultural products.

Subd. 6. FINANCIAL INSTITUTION. "Financial institution" means a bank, bank or trust company, trust company, mortgage company, credit union, mortgage banker, national banking association, savings bank, savings association, savings and loan association, building and loan association, insurance company, securities broker-dealer, financial organizations relating to commercial credit or venture capital, or a lender certified by the secretary of housing and urban development or by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration or any other financial or lending institution, whether organized under federal law or the laws of any state of the United States, and whether located within or without this state.

Subd. 6a. LOANS. "Loans" means any of the following types of loans: business loans, small business loans, pollution control loans, energy loans, and farm loans.

Subd. 7. BUSINESS LOAN. "Business loan" means a loan, other than a pollution control loan, energy loan, or farm loan, to the owner of an eligible small a business for the financing of (a) capital expenditures, on an interim or long-term basis, for the acquisition or improvement of land, acquisition, construction, rehabilitation, removal, or improvement of buildings, or acquisition and installation of fixtures and equipment useful for the conduct of the business, including all facilities of a capital nature useful or suitable for any business engaged in any enterprise promoting employment (or any of the other purposes listed below), including, without limitation, those facilities included within the

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meaning of the term "project" as defined in section 474.02, subdivisions 1 to 1f and section 474.03, subdivision 4; or

(b) short-term costs of conducting an eligible small business.

Subd. 7a. **FARM LOAN.** "Farm loan" means a loan to a farm business for the acquisition, installation, improvement, construction, rehabilitation, or removal of buildings, or acquisition and installation of fixtures or equipment, useful for the conduct of a farm business.

Subd. 8. **POLLUTION CONTROL LOAN.** "Pollution control loan" means a loan to an eligible small a business for the acquisition, construction, or improvement of pollution control facilities or operations. Pollution control facilities or operations may include real and personal property likely to help prevent, reduce, abate, or control noise, air, or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and real and personal property to be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste.

Subd. 9. **FUND FUNDS.** "~~Fund~~" "Funds" means the group of funds controlled by the authority, including the economic development fund created by section 116J.89, subdivision 1c, the energy loan insurance fund created by section 116J.924, and the energy development fund created by section 116J.925.

Subd. 10. **ENERGY LOAN.** "Energy loan" means a loan or advance of credit, to finance a "qualified energy project" as defined in this section.

Subd. 11. **SMALL BUSINESS LOAN.** "Small business loan" means a loan to a business that is an "eligible small business" or a "targeted small business" for the financing of (a) capital expenditures on an interim or long-term basis for the acquisition or improvement of land, acquisition, construction, rehabilitation, removal, or improvement of buildings, or the acquisition and installation of fixtures and equipment useful to conduct a small business, including all facilities of a capital nature useful or suitable for any business engaged in any enterprise promoting employment including, without limitation, those facilities included within the meaning of the term "project" as defined in section 474.02, subdivisions 1 to 1f and section 474.03, subdivision 4; or (b) short-term costs of conducting a small business.

With respect to financing the capital expenditure or facility or short-term costs, if the authority determines that the expenditure, facility, or costs will accomplish one or more of the following purposes: tend to maintain or provide gainful employment opportunities within or for the people of Minnesota; aid, assist, and encourage the economic development or redevelopment of any political subdivision of Minnesota; or maintain or diversify and expand employment promoting enterprise within Minnesota.

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Subd. 12. **CONSERVATION.** "Conservation" means a product or system designed to reduce the amount of energy needed for an energy-consuming activity or process. Conservation includes but is not limited to thermal insulation and air infiltration control in buildings, products, or methods that reduce energy consumption for transportation or soil tillage practices, improvements in combustion efficiency or heat transfer efficiency in boilers, furnaces, or direct-fired process heaters, and changes to industrial production equipment that result in lower energy use per unit of output.

Subd. 13. **MUNICIPALITY.** "Municipality" means a city, town, county, school district, special taxing district, or a municipal power agency governed by chapter 453, or a group or combination of those units operating under an agreement to jointly undertake projects authorized by sections 116J.921 to 116J.926.

Subd. 14. **ALTERNATIVE ENERGY RESOURCE.** "Alternative energy resource" means a source of energy available from indigenous Minnesota resources including but not limited to peat, biomass, solar energy, wind, municipal wastes, agricultural or forestry wastes, hydropower, and agricultural crops suitable for conversion to an energy fuel.

Subd. 15. **RENEWABLE ENERGY RESOURCE.** "Renewable energy resource" means a source of energy occurring in Minnesota which, when consumed for energy purposes, is replaced within a matter of days, months, or years by new or additional supplies of the energy source. Renewable energy resources include, but are not limited to, forestry products and forest harvest residues, solar energy, wind energy, waterpower, and agricultural wastes.

Subd. 16. **ENERGY RECOVERY.** "Energy recovery" means the extraction of energy from materials, components, or processes which would normally represent wasted energy resources. Municipal solid wastes, volatile sewer gases, and power plant waste heat, among others, offer the potential for energy recovery.

