

CHAPTER 216C

ENERGY PLANNING AND CONSERVATION

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216C.01 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 1a. **Alternative fuel.** "Alternative fuel" means natural gas; liquefied petroleum gas; hydrogen; coal-derived liquefied fuels; electricity; methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more, or other percentage as may be set by regulation by the Secretary of the United States Department of Energy, by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; fuels other than alcohol that are derived from biological materials; and other fuel that the Secretary of the United States Department of Energy determines by regulation to be an alternative fuel within the meaning of section 301(2) of the National Energy Policy Act of 1992 and intended for use in motor vehicles.

Subd. 1b. **Alternative fuel vehicle.** "Alternative fuel vehicle" means a dedicated, flexible, or dual-fuel vehicle operated primarily on an alternative fuel.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 2a. **Dedicated fuel vehicle.** "Dedicated fuel vehicle" means a vehicle that operates solely on alternative fuels.

Subd. 3. **Department.** "Department" means the Department of Commerce.

Subd. 4. **Dual-fuel vehicle.** "Dual-fuel vehicle" means a vehicle that is capable of operating on an alternative fuel and is capable of operating on gasoline or diesel fuel.

History: 1987 c 186 s 15; 1987 c 312 art 1 s 7; 1993 c 254 s 2-5; 1995 c 264 art 2 s 5,6; 1998 c 254 art 1 s 65; 1Sp2001 c 4 art 6 s 47-49

216C.02 POWERS AND DUTIES OF COMMISSIONER; RULES.

Subdivision 1. **Powers.** (a) The commissioner may:

(1) apply for, receive, and spend money received from federal, municipal, county, regional, and other government agencies and private sources;

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

(3) contract for professional services if work or services required or authorized to be carried out by the commissioner cannot be satisfactorily performed by employees of the department or by another state agency;

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

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

(6) enter into contracts for the performance of the commissioner's duties with federal, state, regional, metropolitan, local, and other agencies or units of government and educational institutions, including the University of Minnesota, without regard to the competitive bidding requirements of chapters 16A and 16C.

(b) The commissioner shall collect information on conservation and other energy-related programs carried on by other agencies, by public utilities, by cooperative electric associations, by municipal power agencies, by other fuel suppliers, by political subdivisions, and by private organizations. Other agencies, cooperative electric associations, municipal power agencies, and political subdivisions shall cooperate with the commissioner by providing information requested by the commissioner. The commissioner may by rule require the submission of information by other program operators. The commissioner shall make the information available to other agencies and to the public and, as necessary, shall recommend to the legislature changes in the laws governing conservation and other energy-related programs to ensure that:

- (1) expenditures on the programs are adequate to meet identified needs;
- (2) the needs of low-income energy users are being adequately addressed;
- (3) duplication of effort is avoided or eliminated;
- (4) a program that is ineffective is improved or eliminated; and
- (5) voluntary efforts are encouraged through incentives for their operators.

The commissioner shall appoint an advisory task force to help evaluate the information collected and formulate recommendations to the legislature. The task force must include low-income energy users.

(c) By January 15 of each year, the commissioner shall report to the legislature on the projected amount of federal money likely to be available to the state during the next fiscal year, including grant money and money received by the state as a result of litigation or settlements of alleged violations of federal petroleum-pricing regulations. The report must also estimate the amount of money projected as needed during the next fiscal year to finance a level of conservation and other energy-related programs adequate to meet projected needs, particularly the needs of low-income persons and households, and must recommend the amount of state appropriations needed to cover the difference between the projected availability of federal money and the projected needs.

Subd. 2. **Appropriation.** Money received by the commissioner under this section must be deposited in the state treasury and is appropriated to the commissioner for the purpose for which the money has been received. The money appropriated by this subdivision does not cancel and is available until expended. This appropriation does not apply to money resulting from litigation or settlements of alleged violations of federal petroleum-pricing regulations.

Subd. 3. **Rules.** The commissioner may adopt rules under chapter 14 to carry out the commissioner's duties and responsibilities under this section and those sections renumbered by Laws 1987, chapter 312, article 1, section 10.

History: 1987 c 186 s 15; 1987 c 312 art 1 s 8; 1989 c 338 s 4; 1991 c 235 art 1 s 3; 1998 c 386 art 2 s 68

ENERGY PLANNING

216C.05 FINDINGS AND PURPOSE.

The legislature finds and declares that continued growth in demand for energy will cause severe social and economic dislocations, and that the state has a vital interest in providing for: increased efficiency in energy consumption, the development and use of

renewable energy resources wherever possible, and the creation of an effective energy forecasting, planning and education program.

The legislature further finds and declares that the protection of life, safety and financial security for citizens during an energy crisis is of paramount importance.

Therefore, the legislature finds that it is in the public interest to review, analyze and encourage those energy programs that will minimize the need for annual increases in fossil fuel consumption by 1990 and the need for additional electrical generating plants, and provide for an optimum combination of energy sources consistent with environmental protection and the protection of citizens.

The legislature intends to monitor, through energy policy planning and implementation, the transition from historic growth in energy demand to a period when demand for traditional fuels becomes stable and the supply of renewable energy resources is readily available and adequately utilized.

History: 1974 c 307 s 1; 1980 c 579 s 4; 1981 c 356 s 248; 1987 c 312 art 1 s 10 subd 1

216C.051 LEGISLATIVE ELECTRIC ENERGY TASK FORCE.

Subdivision 1. [Repealed, 1Sp2003 c 11 art 3 s 16].

Subd. 2. Establishment. (a) There is established a Legislative Electric Energy Task Force to study future electric energy sources and costs and to make recommendations for legislation for an environmentally and economically sustainable and advantageous electric energy supply.

(b) The task force consists of:

(1) ten members of the house of representatives including the chairs of the Environment and Natural Resources Committee and Regulated Industries Subcommittee and eight members to be appointed by the speaker of the house, four of whom must be from the minority caucus; and

(2) ten members of the senate including the chairs of the Environment and Natural Resources and Jobs, Energy, and Community Development committees and eight members to be appointed by the Subcommittee on Committees, four of whom must be from the minority caucus.

(c) The task force may employ staff, contract for consulting services, and may reimburse the expenses of persons requested to assist it in its duties other than state employees or employees of electric utilities. The director of the Legislative Coordinating Commission shall assist the task force in administrative matters. The task force shall elect cochair, one member of the house and one member of the senate from among the committee and subcommittee chairs named to the committee. The task force members from the house shall elect the house cochair, and the task force members from the senate shall elect the senate cochair.

Subd. 3. Technical and economic considerations, analyses, and recommendations. (a) In light of the electric energy guidelines established in subdivision 7 and utility resource plans and competitive bidding dockets before the commission, the task force shall gather information and make recommendations to the legislature regarding potential electric energy resources. The task force may contract with one or more energy policy experts and energy economists to assist it in its analysis. The task force may not contract for service nor employ any person who was involved in any capacity in any portion of any proceeding before the Public Utilities Commission, the administrative law judge, the state Court of Appeals, or the United States Nuclear Regulatory Commission related to the dry cask storage proposal on Prairie Island. The task force must gather information on at least the following electric energy resources, but may expand its inquiry as warranted by the information collected:

- (1) wind energy;
- (2) hydrogen as a fuel carrier produced from renewable and fossil fuel resources;
- (3) biomass;
- (4) decomposition gases produced by solid waste management facilities;

- (5) solid waste as a direct fuel or refuse-derived fuel; and
- (6) clean coal technology.

(b) In evaluating these electric energy resources, the task force must consider at least the following:

(1) to the best of forecasting abilities, how much electric generation capacity and demand for electric energy is necessary to maintain a strong economy and a high quality of life in the state over the next 15 to 20 years; how is this demand level affected by achievement of the maximum reasonably feasible and cost-effective demand-side management and generation and distribution efficiencies;

(2) what alternative forms of energy can provide a stable supply of energy and are producible and sustainable in the state and at what cost;

(3) what are the costs to the state and ratepayers to ensure that new electric energy generation utilizes less environmentally damaging sources; how do those costs change as the time frame for development and implementation of new generation sources is compressed;

(4) what are the implications for delivery systems for energy produced in areas of the state that do not now have high-volume transmission capability; are new transmission technologies being developed that can address some of the concerns with transmission; can a more dispersed electric generation system lessen the need for long-distance transmission;

(5) what are the actual costs and benefits of purchasing electricity and fuel to generate electricity from outside the state; what are the present costs to the state's economy of exporting a large percentage of the state's energy dollars and what is the future economic impact of continuing to do so;

(6) are there benefits to be had from a large immediate investment in quickly implementing alternative electric energy sources in terms of developing an exportable technology and/or commodity; is it feasible to turn around the flow of dollars for energy so that the state imports dollars and exports energy and energy technology; what is a reasonable time frame for the shift if it is possible;

(7) are there taxation or regulatory barriers to developing more sustainable and less problematic electric energy generation; what are they specifically and how can they be specifically addressed;

(8) can an approach be developed that moves quickly to development and implementation of alternative energy sources that can be forgiving of interim failures but that is also sufficiently deliberate to ensure ultimate success on a large scale; and

(9) in what specific ways can the state assist regional energy suppliers to accelerate phasing out energy production processes that produce wastes or emissions that must necessarily be carefully controlled and monitored to minimize adverse effects on the environment and human health and to assist in developing and implementing base load energy production that both prevents or minimizes by its nature adverse environmental and human health effects and utilizes resources that are available or producible in the state.