Subd. 17. **RESOURCE RECOVERY.** "Resource recovery" means the cost effective collection, extraction, or reuse of resources from materials, components, or processes which would normally represent wasted resources or energy, such collection, extraction or reuse to result in a lesser energy intensity than would be required to produce the same product from any non-waste materials.

Subd. 18. **QUALIFIED ENERGY PROJECT.** "Qualified energy project" means acquiring, installing, rehabilitating or constructing land, buildings, capital improvements, or equipment for (1) conservation of energy or use of alternative or renewable energy resources in the operation of a business, (2) recovery or production from alternative or renewable resources of energy to be sold in the course of business, (3) production for sale in the course of business of equipment for the conservation or recovery of energy or for the use of energy

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from alternative or renewable resources, (4) creation of facilities to manufacture or fabricate devices and equipment for the conservation or recovery of energy or to obtain energy from alternative or renewable energy resources, if the equipment is for sale in the course of business, (5) manufacture of products by means of resource recovery for sale in the ordinary course of business.

Sec. 2. Minnesota Statutes 1983 Supplement, section 116J.89, subdivision 1, is amended to read:

Subdivision 1. **CREATION; SUCCESSOR STATUS.** The small business finance agency created by Laws 1980, chapter 547, is renamed the Minnesota energy and economic development authority and may act on behalf of the state within the scope of the powers granted to it in sections 116J.88 116J.875 to 116J.91 116J.926 to implement loan programs and to provide financial assistance under the economic development fund funds by which, the authority alone or in cooperation with cities, towns, counties, and private or public lenders, may provide adequate funds or incentives to financing such as guarantees or insurance on sufficiently favorable terms to assist and encourage the establishment, maintenance, and growth of eligible small businesses and or employment opportunities in Minnesota, and to reduce to a manageable level the cost of the control of pollution and disposal of waste resulting from the operations of eligible small businesses and to improve the efficiency of energy use by businesses and to encourage businesses to provide a reliable and economic supply of energy for use by the state's households, business establishments, and municipalities, through energy conservation, the production or recovery of energy from alternative or renewable energy resources, or the production of equipment or products which conserve, produce, or recover energy.

The authority so named is the legal successor in all respects of the small business finance agency as originally named and constituted and all bonds, resolutions, contracts, and liabilities of that original agency are the bonds, resolutions, contracts, and liabilities of the authority as so renamed and reconstituted.

Because of its ability to pool or combine loans to be funded from one or more issues of bonds, whether or not the interest on the bonds is exempt from federal income taxes, the authority will be able to spread its financing costs among the eligible small businesses to which the authority provides financing recipients of its financial assistance, thereby reducing the costs incurred by each eligible small business to the recipients of the authority's financial assistance.

Sec. 3. Minnesota Statutes 1983 Supplement, section 116J.89, subdivision 1a, is amended to read:

Subd. 1a. **USE OF ECONOMIC DEVELOPMENT FUND FUNDS.** In addition, The authority may use the energy loan insurance fund as provided in section 116J.924. The authority may use the economic development fund in

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connection with small business loans, pollution control loans, and farm loans to provide financial assistance to eligible small businesses; it may use the economic development fund in connection with business loans when the loans are made as a part of the special assistance program under section 116J.90, subdivision 5a; and the authority may use the energy development fund in connection with energy loans to provide financial assistance to businesses; as follows:

(a) to provide loan guarantees or insurance, in whole or in part, to eligible small businesses in connection with business loans, small business loans, energy loans, farm loans, or pollution control loans;

(b) to provide direct loans to eligible small businesses in connection with business loans, small business loans, energy loans, farm loans, or pollution control loans;

(c) to participate in other investment programs as appropriate under the terms of sections 116J.65, 116J.67, ~~446J.88~~ 116J.875 to ~~446J.94~~ 116J.926, and chapters 472 and 474;

(d) to purchase loan packages made to eligible small businesses by financial institutions in the state in connection with business loans, small business loans, energy loans, farm loans, or pollution control loans;

(e) to enter into or to pay fees on insurance contracts, letters of credit, municipal bond insurance, surety bonds, or similar obligations and other agreements or contracts with financial institutions or providers of similar services;

(f) to guarantee or insure bonds and notes issued by the authority, in whole or in part;

(g) to make interest subsidy payments on behalf of eligible small businesses to be applied to the payment of interest on bonds or notes of the authority equal to the difference in interest payable on loans and the interest payable on bonds or notes of the authority where the proceeds of these bonds or notes are used to make or participate in making these loans;

(h) for any legal purpose or program of the authority, including without limitation the payment of the cost of issuing authority bonds and notes and authority administrative costs and expenses.

In addition, the authority may use the economic development fund to purchase, lease, or license technology-related products for education or training or to participate in programs where technology-related products are purchased, leased, or licensed.