(c) The task force must study issues related to the transportation of spent nuclear fuel from this state to interim or permanent repositories outside this state. The task force must also gather information on at least the following factors, but may expand its inquiry as warranted by the information collected:

(1) Minnesota's actual and projected electricity demand;

(2) electricity export potential;

(3) inventory of energy resources currently used to generate all electricity sold in Minnesota and an analysis of the social, economic, and environmental benefits and burdens associated with each energy resource;

(4) electricity demand savings from greater efficiency; and

(5) job growth and economic development potential.

(d) The public utility that owns the Prairie Island and Monticello nuclear generation facilities shall update the reports required under section 116C.772, subdivisions 3 to 5, and shall submit those updates periodically to the Public Utilities Commission with the utility's resource plan filing under section 216B.2422 and to the task force.

Subd. 4. [Repealed, 1Sp2003 c 11 art 3 s 16]

Subd. 4a. **Report and recommendations.** By January 15, 2005, and every two years thereafter, the task force shall submit a report to the chairs of the committees in the house of representatives and the senate that have responsibility for energy and for environmental and natural resources issues that contains an overview of information gathered and analyses that have been prepared, and specific recommendations, if any, for legislative action that will ensure development and implementation of electric energy policy that will provide the state with adequate, renewable, and economic electric power for the long term. The report shall also identify issues that must be addressed to provide Minnesotans with adequate electricity from in-state renewable energy sources for the long term and export to adjacent states.

Subd. 5. [Repealed, 1Sp2003 c 11 art 3 s 16]

Subd. 6. **Assessment; appropriation.** On request by the cochairs of the Legislative Task Force and after approval of the Legislative Coordinating Commission, the commissioner of commerce shall assess from all public utilities, generation and transmission cooperative electric associations, and municipal power agencies providing electric or natural gas services in Minnesota, in addition to assessments made under section 216B.62, the amount requested for the operation of the task force not to exceed \$250,000 in a fiscal year. The amount assessed under this section is appropriated to the director of the Legislative Coordinating Commission for those purposes, and is available until expended. The department shall apportion those costs among all energy utilities in proportion to their respective gross operating revenues from the sale of gas or electric service within the state during the last calendar year. For the purposes of administrative efficiency, the department shall assess energy utilities and issue bills in accordance with the billing and assessment procedures provided in section 216B.62, to the extent that these procedures do not conflict with this subdivision.

Subd. 7. **Guidelines; preferred electric generation sources; definitions.** (a) The Legislative Task Force on Electric Energy shall undertake its responsibilities in light of the guidelines specified in this subdivision.

(b) The highest priority in electric energy production and consumption is conservation of electric energy and management of demand by all segments of the community.

(c) The following energy sources for generating electric power distributed in the state, listed in their descending order of preference, based on minimizing long-term negative environmental, social, and economic burdens imposed by the specific energy sources, are:

- (1) wind and solar;
- (2) biomass and low-head or refurbished hydropower;
- (3) decomposition gases produced by solid waste management facilities, natural gas-fired cogeneration, and waste materials or byproducts combined with natural gas;
- (4) natural gas, hydropower that is not low-head or refurbished hydropower, and solid waste as a direct fuel or refuse-derived fuel; and
- (5) coal and nuclear power.

(d) For the purposes of paragraph (c) within each clause, the more efficient an energy source is in generating electricity or the more efficient a technology is that utilizes an energy source, the more preferred it is for use in generating electricity for distribution and consumption in the state.

(e) For the purposes of paragraph (c), clauses (3) and (4), the use of waste materials and byproducts for generating electric power must be limited to those waste materials and byproducts that are necessarily generated or produced by efficient processes and systems. Preventing and minimizing waste and byproducts are preferred

in every situation to relying on the continued generation or production of waste materials and byproducts.

(f) For the purposes of this section, “preferred” or “renewable” energy sources are those described in paragraph (c), clauses (1) to (3), and “subordinate” or “traditional” energy sources are those described in paragraph (c), clauses (4) and (5).

(g) For the purposes of this section:

(1) “biomass” means herbaceous crops, trees, agricultural waste, and aquatic plant matter, excluding mixed municipal solid waste, as defined in section 115A.03, used to generate electricity; and

(2) “low-head hydropower” means a hydropower facility that has a head of less than 66 feet.

Subd. 8. **Subpoena power.** The task force may issue a subpoena under section 3.153 to any person for production of information held by that person that is relevant to the work of the task force.

Subd. 9. **Expiration.** This section is repealed June 30, 2007.

History: 1994 c 641 art 5 s 1; 1995 c 4 s 1; 1995 c 248 art 2 s 5; 1996 c 266 s 1; 1997 c 191 art 1 s 6,7; 1998 c 380 s 1; 1999 c 19 s 1; 2000 c 436 s 1; 2001 c 212 art 8 s 8,9; 1Sp2001 c 4 art 6 s 50; 1Sp2003 c 11 art 3 s 6-9

216C.052 RELIABILITY ADMINISTRATOR.

Subdivision 1. **Responsibilities.** (a) There is established the position of reliability administrator in the Department of Commerce. The administrator shall act as a source of independent expertise and a technical advisor to the commissioner, the commission, the public, and the Legislative Electric Energy Task Force on issues related to the reliability of the electric system. In conducting its work, the administrator shall:

(1) model and monitor the use and operation of the energy infrastructure in the state, including generation facilities, transmission lines, natural gas pipelines, and other energy infrastructure;

(2) develop and present to the commission and parties technical analyses of proposed infrastructure projects, and provide technical advice to the commission;

(3) present independent, factual, expert, and technical information on infrastructure proposals and reliability issues at public meetings hosted by the task force, the Environmental Quality Board, the department, or the commission.

(b) Upon request and subject to resource constraints, the administrator shall provide technical assistance regarding matters unrelated to applications for infrastructure improvements to the task force, the department, or the commission.

(c) The administrator may not advocate for any particular outcome in a commission proceeding, but may give technical advice to the commission as to the impact on the reliability of the energy system of a particular project or projects. The administrator must not be considered a party or a participant in any proceeding before the commission.

Subd. 2. **Administrative issues.** (a) The commissioner may select the administrator who shall serve for a four-year term. The administrator may not have been a party or a participant in a commission energy proceeding for at least one year prior to selection by the commissioner. The commissioner shall oversee and direct the work of the administrator, annually review the expenses of the administrator, and annually approve the budget of the administrator. The administrator may hire staff and may contract for technical expertise in performing duties when existing state resources are required for other state responsibilities or when special expertise is required. The salary of the administrator is governed by section 15A.0815, subdivision 2.

(b) Costs relating to a specific proceeding, analysis, or project are not general administrative costs. For purposes of this section, “energy utility” means public utilities, generation and transmission cooperative electric associations, and municipal power agencies providing natural gas or electric service in the state.

(c) The Department of Commerce shall pay:

(1) the general administrative costs of the administrator, not to exceed \$1,000,000 in a fiscal year, and shall assess energy utilities for those administrative costs. These costs must be consistent with the budget approved by the commissioner under paragraph (a). The department shall apportion the costs among all energy utilities in proportion to their respective gross operating revenues from sales of gas or electric service within the state during the last calendar year, and shall then render a bill to each utility on a regular basis; and

(2) costs relating to a specific proceeding analysis or project and shall render a bill to the specific energy utility or utilities participating in the proceeding, analysis, or project directly, either at the conclusion of a particular proceeding, analysis, or project, or from time to time during the course of the proceeding, analysis, or project.

(d) For purposes of administrative efficiency, the department shall assess energy utilities and issue bills in accordance with the billing and assessment procedures provided in section 216B.62, to the extent that these procedures do not conflict with this subdivision. The amount of the bills rendered by the department under paragraph (c) must be paid by the energy utility into an account in the special revenue fund in the state treasury within 30 days from the date of billing and is appropriated to the commissioner for the purposes provided in this section. The commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover amounts paid by utilities under this section. All amounts assessed under this section are in addition to amounts appropriated to the commission and the department by other law.

Subd. 3. **Assessment and appropriation.** In addition to the amount noted in subdivision 2, the commissioner may assess utilities, using the mechanism specified in that subdivision, up to an additional \$500,000 annually through June 30, 2006. The amounts assessed under this subdivision are appropriated to the commissioner, and some or all of the amounts assessed may be transferred to the commissioner of administration, for the purposes specified in section 16B.325 and Laws 2001, chapter 212, article 1, section 3, as needed to implement those sections.

Subd. 4. **Expiration.** This section expires June 30, 2006.

History: 2001 c 212 art 8 s 10,18; 2002 c 398 s 5; 1Sp2003 c 11 art 3 s 10,11

216C.06 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 216C.05 to 216C.30, the following terms shall have the meanings here given them.

Subd. 2. [Renumbered subd 14]

Subd. 2a. **Building energy report.** "Building energy report" means a questionnaire designed to collect information on a building concerning its energy use and other basic factors that relate to energy use.

Subd. 3. [Renumbered subd 15]

Subd. 4. **Coal supplier.** "Coal supplier" means any entity engaged in this state in the wholesale distribution of coal or transportation into this state of any coal intended for use or distribution in the state or transshipment from the state.

Subd. 5. [Renumbered subd 18]

Subd. 6. **Construction.** "Construction" means significant physical alteration of a site to install or enlarge a large energy facility, but not including activities incident to preliminary engineering or environmental studies.

Subd. 7. **Decorative gas lamp.** "Decorative gas lamp" means a device installed for the purpose of producing illumination by burning natural, mixed, or LP gas and utilizing either a mantle or an open flame, but does not include portable camp lanterns or gas lamps.

Subd. 8. [Renumbered subd 17]

Subd. 9. [Renumbered subd 2a]

Subd. 10. [Repealed, 1997 c 7 art 1 s 91]

Subd. 11. [Repealed, 1997 c 7 art 1 s 91]

Subd. 12. [Renumbered subd 19]

Subd. 13. [Renumbered subd 16]

Subd. 14. **Earth sheltered.** "Earth sheltered" means constructed so that 50 percent or more of the exterior surface is covered or in contact with earth. Exterior surface includes all walls and roof, but excludes garages and other accessory buildings. Earth covering on walls is measured from the floor of the structure's lowest level. Earth covering on the roof must be at least 12 inches deep to be included in calculations of earth covering. Partially completed buildings shall not be considered earth sheltered.

Subd. 15. **Petroleum supplier.** "Petroleum supplier" means any petroleum refinery in the state and any entity engaged in transmission or wholesale distribution of more than 100,000 gallons of crude petroleum or petroleum fuels or oil or derivatives thereof annually in this state.

Subd. 16. **Photovoltaic device.** "Photovoltaic device" means a system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

Subd. 17. **Solar energy system.** "Solar energy system" means a set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.

Subd. 18. **Utility.** "Utility" means any entity engaged in this state in the generation, transmission or distribution of electric energy and any entity engaged in this state in the transmission or distribution of natural or synthetic natural gas, including, but not limited to a private investor-owned utility or a public or municipally owned utility.

Subd. 19. **Wind energy conversion system or WECS.** "Wind energy conversion system" (WECS) means any device, such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of usable energy.

History: 1974 c 307 s 2; 1975 c 170 s 1; 1976 c 333 s 1,2; 1977 c 381 s 8; Ex1979 c 2 s 10-12; 1981 c 356 s 248; 1982 c 561 s 1; 1982 c 563 s 2; 1983 c 231 s 2; 1987 c 312 art 1 s 10 subd 1; 1992 c 511 art 8 s 1

216C.07 CONFLICT OF INTEREST.

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

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

History: 1974 c 307 s 5; 1981 c 356 s 125,248; 1986 c 444; 1987 c 312 art 1 s 10 subd 1

216C.08 JURISDICTION.

The commissioner has sole authority and responsibility for the administration of sections 216C.05 to 216C.30. Other laws notwithstanding, the authority granted the commissioner shall supersede the authority given any other agency whenever overlapping, duplication or additional administrative or legal procedures might occur in the administration of sections 216C.05 to 216C.30. The commissioner shall consult with other state departments or agencies in matters related to energy and shall contract with them to provide appropriate services to effectuate the purposes of sections 216C.05 to 216C.30. Any other department, agency or official of this state or political subdivision thereof which would in any way affect the administration or enforcement of sections 216C.05 to 216C.30 shall cooperate and coordinate all activities with the commissioner

to assure orderly and efficient administration and enforcement of sections 216C.05 to 216C.30.

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

History: 1974 c 307 s 6; 1980 c 509 s 29; 1981 c 356 s 126,248; 1987 c 312 art 1 s 10 subd 1

216C.09 COMMISSIONER DUTIES.

- (a) The commissioner shall:
- (1) manage the department as the central repository within the state government for the collection of data on energy;
 - (2) prepare and adopt an emergency allocation plan specifying actions to be taken in the event of an impending serious shortage of energy, or a threat to public health, safety, or welfare;
 - (3) undertake a continuing assessment of trends in the consumption of all forms of energy and analyze the social, economic, and environmental consequences of these trends;
 - (4) carry out energy conservation measures as specified by the legislature and recommend to the governor and the legislature additional energy policies and conservation measures as required to meet the objectives of sections 216C.05 to 216C.30;
 - (5) collect and analyze data relating to present and future demands and resources for all sources of energy;
 - (6) evaluate policies governing the establishment of rates and prices for energy as related to energy conservation, and other goals and policies of sections 216C.05 to 216C.30, and make recommendations for changes in energy pricing policies and rate schedules;
 - (7) study the impact and relationship of the state energy policies to international, national, and regional energy policies;
 - (8) design and implement a state program for the conservation of energy; this program shall include but not be limited to, general commercial, industrial, and residential, and transportation areas; such program shall also provide for the evaluation of energy systems as they relate to lighting, heating, refrigeration, air conditioning, building design and operation, and appliance manufacturing and operation;
 - (9) inform and educate the public about the sources and uses of energy and the ways in which persons can conserve energy;
 - (10) dispense funds made available for the purpose of research studies and projects of professional and civic orientation, which are related to either energy conservation, resource recovery, or the development of alternative energy technologies which conserve nonrenewable energy resources while creating minimum environmental impact;
 - (11) charge other governmental departments and agencies involved in energy-related activities with specific information gathering goals and require that those goals be met;
 - (12) design a comprehensive program for the development of indigenous energy resources. The program shall include, but not be limited to, providing technical, informational, educational, and financial services and materials to persons, businesses, municipalities, and organizations involved in the development of solar, wind, hydropower, peat, fiber fuels, biomass, and other alternative energy resources. The program shall be evaluated by the alternative energy technical activity; and
 - (13) dispense loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum-pricing regulations made available to the department for that purpose. The commissioner shall adopt rules under chapter 14 for this purpose. Money dispersed under this clause must not include money received as a result of the settlement of the parties and order of the United

States District Court for the District of Kansas in the case of *In Re Department of Energy Stripper Well Exemption Litigation*, 578 F. Supp. 586 (D.Kan. 1983) and all money received after August 1, 1988, by the governor, the commissioner of finance, or any other state agency resulting from overcharges by oil companies in violation of federal law.

(b) Further, the commissioner may participate fully in hearings before the Public Utilities Commission on matters pertaining to rate design, cost allocation, efficient resource utilization, utility conservation investments, small power production, cogeneration, and other rate issues. The commissioner shall support the policies stated in section 216C.05 and shall prepare and defend testimony proposed to encourage energy conservation improvements as defined in section 216B.241.

History: 1974 c 307 s 7; 1977 c 381 s 9; 1981 c 356 s 127,248; 1982 c 563 s 3; 1983 c 179 s 1; 1983 c 289 s 44; 1984 c 654 art 2 s 99; 1987 c 312 art 1 s 10 subd 1; 1988 c 617 s 1

216C.10 COMMISSIONER POWERS.

(a) The commissioner may:

(1) adopt rules under chapter 14 as necessary to carry out the purposes of sections 216C.05 to 216C.30;

(2) make all contracts under sections 216C.05 to 216C.30 and do all things necessary to cooperate with the United States government, and to qualify for, accept, and disburse any grant intended for the administration of sections 216C.05 to 216C.30;

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

(4) administer for the state, energy programs under federal law, regulations, or guidelines, and coordinate the programs and activities with other state agencies, units of local government, and educational institutions;

(5) develop a state energy investment plan with yearly energy conservation and alternative energy development goals, investment targets, and marketing strategies;

(6) perform market analysis studies relating to conservation, alternative and renewable energy resources, and energy recovery;

(7) assist with the preparation of proposals for innovative conservation, renewable, alternative, or energy recovery projects;

(8) manage and disburse funds made available for the purpose of research studies or demonstration projects related to energy conservation or other activities deemed appropriate by the commissioner;

(9) intervene in certificate of need proceedings before the Public Utilities Commission;

(10) collect fees from recipients of loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum-pricing regulations, which fees must be used to pay the department's costs in administering those financial aids; and

(11) collect fees from proposers and operators of conservation and other energy-related programs that are reviewed, evaluated, or approved by the department, other than proposers that are political subdivisions or community or nonprofit organizations, to cover the department's cost in making the review, evaluation, or approval and in developing additional programs for others to operate.