(g) The authority may create separate accounts within any of the fund funds for use in accordance with the separate purposes listed in this section and may irrevocably pledge and allocate moneys on deposit in any of the fund funds to the accounts for the purposes. The authority may make contracts with note

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and bond holders, trustees for them, financial institutions, or other persons interested in the disposition of moneys in the ~~fund funds~~ or its their accounts with respect to the conditions upon which money in the any fund or its accounts is to be held, invested, applied, and disposed of and the use of the fund and its accounts and the termination of accounts. The authority may determine to leverage amounts in accounts to be used to guarantee or insure bonds and notes of the authority or loans to ~~eligible small~~ businesses and may covenant as to the rate of leveraging with holders of the authority's bonds and notes or any trustee for them, financial institutions, or other persons. Money in the ~~fund funds~~ and its their accounts shall, consistent with contracts with holders of the authority's bonds and notes or any trustee for them, financial institutions, or other interested persons, be invested in accordance with section 116J.91, subdivision 15, and the investment income from them, absent contractual provisions to the contrary, shall be added to and retained in the ~~fund funds~~ or its their accounts if provided by the authority. The repayments to the authority of any direct loans made by the authority from money in the ~~fund funds~~ or its their accounts shall be paid by the authority into the particular fund that was used in conjunction with the loan being repaid, or, as provided by the authority, into an account. The authority may collect fees, initially or from time to time, or both, with respect to any direct loan it extends or any insurance or guarantee it grants. The authority may enter into contracts and security instruments with ~~eligible small~~ businesses, with bond and note holders or any trustee for them, or financial institutions or other persons to provide for and secure the repayment to the authority of money provided by the authority from the ~~fund funds~~ or its their accounts for direct loans or which have been paid by the authority from the fund or accounts pursuant to an authority guarantee or insurance.

The state covenants with all holders of the authority's bonds and notes, financial institutions, and other persons interested in the disposition of money in the ~~fund funds~~ or its their accounts, which money the authority has irrevocably pledged and allocated for any authorized purpose described in this subdivision, that the state will not take any action to limit the effect of the pledge and allocation and will not take any action to limit the effect of contracts entered into as authorized in this subdivision with respect to the pledge and allocation and will not limit or alter the rights vested in the authority or the state to administer the application of money pursuant to the pledge and allocation and to perform its obligations under the contracts. The authority may include and recite this covenant of the state in any of its bonds or notes benefitting from the pledge and allocation or contracts or related documents or resolutions;

(h) to enter into contract with note and bond holders or other persons interested in the disposition of the fund; and

(i) for any legal purpose or program of the authority, including without limitation the payment of the cost of issuing authority bonds and notes and authority administrative costs and expenses.

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Sec. 4. Minnesota Statutes 1983 Supplement, section 116J.89, subdivision 1b, is amended to read:

Subd. 1b. **ECONOMIC DEVELOPMENT FUNDS; PREFERENCES.** (a) The following eligible small businesses have preference among all business applicants for financial assistance from the economic development fund:

(1) businesses located in areas of the state that are experiencing the most severe unemployment rates in the state;

(2) ~~eligible small~~ businesses that are likely to expand and provide additional permanent employment;

(3) businesses located in border communities that experience a competitive disadvantage due to location;

(4) businesses that have been unable to obtain traditional financial assistance due to a disadvantageous location, minority ownership, or other factors rather than due to the business having been considered a poor financial risk;

(5) businesses that utilize state resources, thereby reducing state dependence on outside resources, and that produce products or services consistent with the long-term social and economic needs of the state;

(6) businesses located in designated enterprise zones, as described in section 273.1312, subdivision 4; and

(7) business located in federally designated economically distressed areas.

(b) Except in connection with the issuance of authority bonds or notes, the authority may not invest the ~~fund funds~~ in a program that does not have financial participation from the private sector, as determined by the authority.

Sec. 5. Minnesota Statutes 1983 Supplement, section 116J.89, subdivision 1c, is amended to read:

Subd. 1c. **CREATION OF ECONOMIC DEVELOPMENT FUND.** There is created the economic development fund to be administered by the authority. All money in the fund is appropriated to the authority to accomplish the authority's business development purposes.

The money in the economic development fund must be used as provided in sections 116J.65, 116J.67, 116J.875 to 116J.926, and chapters 472 and 474, to provide financial assistance to businesses, eligible small businesses, targeted small businesses, and farm businesses. This financial assistance includes business loans, pollution control loans, small business loans, and farm loans and the purchasing, leasing, or licensing of technology-related products or rights to the products.

Sec. 6. Minnesota Statutes 1983 Supplement, section 116J.89, subdivision 2, is amended to read:

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Subd. 2. **PUBLIC PURPOSES.** Sections ~~116J.88 to 116J.91~~ and sections ~~116J.921~~ 116J.875 to 116J.926 are enacted to promote the welfare and prosperity of the state by maintaining and increasing the career and job opportunities of its citizens; by reducing, controlling, and preventing environmental pollution and waste of energy and other resources; and by protecting and enhancing the tax base on which state and local governments depend for the financing of public services.

Sec. 7. Minnesota Statutes 1982, section 116J.89, subdivision 4, is amended to read:

Subd. 4. The state pledges and agrees with all holders of obligations of the agency authority that it will not limit or alter the rights vested in the agency authority to fulfill their terms, and will not in any way impair the rights or remedies of the holders, until all of the obligations and interest on them, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders to enforce the payment and other provisions of the obligations, are fully met and discharged. The agency authority is authorized to include and recite this pledge and agreement of the state in any obligation or related document.

Sec. 8. Minnesota Statutes 1983 Supplement, section 116J.89, subdivision 6, is amended to read:

Subd. 6. The property of the agency authority and its income and operation shall be exempt from all taxation by the state or any of its political subdivisions.

Sec. 9. Minnesota Statutes 1983 Supplement, section 116J.89, subdivision 8, is amended to read:

Subd. 8. **MEMBERSHIP.** The members and governing body of the authority shall be the commissioner and ten other members appointed by the governor. The governor shall designate the chairman from among the members. The board shall elect a secretary and other officers as it deems fit from among its members. On July 1, 1983, the governor shall have authority to appoint new members. The terms of the current members shall expire, respectively, when they are replaced and new members are appointed by the governor and qualified. Section 15.0575 governs the terms, compensation, removal and filling of vacancies in the offices of members other than the commissioner.

Sec. 10. Minnesota Statutes 1983 Supplement, section 116J.90, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** The authority may make or purchase or participate with financial institutions in making or purchasing business loans, small business loans, energy loans, pollution control loans, and farm loans upon

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the conditions described in this section, and may enter into commitments therefor.

Sec. 11. Minnesota Statutes 1983 Supplement, section 116J.90, subdivision 2, is amended to read:

Subd. 2. **SMALL BUSINESS LOANS; LIMITATIONS.** The authority may make or purchase or participate with financial institutions in making or purchasing small business loans not exceeding \$1,000,000 in principal amount with respect to small business loans made or purchased by the authority and not exceeding \$1,000,000 principal amount with respect to the authority's share thereof when the authority participates in making or purchasing small business loans.

With respect to business loans that the authority makes or purchases or participates with, the authority may determine or provide for their servicing, the percentage of authority participation, if any, the times the loans or participations shall be payable and the amounts of payment, their amount and interest rates, their security, if any, and other terms, conditions, and provisions necessary or convenient in connection with them and may enter into all necessary contracts and security instruments in connection with them. The authority shall obtain the best available security for all loans. The authority may provide for or require the insurance or guaranteeing of the business loans or authority participations in whole or in part by the federal government or a department, agency, or instrumentality of it, by an appropriate account created with respect to the economic development fund in connection with business loans, small business loans, pollution control loans, and farm loans, and with respect to the energy development fund in connection with energy loans, or by a private insurer. In connection with making or purchasing business loans or participations in them, the authority may enter into commitments to purchase or participate with financial institutions or other persons upon the terms, conditions, and provisions determined by it. Business Loans or participations may be serviced by financial institutions or other persons designated by the authority. The dollar limitations contained in this subdivision do not apply to energy loans and loans insured under sections 93 116J.924 and 94 116J.925.

Sec. 12. Minnesota Statutes 1983 Supplement, section 116J.90, subdivision 3, is amended to read:

Subd. 3. **DIRECT BUSINESS AND FARM LOANS; LIMITATIONS.** The authority may make business loans or farm loans not exceeding \$100,000 in principal amount, at interest rates and subject to terms determined by the authority, provided that each loan shall be made only from the proceeds of a bond or note payable in whole or part from the repayments of principal and interest on the loan. The loans may also be guaranteed or insured by money on deposit in the economic development fund or any special account of it, and may be secured by reserve funds and other collateral and available money as deter-

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mined by the authority. The authority may enter into all necessary contracts and security instruments in connection with them. The limitation on loan amounts in this subdivision does not apply to energy loans and loans insured under sections 93 and 94 any other loan authorized under the Minnesota Energy and Economic Development Authority Act.

Sec. 13. Minnesota Statutes 1983 Supplement, section 116J.90, subdivision 5, is amended to read:

Subd. 5. **TARGETED LOANS.** The authority shall make every effort to assure that at least 50 percent ~~of the principal amount~~ of the loans made or purchased by the authority in each fiscal year consists of loans with a principal amount of \$100,000 or less to targeted small businesses as defined in section 116J.88, subdivision 5, and the financial management division shall provide technical assistance needed by targeted small businesses to complete applications and meet other requirements for those loans. The authority shall report to the legislature annually on or before February 1 as to its compliance with the requirements of this subdivision during the preceding fiscal year. Noncompliance with this subdivision ~~does~~ shall not affect the validity of bonds and notes heretofore or hereafter issued.

Sec. 14. Minnesota Statutes 1982, section 116J.90, is amended by adding a subdivision to read:

Subd. 5a. **SPECIAL ASSISTANCE PROGRAM.** (a) The authority may operate a special assistance program and may designate certain businesses as being in need of special assistance. In connection with the special assistance program the authority may borrow money and may issue negotiable bonds and notes in accordance with section 116J.91, subdivisions 11 and 12. Notwithstanding any provision to the contrary in section 116J.91, subdivision 11, the aggregate principal amount of the authority's bonds and notes outstanding at any one time and issued in connection with the special assistance program, excluding the amount satisfied and discharged by payment and deducting amounts held in debt service reserve funds and amounts used to make loans guaranteed or insured by the federal government or a department, agency, or instrumentality of the federal government or by a private insurer or guarantor authorized to do business in the state of Minnesota and acceptable to the authority, shall not exceed \$10,000,000.