(b) Notwithstanding any other law, the commissioner is designated the state agent to apply for, receive, and accept federal or other funds made available to the state for the purposes of sections 216C.05 to 216C.30.

History: 1974 c 307 s 8; 1978 c 786 s 1; Ex1979 c 2 s 13; 1981 c 85 s 2; 1981 c 356 s 128,248; 1982 c 424 s 130; 1983 c 289 s 45; 1984 c 604 s 1; 1984 c 640 s 32; 1Sp1985 c 14 art 9 s 75; 1987 c 312 art 1 s 10 subd 1; 1988 c 617 s 2; 1989 c 338 s 5; 1994 c 483 s 1; 1996 c 305 art 2 s 39; 2004 c 206 s 31

216C.11 ENERGY CONSERVATION INFORMATION CENTER.

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

The Energy Information Center shall serve as the official Minnesota Alcohol Fuels Information Center and shall disseminate information, printed, by the toll-free telephone information service, or otherwise on the applicability and technology of alcohol fuels.

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

The information center shall use the information collected under section 216C.02, subdivision 1, to maintain a central source of information on conservation and other energy-related programs, including both programs required by law or rule and programs developed and carried on voluntarily. In particular, the information center shall compile and maintain information on policies covering disconnections or denials of fuel during cold weather adopted by public utilities and other fuel suppliers not governed by Minnesota Rules, parts 7820.1500 to 7820.2300, including the number of households disconnected or denied fuel and the duration of the disconnections or denials.

History: 1976 c 333 s 4; Ex1979 c 2 s 14; 1980 c 579 s 5; 1981 c 356 s 129,248; 1987 c 312 art 1 s 10 subd 1; 1989 c 338 s 6

216C.12 ENERGY CONSERVATION PUBLICITY.

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

History: 1977 c 381 s 22; 1980 c 579 s 6; 1981 c 356 s 130,248; 1987 c 312 art 1 s 10 subd 1

216C.13 POSTSECONDARY ENERGY EDUCATION.

The commissioner, in consultation with the commissioner of education, the Higher Education Services Office, the Board of Trustees of the Minnesota State Colleges and Universities, and the Board of Regents of the University of Minnesota, shall assist in the development and implementation of adult and postsecondary energy education programs.

History: Ex1979 c 2 s 15; 1981 c 356 s 131,248; 1982 c 563 s 4; 1987 c 312 art 1 s 10 subd 1; 1995 c 212 art 3 s 59; 1996 c 395 s 18; 1998 c 398 art 5 s 55; 2003 c 130 s 12

216C.14 COMMUNITY ENERGY PLANNING; GRANTS.

Subdivision 1. **Purpose.** In order to improve the energy planning capabilities of local governments, the commissioner shall make grants to counties and cities, however organized. The commissioner when making grants shall give priority to those units of government that submit proposals that could result in significant savings of traditional energy sources, development of renewable energy systems, and broad community

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involvement. The commissioner shall give priority to local units of government that provide staff or other support for a program and who request grants for programs which can be duplicated by other local governments. The grants may be used to purchase materials, employ staff or contract with other units of government or qualified consultants.

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

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

(1) to gather, monitor, and analyze local energy supply, demand, and cost information;

(2) to prepare comprehensive community energy plans;

(3) to implement comprehensive energy plans that the unit of government is authorized to undertake for the management of problems resulting from:

(i) rising energy cost;

(ii) lack of efficient public and private transportation;

(iii) lack of community conservation efforts;

(iv) lack of widespread renewable energy sources; and

(v) lack of energy components in comprehensive plans and local ordinances;

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

(5) any other purposes deemed appropriate by the commissioner.

Subd. 3. Administration; rules. The commissioner shall determine priorities pursuant to subdivisions 1 and 2, and shall promulgate rules for the submission and review of applications in accordance with the provisions of chapter 14.

History: 1980 c 579 s 7; 1981 c 356 s 132,248; 1982 c 424 s 130; 1984 c 640 s 32; 1987 c 312 art 1 s 10 subd 1; 1996 c 305 art 2 s 40

216C.15 ENERGY SUPPLY EMERGENCY CONSERVATION AND ALLOCATION PLAN.

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

(1) give priority to individuals, institutions, agriculture, businesses, and public transit under contract with the commissioner of transportation or the Metropolitan Council which demonstrate they have engaged in energy-saving measures and shall include provisions to insure that:

(i) immediate allocations to individuals, institutions, agriculture, businesses, and public transit be based on needs at energy conservation levels;

(ii) successive allocations to individuals, institutions, agriculture, businesses, and public transit be based on needs after implementation of required action to increase energy conservation; and

(iii) needs of individuals, institutions, and public transit are adjusted to insure the health and welfare of the young, old and infirm;

(2) insure maintenance of reasonable job safety conditions and avoid environmental sacrifices;

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

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

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

(6) determine at what level of an energy supply emergency situation the Pollution Control Agency shall be requested to ask the governor to petition the president for a temporary emergency suspension of air quality standards as required by the Clean Air Act, United States Code, title 42, section 7410f; and

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

Subd. 2. Periodic revision. At least once every five years and whenever construction of a new large energy facility is completed which affects the supply of energy in Minnesota, the commissioner shall review and if necessary revise the emergency conservation and allocation plan. Revisions of the emergency conservation and allocation plan shall be adopted pursuant to the rulemaking procedures in chapter 14 and reviewed by the appropriate standing committees of the legislature.

Subd. 3. Declaration of energy supply emergency. The Executive Council or the legislature may declare an energy supply emergency when an acute shortage of energy exists by issuing a declaration which indicates the nature of the emergency, the area or areas threatened if less than the whole state is threatened, and the conditions causing the emergency. The declaration shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the commissioner, the Division of Emergency Management and the secretary of state. Upon a declaration of an energy supply emergency by the Executive Council or the legislature, the governor and the Division of Emergency Management, in consultation with the commissioner, shall implement and enforce the emergency conservation and allocation plan or any part thereof. Revisions of the plan shall be made by the commissioner in accordance with subdivision 2. The Executive Council or the legislature may terminate an energy supply emergency at any time by issuing a declaration which terminates the energy supply emergency and indicates the conditions which make possible termination of the emergency, but no energy supply emergency may continue for longer than 30 days unless renewed by the legislature. Each renewed energy supply emergency may not continue for longer than 30 days, unless otherwise provided by law. Each person shall carry out the responsibilities specified in the emergency conservation allocation plan, and violation of any provision of such emergency conservation or allocation requirements shall be deemed a violation of sections 216C.05 to 216C.30 and the rules promulgated thereunder for purposes of enforcement pursuant to section 216C.30.

History: 1974 c 307 s 9; 1974 c 428 s 5; Ex1979 c 2 s 16-18; 1981 c 356 s 133-135,248; 1982 c 424 s 130; 1984 c 640 s 32; 1987 c 71 s 2; 1987 c 312 art 1 s 10 subd 1; 1993 c 83 s 4; 1994 c 628 art 3 s 16; 1996 c 305 art 2 s 41

216C.16 STATE PETROLEUM SET-ASIDE PROGRAM.

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

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

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

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

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

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

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

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

Subd. 5. **Report of estimated volume; program's allocation.** Every prime supplier shall file with the commissioner a monthly report of its estimated volume of gasoline and middle distillate deliveries. The report shall be in a form prescribed by the commissioner and shall be submitted by the 25th day of the month preceding the month covered by the report. Each prime supplier shall allocate monthly for sale or exchange upon order of the commissioner three percent of estimated motor gasoline supplies and four percent of estimated middle distillate supplies as shown by the report.

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

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

Subd. 8. **Criteria.** The commissioner may allocate gasoline and middle distillates from the set-aside system in accordance with the criteria in section 216C.15 and rules adopted pursuant thereto. The commissioner may prescribe additional priorities by rule.

History: 1981 c 356 s 136,248; 1982 c 424 s 130; 1982 c 563 s 5,6; 1983 c 289 s 115 subd 1; 1984 c 640 s 32; 1987 c 312 art 1 s 10 subd 1; 1995 c 233 art 2 s 56

216C.17 ENERGY FORECASTS AND STATISTICS; REPORT.

Subdivision 1. **Energy data program.** In order to further the purposes of sections 216C.05 to 216C.30, the commissioner shall develop and maintain an effective program of collection, compilation, and analysis of energy statistics. The statistical program shall be developed to insure a central state repository of energy data and so that the state

may coordinate and cooperate with other governmental data collection and record-keeping programs.

Subd. 2. Forecasts. Except as provided in subdivision 3, in addition to supplying the current statistical and short-range forecasting information the commissioner requires, each utility, coal supplier, petroleum supplier and large energy facility in the state shall prepare and transmit to the commissioner by July 1 of each year, a report specifying in five-, ten-, and 15-year forecasts the projected demand for energy within their respective service areas and the facilities necessary to meet the demand.