(b) No business shall be eligible to receive special assistance unless the authority has first passed a resolution designating the business as being in need of special assistance. The resolution shall include findings that the designation and receipt of the special assistance will be of exceptional benefit to the state of Minnesota in that at least three of the following criteria are met:

(1) in order to expand or remain in Minnesota, the business has demonstrated that it is unable to obtain suitable financing from other sources;

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(2) special assistance will enable a business not currently located in Minnesota to locate a facility within Minnesota which directly increases the number of jobs within the state;

(3) the business will create or retain significant numbers of jobs within a community in Minnesota;

(4) the business has a significant potential for growth in jobs or economic activities within Minnesota within the ensuing five-year period; and

(5) the business will maintain a significant level of productivity within Minnesota within the ensuing five-year period.

(c) Special assistance may include:

(1) a business loan;

(2) a small business loan; or

(3) use of moneys in the economic development fund to provide financial assistance to businesses in accordance with section 116J.89, subdivision 1a, except that section 116J.89, subdivision 1a(g), shall apply only to eligible small businesses.

Sec. 15. Minnesota Statutes 1983 Supplement, section 116J.90, subdivision 6, is amended to read:

Subd. 6. **REPORTS.** (a) Each financial institution that participates in a pollution control or business loan with the authority shall annually on or before March 1 submit a report for the prior calendar year to the authority on a form prescribed by the ~~state auditor~~ commissioner. The report shall include a listing of each new and outstanding loan in which the financial institution is a participant, the amount and terms of the loan, the purpose of the loan, and any other information as the ~~state auditor~~ commissioner may reasonably require.

(b) The authority shall annually on or before May 1 submit a report on a form prescribed by the ~~state auditor~~ commissioner for the prior calendar year to the state auditor on all loans that it makes, purchases, or participates in. The report shall include a listing of each new and outstanding loan in which the financial institution is a participant, the amount and terms of the loan, the purpose of the loan, and any other information as the state auditor may reasonably require.

(c) The state auditor shall annually on or before July 1 submit a report for the prior calendar year to the governor and the legislature summarizing the report submitted pursuant to clause (b).

(d) The cost of preparing and submitting the reports required by this subdivision shall be borne by the party submitting it. Any financial institution

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that fails to comply with the requirements of this subdivision shall be prohibited from participating in future loans until it complies.

Sec. 16. Minnesota Statutes 1983 Supplement, section 116J.91, subdivision 1, is amended to read:

Subdivision 1. In implementing the purposes and the programs described in sections ~~116J.88 to 116J.91~~ 116J.65, 116J.67, 116J.875 to 116J.926, and chapters 472 and 474, the authority shall have the powers and duties set forth in this section.

Sec. 17. Minnesota Statutes 1983 Supplement, section 116J.91, subdivision 4, is amended to read:

Subd. 4. It may adopt, amend, and repeal rules, including temporary rules, not inconsistent with the provisions of sections ~~116J.88 to 116J.91~~ 116J.65, 116J.67, 116J.875 to 116J.926, and chapters 472 and 474 as necessary to effectuate its purposes. The authority to adopt temporary rules expires June 30, 1985.

Sec. 18. Minnesota Statutes 1983 Supplement, section 116J.91, subdivision 11, is amended to read:

Subd. 11. It may borrow money to carry out and effectuate its purposes and may issue its negotiable bonds or notes as evidence of any such borrowing in accordance with sections 462A.08 to 462A.13, 462A.16 and 462A.17, all with the force and effect stated and the incidental powers granted and duties imposed in those sections. The bonds and notes may be issued pursuant to a trust indenture that is substantially identical to a resolution pursuant to which the authority issues bonds and notes as provided in sections 462A.08 to 462A.13, 462A.16, and 462A.17, except that the authority may pledge money and securities to a trustee for the security of the holders of bonds and notes. The authority may refund bonds and notes and may guarantee or insure its bonds and notes in whole or in part with money from the ~~economic development fund funds~~ or an account created by the authority for that purpose. The aggregate principal amount of the authority's bonds and notes outstanding at any one time, excluding the amount satisfied and discharged by payment or provision for payment in accordance with their terms, and deducting amounts held in debt service reserve funds therefor and amounts used to make loans guaranteed or insured by the federal government or a department, an agency or instrumentality of the federal government or by a private insurer or guarantor authorized to do business in the state of Minnesota and acceptable to the authority, shall not exceed \$30,000,000 unless authorized by another law.