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

Subd. 3. Duplication. The commissioner shall, to the maximum extent feasible, provide that forecasts required under this section be consistent with material required by other state and federal agencies in order to prevent unnecessary duplication. Electric utilities submitting advance forecasts as part of an integrated resource plan filed pursuant to section 216B.2422 and Public Utilities Commission rules are excluded from the annual reporting requirement in subdivision 2.

Subd. 4. Public inspection. Reports issued pursuant to this section, other than individual corporate reports classified as nonpublic data in section 13.68, shall be available for public inspection in the office of the department during normal business hours.

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

History: 1974 c 307 s 10; 1975 c 170 s 2; 1981 c 311 s 39; 1981 c 356 s 137,248; 1982 c 545 s 24; 1982 c 563 s 7; 1987 c 312 art 1 s 10 subd 1; 1993 c 327 s 14; 1994 c 644 s 5,6

216C.18 STATE ENERGY POLICY AND CONSERVATION REPORT.

Subdivision 1. **Report on trends and issues.** By July 1 of 1988 and every four years thereafter, the commissioner shall issue a comprehensive report designed to identify major emerging trends and issues in energy supply, consumption, conservation, and costs. The report shall include the following:

- (1) projections of the level and composition of statewide energy consumption under current government policies and an evaluation of the ability of existing and anticipated facilities to supply the necessary energy for that consumption;
- (2) projections of how the level and the composition of energy consumption would be affected by new programs or new policies;
- (3) projections of energy costs to consumers, businesses, and government;
- (4) identification and discussion of key social, economic, and environmental issues in energy;
- (5) explanations of the department's current energy programs and studies; and
- (6) recommendations.

Subd. 1a. Rate plan. The energy policy and conservation report shall include a section prepared by the Public Utilities Commission. The commission's section shall be prepared in consultation with the commissioner and shall include, but not be limited to, all of the following:

- (1) a description and analysis of the commission's rate design policy as it pertains to the goals stated in sections 216B.164, 216B.241, and 216C.05, including a description of all energy conservation improvements ordered by the commission; and
- (2) recommendations to the governor and the legislature for administrative and legislative actions to accomplish the purposes of sections 216B.164, 216B.241, and 216C.05.

Subd. 2. Draft report; public meeting. Prior to the preparation of a final report, the commissioner shall issue a draft report to the Environmental Quality Board and

any person, upon request, and shall hold a public meeting. Notice of the public meeting shall be provided to each regional development commission.

Subd. 3. **Final report, distribution.** The commissioner shall distribute the final report to any person upon request.

History: 1974 c 307 s 11; 1975 c 271 s 6; Ex1979 c 2 s 19; 1981 c 356 s 138,248; 1982 c 561 s 3; 1982 c 563 s 8; 1983 c 179 s 2; 1983 c 231 s 3; 1983 c 289 s 115 subd 1; 1984 c 654 art 2 s 100; 1987 c 186 s 15; 1987 c 312 art 1 s 10 subd 1

ENERGY CONSERVATION

216C.19 ENERGY CONSERVATION.

Subdivision 1. **Roadway lighting; rules.** After consultation with the commissioner and the commissioner of public safety, the commissioner of transportation shall adopt rules under chapter 14 establishing minimum energy efficiency standards for street, highway, and parking lot lighting. The standards must be consistent with overall protection of the public health, safety and welfare. No new highway, street or parking lot lighting may be installed in violation of these rules. Existing lighting equipment, excluding roadway sign lighting, with lamps with initial efficiencies less than 70 lumens per watt must be replaced when worn out with light sources using lamps with initial efficiencies of at least 70 lumens per watt.

Subd. 2. **Outdoor display lighting.** Beginning July 1, 1980, the use of outdoor display lighting shall be limited as provided in subdivision 3. For purposes of this section, "outdoor display lighting" shall include building facade lighting, other decorative lighting, and all billboards and advertising signs except those which identify a commercial establishment which is open for business at that hour.

Subd. 3. **Rules on outdoor lighting.** The commissioner shall adopt rules, pursuant to chapter 14, setting standards covering permissible hours of operation, quantity and efficiency of outdoor display lighting and defining "outdoor display lighting."

Subd. 4. **Rules on promotional practices.** The commissioner may investigate promotional practices by energy suppliers and, pursuant to chapter 14, may promulgate rules to limit such practices in order to reduce the rate of growth of energy demand.

Subd. 5. **Natural gas outdoor lighting prohibited; exception.** After July 1, 1974, no new natural gas outdoor lighting shall be installed in the state. However, the installation and use of natural gas outdoor lighting that is equipped with either an automatic daytime shutoff device or is otherwise capable of being switched on and off, is permitted.

Subd. 6. **Variance for decorative gas lamp.** Beginning April 20, 1977, no person shall use a decorative gas lamp in Minnesota except as provided in this subdivision and in subdivisions 5 and 7. The commissioner shall grant a permanent variance allowing a homeowner who received a variance in 1977 to operate a decorative gas lamp or lamps at the homeowner's principal place of residence. The variance shall be valid for the life of the recipient. The commissioner shall not issue a variance to any other person to use a decorative gas lamp or lamps.

Subd. 7. **Exemption for old gas lamp.** Gas lamps installed prior to April 20, 1977, by or at the request of a municipality, on a public street or right-of-way, may be used as street lighting.

Subd. 8. [Repealed, 2000 c 297 s 5]

Subd. 9. **Energy use by state; rules.** The commissioner shall conduct studies and make recommendations concerning the purchase and use by the state and its political subdivisions of supplies, motor vehicles and equipment having a significant impact on energy use in order to determine the potential for energy conservation. The commissioner may adopt rules pursuant to chapter 14 to insure that energy use and conservation will be considered in state purchasing and, where appropriate, to require certain minimum energy efficiency standards in purchased products and equipment. No

state purchasing of equipment or material use shall occur that is not in conformity with these rules.

Subd. 10. [Repealed, 1996 c 310 s 1]

Subd. 11. [Repealed, 1996 c 310 s 1]

Subd. 12. [Repealed, 1996 c 310 s 1]

Subd. 13. **New room air conditioner.** No new room air conditioner shall be sold or installed or transported for resale into Minnesota unless it has an energy efficiency ratio equal to or greater than the values required by applicable federal laws and the United States Department of Energy regulations codified in Code of Federal Regulations, title 10, including applicable interpretations of the regulations issued by that department.

Subd. 14. **Certain gas-powered equipment prohibited.** No new residential

(1) forced-air-type central furnace;

(2) cooking appliance manufactured with an electrical supply cord; or

(3) clothes-drying equipment,

that is designed to burn natural gas shall be sold or installed in Minnesota, unless it meets or exceeds the efficiency standards required by applicable federal laws and the United States Department of Energy regulations codified in Code of Federal Regulations, title 10, including applicable interpretations of the regulations issued by that department.

Subd. 15. **Fluorescent lamp ballast.** No person may sell or install a fluorescent lamp ballast in this state that does not comply with the energy efficiency standards for fluorescent lamp ballasts adopted by the commissioner under subdivision 8.

Subd. 16. **Lamp.** No new lamp may be sold in Minnesota unless it meets or exceeds the minimum efficiency standards required by applicable federal laws and the United States Department of Energy regulations codified in Code of Federal Regulations, title 10, including applicable interpretations of the regulations issued by that department.

Subd. 17. **Motor.** No new motor covered by this subdivision, excluding those sold as part of an appliance, may be sold or installed in Minnesota unless its nominal efficiency meets or exceeds the values adopted under subdivision 8.

Subd. 18. **Commercial heating, air conditioning, and ventilating equipment.** (a) This subdivision applies to electrically operated unitary and packaged terminal air conditioners and heat pumps, electrically operated water-chilling packages, gas- and oil-fired boilers, and warm air furnaces and combination warm air furnaces and air conditioning units installed in buildings housing commercial or industrial operations.

(b) No commercial heating, air conditioning, or ventilating equipment covered by this subdivision may be sold or installed in Minnesota unless it meets or exceeds the minimum performance standards established by ASHRAE standard 90.1.

Subd. 19. **Showerhead; faucet.** No new showerhead, kitchen faucet or kitchen replacement aerator, or lavatory faucet or lavatory replacement aerator may be sold or installed in Minnesota unless it meets or exceeds the efficiency standards required by applicable federal laws and the United States Department of Energy regulations codified in Code of Federal Regulations, title 10, including applicable interpretations of the regulations issued by that department.

Subd. 20. **Conservation rules.** The commissioner shall adopt rules to implement subdivisions 13 and 16 to 19, including rules governing testing of products covered by those sections. The rules must make allowance for wholesalers, distributors, or retailers who have inventory or stock which was acquired prior to July 1, 1993. The rules must consider appropriate efficiency requirements for motors used infrequently in agricultural and other applications.