Sec. 19. Minnesota Statutes 1983 Supplement, section 116J.91, subdivision 12, is amended to read:

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Subd. 12. It may issue and sell bonds, notes, and other obligations payable solely from particular moneys, assets, or revenues derived from its programs, or any ~~business loan, farm loan, or pollution control loan,~~ notwithstanding section 462A.08, subdivision 3. Obligations issued to participate in making or purchasing ~~business loans or pollution control loans~~ shall be payable solely from revenues derived by the authority from repayments of these loans and from enforcement of the security therefor, or from a debt service reserve fund or funds, or from a general reserve fund or from a segregated portion thereof, or from other funds or security specifically pledged by the authority, irrevocably pledged and appropriated to pay principal and interest due, for which other funds are not available. A general reserve fund is created and is eligible to receive direct appropriations from the state treasury or a transfer from any of the economic development fund funds as the authority may provide by resolution. The authority may irrevocably pledge and appropriate all or a segregated portion of the general reserve fund to pay principal and interest due on all or one or more series of its obligations for which other funds are not available, pursuant to the terms and conditions that the authority shall determine. Until so pledged and appropriated by the authority the general reserve fund shall not be available to pay principal and interest on the authority's obligations. The authority may at its option provide by resolution that obligations issued to participate in making or purchasing ~~business loans or pollution control loans~~ be secured at the time of issuance in whole or in part by a debt service reserve fund or funds, a portion of the general reserve fund segregated to secure one or more series of bonds, or the portion of the general reserve fund not segregated to secure one or more series of bonds. The operation of the debt service reserve fund or funds or a segregated portion of the general reserve fund and other relevant terms or provisions shall be determined by resolution or indenture of the authority. Obligations issued to make or purchase ~~business loans, farm loans, or pollution control loans~~ may be issued pursuant to an indenture of trust or a resolution of the authority. It may pledge to holders of obligations, or to a trustee, repayments from the loans, any security or collateral for them, contract rights with respect to them, and any other funds or security specifically pledged by the authority for them.

Sec. 20. Minnesota Statutes 1982, section 116J.91, subdivision 15, is amended to read:

Subd. 15. It may cause any funds not required for immediate disbursement, including the general reserve fund, to be invested in direct obligations of or obligations guaranteed as to principal and interest by the United States, or in insured savings accounts, up to the amount of the insurance, in any institution the accounts of which are insured by the federal savings and loan insurance corporation or to be deposited in a savings or other account in a bank insured by the federal deposit insurance corporation or to be invested in time certificates of deposit issued by a bank insured by the federal deposit insurance corporation and maturing within one year or less and in the investments described in section 11A.24, subdivision 4, except clause (d) of subdivision 4. It may deposit funds in

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excess of the amount insured with security as provided in chapter 118. Notwithstanding the foregoing, it may invest and deposit funds into accounts established pursuant to resolutions or indentures securing its bonds or notes in such investments and deposit accounts or certificates, and with such security, as may be agreed therein with the holders or a trustee for the holders.

Sec. 21. Minnesota Statutes 1983 Supplement, section 116J.91, subdivision 16, is amended to read:

Subd. 16. It may provide general consultative and technical services to assist in financing small business facilities for the businesses to which loans may be made. It may enter into agreements or other transactions concerning the receipt or provision of those services.

Sec. 22. Minnesota Statutes 1982, section 116J.91, subdivision 17, is amended to read:

Subd. 17. Financial information, including, but not limited to, credit reports, financial statements and net worth calculations, received or prepared by the agency authority regarding any agency authority loan, financial assistance, or insurance is private data with regard to data on individuals as defined in section 13.02, subdivision 9 and non-public data with regard to data not on individuals as defined in section 13.02, subdivision 12.

Sec. 23. Minnesota Statutes 1982, section 116J.91, subdivision 18, is amended to read:

Subd. 18. ~~It~~ The authority may accept appropriations, gifts, grants, bequests, and devise and use or dispose of them for its ~~corporate~~ purposes. All gifts, grants, bequests, and revenues from those sources are appropriated to the authority for the purposes of sections 116J.65, 116J.67, and 116J.875 to 116J.926. The funding may include, but is not limited to, voluntary public utility investments and expenditures as provided by a utility and submitted in a program approved by the public utilities commission under section 216B.241. Any voluntary investments or expenditures or gifts by a utility as described in this subdivision shall be appropriated to the authority only for purposes of sections 116J.921 to 116J.926.

Sec. 24. Minnesota Statutes 1983 Supplement, section 116J.91, subdivision 19, is amended to read:

Subd. 19. Proceeds of the authority's bonds, notes, and other obligations; amounts granted or appropriated to the agency authority for the making or purchase or the insurance or guaranty of loans or for bond reserves; income from investment; money in the ~~economic development fund funds~~; and all revenues from loans, fees, and charges of the authority including rentals, royalties, dividends, or other proceeds in connection with technology-related products, energy conservation products, or other equipment are annually appropriated to

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the agency authority for the accomplishment of its corporate purposes and shall be expended, administered, and accounted for in accordance with the applicable provisions of all bond and note resolutions, indentures, and other instruments, contracts, and agreements of the agency. Notwithstanding section 16A.28, these appropriations are available until expended.

Sec. 25. Minnesota Statutes 1982, section 116J.91, is amended by adding a subdivision to read:

Subd. 19a. The authority may receive payments in the form of royalties, dividends, or other proceeds in connection with technology-related products, energy conservation products, or other equipment which it has purchased or in which it has participated.

Sec. 26. Minnesota Statutes 1983 Supplement, section 116J.91, subdivision 20, is amended to read:

Subd. 20. The authority may do all things necessary and proper to fulfill its purpose and the purposes of ~~the economic development fund~~ as provided in sections 116J.65, 116J.67, ~~116J.88 to 116J.91~~, sections ~~116J.921~~ 116J.875 to 116J.926, and chapters 472 and 474.

Sec. 27. Minnesota Statutes 1983 Supplement, section 116J.923, subdivision 7, is amended to read:

Subd. 7. **LOANS TO MUNICIPALITIES.** The authority shall ~~receive~~ approve applications from municipalities for loans to finance improvements to public buildings for the purpose of energy conservation, reduction of the use of conventional energy sources, or the use of alternative energy resources, and make recommendations thereon to the commissioner of finance, in the event of the authorization and issuance of bonds of the state for this purpose. Financial and technical support for this program shall be provided by the financial management division. This program shall include the district heating loan program established in section 116J.36 and the program of energy improvement loans to schools created by Laws 1983, chapter 323.

Sec. 28. Minnesota Statutes 1983 Supplement, section 116J.924, subdivision 3, is amended to read:

Subd. 3. **INSURANCE OF LOANS.** (a) **AUTHORIZATION.** The authority is authorized, upon application by a ~~lender~~ financial institution, to insure loans for cost-effective qualified energy projects as provided in this section; and under terms as the authority may prescribe by rule, to make commitments for the insuring of loans prior to the date of their execution or disbursement. In the event the authority shall determine that the energy loan insurance fund is or will be depleted in connection with the use of the fund as authorized by the act which has been approved or given preliminary approval by the authority, then the

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authority may by resolution transfer money from the energy development fund created pursuant to section 116J.925.

(b) **ELIGIBILITY REQUIREMENTS.** The authority may by rule establish requirements for energy loans to be eligible for insurance under this section, relating to:

- (1) maximum principal amount, amortization schedule, interest rate, delinquency charges, and other terms;
- (2) the portion of the loan to be insured;
- (3) acceleration and other remedies;
- (4) covenants regarding insurance, repairs, and maintenance of the project;
- (5) conditions regarding subordination of the loan security, if any, of the project to other liens against the property;
- (6) the aggregate principal amount of loans to be insured in relation to the reserves from time to time on hand in the insurance fund, and priorities as to the loans to be insured; and
- (7) any other matters determined by the authority.

The authority shall by rule establish criteria for analyzing the cost-effectiveness of projects.

(c) **CONCLUSIVE EVIDENCE OF INSURABILITY.** Any contract of insurance executed by the authority under this section shall be conclusive evidence of the eligibility of the loan for insurance, and the validity of any contract of insurance properly executed and in the hands of any approved lender shall not be contestable, except for fraud or misrepresentation on the part of the lender financial institution.

(d) **PREMIUMS.** The authority is authorized to fix premium charges for the insurance of loans under this section at levels which in its judgment, taking into account other amounts available in the fund, will be sufficient to cover and maintain a reserve for loan losses.

(e) **PROCEDURES UPON DEFAULT.** The authority may establish procedures to be followed by ~~lenders~~ financial institutions and to be taken by the authority in the event of default upon an energy loan, including:

- (1) time for filing claims;
- (2) rights and interests to be assigned and documents to be furnished by the lender financial institution;
- (3) principal and interest to be included in the claim; and

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(4) conditions, if any, upon which the authority will pay the entire principal amount in default, after foreclosure and receipt of marketable title to the property.

Sec. 29. Minnesota Statutes 1983 Supplement, section 116J.925, subdivision 1, is amended to read:

116J.925 ENERGY LOAN PROGRAM DEVELOPMENT FUND.

Subdivision 1. **AUTHORITY TO MAKE ENERGY LOANS.** The authority may make energy loans to individuals, partnerships, corporations, or other entities a business for the financing of capital improvements to be used in connection with a trade or business if the principal purpose of improvement is energy conservation, to reduce the usage of conventional fuels as a source of energy, or to develop Minnesota's alternative energy resources as provided by the authority's rules a qualified energy project.

Sec. 30. Minnesota Statutes 1983 Supplement, section 116J.925, subdivision 3, is amended to read:

Subd. 3. **ENERGY DEVELOPMENT FUND.** An energy development fund is created and is eligible to receive appropriations. The authority may irrevocably pledge and appropriate all or a segregated portion of the energy development fund to make principal and interest payments when due on all or one or more series of its obligations for which other funds are not available, pursuant to the terms and conditions the authority shall prescribe. Unless the energy development fund has been pledged and appropriated to secure the obligations, the energy development fund shall not be available to make principal or interest payments on the obligations The authority may otherwise operate the fund according to section 116J.89. In the event the authority shall determine that the energy development fund is or will be depleted in connection with the use of the fund as authorized by the act which has been approved or given preliminary approval by the authority, then the authority may by resolution transfer money from the energy loan insurance fund created pursuant to section 116J.924.