History: 1974 c 307 s 12; 1975 c 65 s 1; 1976 c 166 s 7; 1976 c 333 s 5-7; 1977 c 381 s 11-14; Ex 1979 c 2 s 20-24; 1980 c 579 s 8; 1981 c 85 s 3,4; 1981 c 356 s 139-145,248; 1981 c 365 s 9; 1982 c 424 s 130; 1982 c 563 s 9; 1984 c 544 s 89; 1984 c 654 art 2 s 101; 1985 c 50 s 1; 1985 c 248 s 70; 1987 c 312 art 1 s 10 subd 1; 1988 c 617 s 3,4; 1992 c 597 s 4-10; 1995 c 161 s 1-5; 1997 c 191 art 1 s 8; 1998 c 350 s 4; 1999 c 135 s 5

216C.195 [Repealed, 2000 c 297 s 5]

216C.20 ENERGY CONSERVATION IN PUBLIC BUILDING.

Subdivision 1. **Applicability.** The rules concerning heat loss, illumination, and climate control standards adopted pursuant to section 16B.61, subdivision 1, shall include standards for all existing buildings heated by oil, coal, gas, or electric units which are owned by the state, the University of Minnesota, any city, any county, or any school district. Compliance with standards adopted pursuant to this section shall not be mandatory for buildings owned by any city, county or school district, except as otherwise provided by this section.

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

Subd. 3. **Parking ramp.** No enclosed structure or portion of an enclosed structure constructed after January 1, 1978 and used primarily as a commercial parking facility for three or more motor vehicles shall be heated. Incidental heating resulting from building exhaust air passing through a parking facility shall not be prohibited, provided that substantially all useful heat has previously been removed from the air.

History: 1976 c 333 s 8; 1977 c 381 s 15; 1981 c 356 s 146,147,248; 1987 c 312 art 1 s 10 subd 1; 2000 c 297 s 2

216C.21 [Repealed, 1996 c 310 s 1]

216C.22 [Repealed, 1996 c 310 s 1]

216C.23 [Repealed, 1996 c 310 s 1]

216C.24 [Repealed, 1996 c 310 s 1]

216C.25 SOLAR ENERGY SYSTEM STANDARDS.

The commissioner of administration in consultation with the commissioner shall adopt rules concerning quality and performance standards which are in reasonable conformance with the Interim Performance Criteria for Solar Heating and Combined Heating/Cooling Systems and Dwellings, National Bureau of Standards, January 1, 1975; and the Interim Performance Criteria for Commercial Solar Heating and Combined Heating/Cooling Systems and Facilities, National Aeronautics and Space Administration, February 28, 1975, to insure that within the existing state of development, solar energy systems as defined in section 216C.06, subdivision 17, which are sold or installed within this state, are effective and represent a high standard of quality of material, workmanship, design, and performance. The commissioner of administration in consultation with the energy commissioner shall amend the rules as new technology and materials become available, or as standards are revised by the federal government.

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

History: 1976 c 333 s 14; 1981 c 356 s 152,248; 1987 c 312 art 1 s 10 subd 1

216C.26 ENERGY RESEARCH PROJECT; REVIEW.

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

- (1) solar energy systems for heating and cooling;

(2) energy systems using wind, agricultural wastes, forestry products, peat, and other nonconventional energy resources;

(3) devices and technologies increasing the energy efficiency of energy consuming appliances, equipment, and systems;

(4) hydroelectric power; and

(5) other projects the commissioner deems appropriate and of direct benefit to Minnesota and other states of the upper midwest.

History: 1976 c 333 s 15; 1981 c 356 s 153,248; 1982 c 563 s 10; 1987 c 312 art 1 s 10 subd 1

216C.261 ALTERNATIVE ENERGY ENGINEERING ACTIVITY.

Subdivision 1. **Creation, goals.** To further the development of indigenous energy resources and energy conservation, the commissioner shall establish an alternative energy engineering activity. The activity shall facilitate the development of specific projects in the public and private sectors and provide a broad range of information, education, and engineering assistance services necessary to accelerate energy conservation and alternative energy development in the state.

Subd. 2. **Duties.** The alternative energy engineering activity shall:

(1) provide on-site technical assistance for alternative energy and conservation projects;

(2) develop information materials and educational programs to meet the needs of engineers, technicians, developers, and others in the alternative energy field;

(3) conduct feasibility studies when the results of the studies would be of benefit to others working in the same area;

(4) facilitate development of energy projects through assistance in finding financing, meeting regulatory requirements, gaining public and private support, limited technical consultation, and similar forms of assistance; and

(5) work with and use the services of Minnesota design professionals.

History: 1984 c 654 art 2 s 102; 1987 c 312 art 1 s 10 subd 1

216C.262 OPTIMAL LOW-INCOME WEATHERIZATION.

The commissioner shall contract with the Building Energy Research Center at the University of Minnesota for the purpose of determining optimal weatherization for low-income weatherization programs. The alternative energy engineering activity shall provide technical assistance.

History: 1984 c 654 art 2 s 103; 1987 c 312 art 1 s 10 subd 1

216C.27 ENERGY CONSERVATION IN EXISTING RESIDENCE.

Subdivision 1. **Rules.** The commissioner shall adopt rules containing minimum energy efficiency standards for existing residences. The standards shall be appropriate for evaluation of the energy efficiency of each major type of residential housing including, but not limited to, one- to four-family dwellings, apartment buildings, manufactured homes, condominium buildings, and type of ownership. The standards shall be economically feasible in that the resultant savings in energy procurement costs, based on current and projected average residential energy costs in Minnesota as certified by the commissioner in the State Register, will exceed the cost of the energy conserving requirements amortized over the ten-year period subsequent to the incurring of the cost. The costs computed under this section shall include reasonable inflation and interest factors. Subject to the provisions of subdivision 4, with respect to low-rent housing which is owned by a public housing authority or a housing and redevelopment authority as described in chapter 462, compliance with the standards established by the commissioner shall be determined based upon audits conducted by or on behalf of the housing and redevelopment authority or the public housing authority in conformance with the requirements of Code of Federal Regulations, title 24, sections 965.301 to 965.310. Audits which are conducted by individuals other than

employees of the housing and redevelopment authority or the public housing authority shall be conducted by evaluators who are certified pursuant to subdivision 6 or section 216C.31. The determination of the economic feasibility of implementation of the standards in low-rent housing shall be made in accordance with the procedures established by the United States Department of Housing and Urban Development to implement Code of Federal Regulations, title 24, sections 965.301 to 965.310.

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

(a) "Residence" means any dwelling for habitation either seasonally, meaning all or a portion of the months of November through April, or permanently by one or more persons. A residence may be part of a multidwelling or multipurpose building, but shall not include buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools and other buildings used for educational purposes, or correctional institutions. A manufactured home as defined in section 168.011, subdivision 8, shall be a residence for purposes of this section.

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

Subd. 3. **Energy conservation for rental property.** Effective January 1, 1980, all residences constructed prior to January 1, 1976, which are renter-occupied during all or a portion of the months of November through April shall be in compliance with standards pursuant to subdivision 1 pertaining to caulking and weatherstripping of exterior joints and sealing of other openings in the building envelope. Effective July 1, 1983, all residences which are renter-occupied during all or a portion of the months of November through April shall be in compliance with all applicable energy efficiency standards.

Subd. 4. **Inspection.** The commissioner shall conduct inspections on a random basis for compliance with the provisions of subdivision 3. The commissioner may authorize a municipality, with its consent, to conduct the inspections within the municipality's jurisdiction, or to otherwise enforce the provisions of subdivision 3. Any municipality which conducts an inspection or other enforcement program shall have authority under all subdivisions of section 216C.30 to enforce the provisions of subdivision 3; provided that 100 percent of the penalties for violation of subdivision 3 shall be paid to the municipality. With respect to low-rent housing owned by a public housing authority or a housing and redevelopment authority described in sections 469.001 to 469.047, the commissioner or the municipality which conducts the inspection shall submit the results of the inspection to the housing and redevelopment authority or the public housing authority for review. If the housing and redevelopment authority or the public housing authority does not concur in the findings of the commissioner or the municipality, then the housing and redevelopment authority or the public housing authority and the commissioner or the municipality shall select a mutually acceptable independent third party or panel of experts knowledgeable in the area of energy conservation. The results of the inspection, the conclusions of the commissioner or the municipality as to compliance with the standards established pursuant to subdivision 1, and the basis for such conclusions, and the position of the housing and redevelopment authority or the public housing authority and the basis for such position shall be submitted to the independent third party or panel for a determination of the specific energy conservation measures which must be completed for compliance with the standards established pursuant to subdivision 1. The costs of the independent third party or panel shall be paid equally by the housing and redevelopment authority or the public housing authority and the commissioner or the municipality.

Subd. 5. **Enforcement after inspection.** If the commissioner determines, after an inspection conducted by or on behalf of the department, that a renter-occupied residence is not in compliance with the standards prescribed pursuant to subdivision 1, the commissioner may issue to the owner of the renter-occupied residence or the owner's agent a determination of noncompliance and may commence a contested case

proceeding under sections 14.57 to 14.62. The determination shall (1) specify the reasons for the determination, (2) include a copy of the inspection report, (3) state the actions that must be taken to bring the residence into compliance with the standards, (4) state that if the residence is not brought into compliance with the standards within 90 days following the date of the determination, a contested case proceeding will be commenced, and (5) specify a fine that will be assessed upon the conclusion of the contested case proceeding in the absence of a showing of good cause in that proceeding. The contested case proceeding hearing shall be held in the county in which the renter-occupied residence is located. Notwithstanding the provisions of sections 14.50 and 14.61, the administrative law judge in the contested case proceeding shall make findings of fact and conclusions of law and issue a decision, and if the administrative law judge decides that the residence is not in compliance with the standards, the administrative law judge shall enter an order directing the owner to take such affirmative action as in the judgment of the administrative law judge will effectuate the purposes of this section.

Subd. 6. Fines for noncompliance; exception. If the administrative law judge issues a decision, following a contested case proceeding commenced pursuant to subdivision 4a, that a renter-occupied residence is not in compliance with the standards prescribed pursuant to subdivision 1 and that the owner of the renter-occupied residence has not proven a good cause, as defined by rule adopted by the commissioner, for failure to comply with the standards prescribed pursuant to subdivision 1, the administrative law judge shall assess a fine against the owner in accordance with a schedule of fines adopted by the commissioner by rule. This subdivision shall not apply in the case of low-rent housing owned by a public housing authority or a housing and redevelopment authority as defined in section 469.002.

Subd. 7. Building evaluator. The commissioner shall certify evaluators in each county of the state who are qualified to determine the compliance of a residence with applicable energy efficiency standards. The commissioner shall, by rule pursuant to chapter 14, adopt standards for the certification and performance of evaluators and set a fee for the certification of evaluators which is sufficient to cover the ongoing costs of the program once it is established. The commissioner shall encourage the certification of existing groups of trained municipal personnel and qualified individuals from community-based organizations and public service organizations. Each certified evaluator shall, on request of the owner, inspect any residence and report the degree to which it complies with applicable energy efficiency standards established pursuant to subdivision 1. The inspections shall be made within 30 days of the request. The commissioner shall enter into an agreement with the Board of Trustees of the Minnesota State Colleges and Universities for the provision of evaluator training at institutions that offer the technical training. The commissioner may contract with the board to reduce the training costs to the students. The commissioner may eliminate the examination fee for persons seeking upgraded certificates. The commissioner may also establish requirements for continuing education, periodic recertification, and revocation of certification for evaluators.

Subd. 8. Separate metering for electric service. The standards concerning heat loss, illumination, and climate control adopted pursuant to section 16B.61, subdivision 1, shall require that electrical service to individual dwelling units in buildings containing two or more units be separately metered, with individual metering readily accessible to the individual occupants. The standards authorized by this subdivision shall only apply to buildings constructed after the effective date of the amended standards. Buildings intended for occupancy primarily by persons who are 62 years of age or older or handicapped, or which contain a majority of units not equipped with complete kitchen facilities, shall be exempt from the provisions of this subdivision.

History: 1977 c 381 s 18; 1978 c 786 s 2,3; Ex1979 c 2 s 29-31; 1980 c 579 s 9; 1981 c 85 s 5; 1981 c 255 s 2,5; 1981 c 356 s 154-158,248; 1981 c 365 s 9; 1982 c 424 s 23-25,130; 1983 c 301 s 125,126; 1984 c 595 s 1-5; 1984 c 640 s 32; 1986 c 444; 1987 c 258 s 12; 1987 c 291 s 196; 1987 c 312 art 1 s 10 subd 1; 1989 c 209 art 2 s 1; 1989 c 246 s 2; 1995 c 233 art 2 s 56; 1Sp1995 c 3 art 16 s 13; 1997 c 183 art 3 s 27; 2000 c 297 s 3

216C.29 SUBPOENA POWER.

The commissioner shall have the power, for the purposes of sections 216C.05 to 216C.30, to issue subpoenas for production of books, records, correspondence and other information and to require attendance of witnesses. The subpoenas may be served anywhere in the state by any person authorized to serve processes of courts of record. If a person does not comply with a subpoena, the commissioner may apply to the District Court of Ramsey County and the court shall compel obedience to the subpoena by a proper order. A person failing to obey the order is punishable by the court as for contempt.

History: 1974 c 307 s 14; 1981 c 356 s 160,248; 1987 c 312 art 1 s 10 subd 1

216C.30 ENFORCEMENT; PENALTIES, REMEDIES.

Subdivision 1. **Misdemeanor.** Any person who violates any provision of this chapter or section 325F.20 or 325F.21, or any rule promulgated thereunder, or knowingly submits false information in any report required by this chapter or section 325F.20 or 325F.21 shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

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

Subd. 3. **Money penalty.** When the court finds that any person has violated any provision of this chapter or section 325F.20 or 325F.21, or any rule thereunder, has knowingly submitted false information in any report required by this chapter or section 325F.20 or 325F.21, or has violated any court order issued under this chapter or section 325F.20 or 325F.21, the court may impose a civil penalty of not more than \$10,000 for each violation. These penalties shall be paid to the general fund in the state treasury.

Subd. 4. **Housing authority exempt.** With respect to low-rent housing, the provisions of subdivisions 1 and 3 shall not apply to a violation by a housing and redevelopment authority described in chapter 462 or a public housing authority, or an employee of either, of section 216C.27 or any rule promulgated thereunder.

Subd. 5. **Remedies additional for health or safety violation.** For purposes of sections 504B.161 and 504B.185 and 504B.381 to 504B.471, the weatherstripping, caulking, storm window, and storm door energy efficiency standards for renter-occupied residences prescribed by section 216C.27, subdivisions 1 and 3, are health and safety standards and the penalties and remedies provided in this section are in addition to and do not limit remedies otherwise available to tenants of renter-occupied residences.

History: 1974 c 307 s 15; Ex1979 c 2 s 33; 1981 c 356 s 161,248; 1982 c 563 s 11-13; 1984 c 595 s 6,7; 1985 c 248 s 70; 1987 c 312 art 1 s 10 subd 1; 1999 c 199 art 2 s 6

216C.31 ENERGY AUDIT PROGRAMS.

The commissioner shall develop and administer state programs of energy audits of residential and commercial buildings including those required by United States Code, title 42, sections 8211 to 8222 and sections 8281 to 8284. The commissioner shall continue to administer the residential energy audit program as originally established under the provisions of United States Code, title 42, sections 8211 to 8222; through July 1, 1986 irrespective of any prior expiration date provided in United States Code, title 42, section 8216. The commissioner may approve temporary programs if they are likely to result in the installation of as many conservation measures as would have been installed had the utility met the requirements of United States Code, title 42, sections 8211 to 8222. The Consumer Services Division and the attorney general may release

information on consumer comments about the operation of the program to the commissioner.

History: 1980 c 579 s 12; 1981 c 356 s 162,248; 1983 c 289 s 47; 1983 c 301 s 127; 1984 c 654 art 2 s 104; 1987 c 312 art 1 s 10 subd 1

216C.315 ALTERNATIVE ENERGY ECONOMIC ANALYSIS.

The commissioner shall carry out the following energy economic analysis duties:

- (1) provide continued analysis of alternative energy issues for the biennial report, certificates of need, and legislative requests;
- (2) provide alternative energy information to consumers and business;
- (3) assist in the maintenance and improvement of alternative energy input-output multipliers and market penetration models;
- (4) provide analysis of alternative energy data.

History: 1983 c 301 s 128; 1987 c 312 art 1 s 10 subd 1

216C.32 ENERGY-EFFICIENT BUILDING EDUCATION.

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

History: 1980 c 579 s 28; 1981 c 356 s 163,248; 1982 c 563 s 14; 1987 c 312 art 1 s 10 subd 1

216C.33 MINNESOTA BIOMASS CENTER.

Subdivision 1. **Creation, purpose.** The commissioner, in consultation with the commissioner of agriculture, may organize a Minnesota Biomass Center.