Sec. 31. **[116M.01]**

Sections 116J.62; 116J.65; 116J.67; 116J.88; 116J.89; 116J.90; 116J.91; 116J.921; 116J.923; 116J.924; 116J.925; and 116J.926 may be cited as the Minnesota Energy and Economic Development Authority Act.

Sec. 32. Minnesota Statutes 1983 Supplement, section 275.125, subdivision 12a, is amended to read:

Subd. 12a. **ENERGY CONSERVATION LEVY.** The school district may annually levy, without the approval of a majority of the voters in the district, an amount equal to the actual costs of the energy conservation investments for

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the purposes of repaying sufficient to repay the annual principal and interest of the law loan made pursuant to section 116J.37.

Sec. 33. Minnesota Statutes 1982, section 474.01, subdivision 7, is amended to read:

Subd. 7. Any municipality or redevelopment agency contemplating the exercise of the powers granted by this chapter may apply to the commissioner of energy, ~~planning~~ and economic development for information, advice, and assistance. The commissioner is authorized to handle such preliminary information in a confidential manner, to the extent requested by the municipality.

Sec. 34. Minnesota Statutes 1982, section 474.01, subdivision 7a, is amended to read:

Subd. 7a. No municipality or redevelopment agency shall undertake any project authorized by this chapter, except a project referred to in section 474.02, subdivision 1f, unless its governing body finds that the project furthers the purposes stated in this section, nor until the commissioner of energy, ~~planning~~ and economic development has approved the project, on the basis of preliminary information which the commissioner may require, as tending to further the purposes and policies of this chapter. Approval shall not be deemed to be an approval by the commissioner of energy, ~~planning~~ and economic development or the state of the feasibility of the project or the terms of the revenue agreement to be executed or the bonds to be issued therefor, and the commissioner shall state this in communicating approval.

Sec. 35. Laws 1983, chapter 323, section 5, subdivision 2, is amended to read:

Subd. 2. None of the appropriations made in this section shall lapse until the purpose for which it is made has been accomplished or abandoned. The amount of each loan approved for disbursement shall be and remain appropriated for that purpose until the loan is fully disbursed or part or all of it is revoked by the energy division authority.

Sec. 36. INSTRUCTIONS TO REVISOR.

Subdivision 1. **CHANGE OF TERMS.** The revisor of statutes shall change the words "development revolving fund" or "revolving fund" to "Minnesota Fund" whenever they appear in Minnesota Statutes, chapter 472.

Subd. 2. **RENUMBERING.** The revisor of statutes shall renumber each section specified in column A with the number in column B. The revisor shall also make the necessary cross-reference changes consistent with this renumbering.

Column A
116J.62
116J.65

Column B
116M.03
116M.04

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

<u>116J.67</u>	<u>116M.05</u>
<u>116J.88</u>	<u>116M.02</u>
<u>116J.89</u>	<u>116M.06</u>
<u>116J.90</u>	<u>116M.07</u>
<u>116J.91</u>	<u>116M.08</u>
<u>116J.921</u>	<u>116M.09</u>
<u>116J.923</u>	<u>116M.10</u>
<u>116J.924</u>	<u>116M.11</u>
<u>116J.925</u>	<u>116M.12</u>
<u>116J.926</u>	<u>116M.13</u>

Sec. 37. **REPEALER.**

Minnesota Statutes 1983 Supplement, sections 116J.922; 116J.923, subdivisions 2 and 12; and 116J.924, subdivision 1, are repealed.

Approved April 26, 1984

CHAPTER 584 — H.F.No. 2051

An act relating to agriculture; authorizing the energy and economic development authority to purchase, make, or participate in farm loans and to issue bonds or notes for this purpose; authorizing a loan-to-lender program; allocating bonding authority pursuant to a federal limitation act; amending Minnesota Statutes 1982, sections 116J.88, by adding subdivisions; 116J.90, by adding subdivisions; Minnesota Statutes 1983 Supplement, sections 116J.88, subdivisions 7 and 7a; and 116J.90, subdivisions 1 and 3; proposing new law coded in Minnesota Statutes, chapter 474.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 116J.88, is amended by adding a subdivision to read:

Subd. 4b. LENDER. "Lender" means a financial institution that participates in a loan-to-lender program of the authority.

Sec. 2. Minnesota Statutes 1982, section 116J.88, is amended by adding a subdivision to read:

Subd. 4c. LOAN-TO-LENDER. "Loan-to-lender" means a loan of money to a financial institution.

Sec. 3. Minnesota Statutes 1983 Supplement, section 116J.90, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** The authority may make or purchase or participate with financial institutions in making or purchasing business loans, small business loans, energy loans, pollution control loans, and farm loans upon

Changes or additions are indicated by underline, deletions by ~~strikeout~~.