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

Subd. 2. **Duties.** The center shall:

- (1) coordinate existing education and training programs for biomass energy production and use within the state and develop new programs where necessary. Educational programs shall cover all types of biomass energy production use, including but not limited to production from grain, biowaste, and cellulosic materials;
- (2) serve as a central information resource in conjunction with existing agencies and academic institutions in order to provide information to the public on the production and use of biomass energy. The center shall obtain and analyze available information on biomass energy topics and prepare it for distribution to ensure that the public receives the most accurate and up-to-date information available;
- (3) participate in necessary research projects to assist in technological advancement in areas of biomass energy production, distribution, and use. The center shall also study the environmental and safety aspects of biomass energy use;
- (4) support and coordinate financing activities for biomass energy production, including providing technical assistance and manuals to individuals and groups seeking private, local, state or federal funding. The center shall be responsible for evaluating projects for any state assistance that may become available;
- (5) develop consumer information and protection programs for all aspects of biomass energy production and use;
- (6) investigate marketing and distribution needs within the state;
- (7) review state and federal laws and regulations affecting biomass energy production and use, and evaluate regulatory incentives in order to provide the legislature with

legislative proposals for the encouragement of biomass energy production and use within the state.

History: 1980 c 579 s 29; 1981 c 85 s 6; 1981 c 356 s 164,248; 1987 c 312 art 1 s 10 subd 1

FINANCIAL ASSISTANCE

216C.34 MONEY FOR SCHOOL OR GOVERNING BODY.

Money to pay part or all of the actual costs of mini-audits, maxi-audits and energy conservation measures performed by or for schools and governing bodies shall be available from legislative appropriations made for that purpose in accordance with the priorities established in section 216C.35. Money appropriated pursuant to this section is available to school districts and local governmental units that submitted acceptable mini-audits or maxi-audits after April 9, 1976 and before July 1, 1979.

History: Ex1979 c 2 s 34; 1980 c 579 s 13; 1981 c 356 s 248; 1987 c 312 art 1 s 10 subd 1

216C.35 PRIORITIES FOR FUNDING.

All applications for funding shall be made to the commissioner. Applications shall be accompanied by a report on the energy-using characteristics of the building and any other information the commissioner may reasonably require.

History: Ex1979 c 2 s 35; 1981 c 356 s 165,248; 1987 c 312 art 1 s 10 subd 1; 1997 c 7 art 1 s 92

216C.36 [Repealed, 1993 c 327 s 24]

216C.37 ENERGY CONSERVATION INVESTMENT LOAN.

Subdivision 1. **Definitions.** In this section:

- (a) "Commissioner" means the commissioner of commerce.
- (b) "Energy conservation investments" means all capital expenditures that are associated with conservation measures identified in an energy project study, and that have a ten-year or less payback period.
- (c) "Municipality" means any county, statutory or home rule charter city, town, school district, or any combination of those units operating under an agreement to jointly undertake projects authorized in this section.
- (d) "Energy project study" means a study of one or more energy-related capital improvement projects analyzed in sufficient detail to support a financing application. At a minimum, it must include one year of energy consumption and cost data, a description of existing conditions, a description of proposed conditions, a detailed description of the costs of the project, and calculations sufficient to document the proposed energy savings.

Subd. 2. **Eligibility.** The commissioner shall approve loans to municipalities for energy conservation investments. A loan may be made to a municipality that has demonstrated that it has complied with all the appropriate provisions of this section and has made adequate provisions to assure proper and efficient operation of the municipal facilities after improvements and modifications are completed.

Subd. 3. **Application.** Application for a loan to be made pursuant to this section shall be made by a municipality to the commissioner on a form the commissioner prescribes by rule. The commissioner shall review each application to determine:

- (1) whether or not the municipality's proposal is complete;
- (2) whether the calculations and estimates contained in the energy project study are appropriate, accurate, and reasonable;
- (3) whether the project is eligible for a loan;
- (4) the amount of the loan for which the project is eligible; and

(5) the means by which the municipality proposes to finance the project including:

- (i) a loan authorized by this section;
- (ii) a grant of money appropriated by state law;
- (iii) a grant to the municipality by an agency of the federal government within the amount of money then appropriated to that agency; or
- (iv) the appropriation of other money of the municipality to an account for the construction of the project.

Subd. 3a. **Additional information.** During application review, the commissioner may request additional information about a proposed energy conservation investment, including information on project cost. Failure to provide information requested disqualifies a loan applicant.

Subd. 3b. **Public accessibility of loan application data.** Data contained in an application submitted to the commissioner for a loan to be made pursuant to this section, including supporting technical documentation, is classified as "public data not on individuals" under section 13.02, subdivision 14.

Subd. 4. **Conditions for loan approval; repayment.** The commissioner shall approve loans to municipalities on the following conditions:

(a) A municipality must demonstrate that the project is economically feasible, and that it has made adequate provisions to assure proper and efficient operation of the facility once the project is completed.

(b) A loan made pursuant to this section is repayable over a period of not more than ten years from the date the loan is made. Interest shall accrue from the date the loan is made, but the first payment of interest or principal shall not be due until one year after the loan was made. The principal shall be amortized in equal periodic payments over the remainder of the term of the loan. The accrued interest on the balance of the loan principal shall be due with each payment. Interest attributable to the first year of deferred payment shall be paid in the same manner as principal.

(c) Public schools shall receive funding priority whenever approvable loan applications exceed available funds.

Subd. 5. **Payment; obligation.** The commissioner shall not approve payment to a municipality pursuant to an approved loan until the commissioner has determined that financing of the project is assured by an irrevocable undertaking, by resolution of the governing body of the municipality, to annually levy or otherwise collect an amount of money sufficient to pay the principal and interest due on the loan as well as any of the commissioner of finance's administrative expenses according to the terms of the loan.

Subd. 6. **Receipts; appropriation.** The commissioner of finance shall deposit in the state treasury all principal and interest payments received in repayment of the loans authorized by this section. These payments shall be credited to the bond proceeds fund and are appropriated to the commissioner of finance for the purposes of that account.

Subd. 7. **Rules.** The commissioner shall adopt rules necessary to implement this section. The rules shall contain as a minimum:

- (1) procedures for application by municipalities;
- (2) criteria for reviewing loan applications; and
- (3) procedures and guidelines for program monitoring, closeout, and evaluation.

Subd. 8. [Repealed, 1994 c 616 s 12]

History: 1983 c 289 s 115 subd 1; 1983 c 323 s 1; 1984 c 640 s 32; 1Sp1985 c 12 art 7 s 1; 1986 c 444; 1987 c 186 s 15; 1987 c 289 s 1; 1987 c 312 art 1 s 10 subd 1; 1987 c 386 art 3 s 16,17; 1989 c 271 s 31; 1993 c 163 art 1 s 28; 1993 c 327 s 15; 1994 c 616 s 2-5; 1996 c 305 art 2 s 42; 1Sp2001 c 4 art 6 s 51

216C.373 SUPERINSULATED HOME DEMONSTRATION PROJECT.

The superinsulated home demonstration project funded under Laws 1981, chapter 356, section 30, shall be continued under the direction of the commissioner and the

center to monitor and document new projects and projects in progress. The project shall:

- (1) work with the financial community to bring energy cost and savings into mortgage underwriting standards;
- (2) develop a definition of superinsulation for use by financial institutions.

History: 1983 c 301 s 132; 1987 c 312 art 1 s 10 subd 1

216C.38 BUILDING ENERGY RESEARCH CENTER.

Subdivision 1. **Energy partnership.** To improve the energy efficiency of buildings, the commissioner shall administer a Building Energy Research Center that shall be a cooperative effort among the commissioner, the University of Minnesota, technical colleges, and certain associations and businesses from the private sector. The center's goal is to become a nationally recognized center for building research.

Subd. 2. **Purpose.** The purpose of the Building Energy Research Center is to:

- (1) conduct studies of Minnesota building experience;
- (2) disseminate information acquired relating to building energy efficiency;
- (3) conduct continuing education courses;
- (4) provide limited energy and design consultation services for innovative projects;
- (5) coordinate and stimulate research efforts; and
- (6) seek private sector pledges to match appropriations for this program.

History: 1983 c 301 s 133; 1987 c 258 s 12; 1987 c 312 art 1 s 10 subd 1; 1989 c 246 s 2

216C.381 COMMUNITY ENERGY PROGRAM.

Subdivision 1. **Findings.** The legislature finds that community-based energy programs are an effective means of implementing improved energy practices including conservation, greater efficiency in energy use, and the use of alternative resources. Further, community-based energy programs are found to be a public purpose for which public money may be spent.

Subd. 2. **Community energy councils; creation.** Statutory and home rule charter cities, counties, or Indian tribal governments of federally recognized Minnesota-based bands or tribes, individually or through the exercise of joint powers agreements, may create community energy councils. Membership on a council shall include representatives of labor, small business, voluntary organizations, senior citizens, and low- and moderate-income residents, and may include city, county, and Indian tribal government officials, and other interested parties.

Subd. 3. **Council powers and duties.** In order to develop and implement community-based energy programs, a community energy council may:

- (1) analyze social and economic impacts caused by energy expenditures;
- (2) plan, coordinate, advertise, and provide energy programs to minimize negative social and economic impacts;
- (3) seek, accept, and disburse grants and other aids from public or private sources for purposes authorized in this subdivision; and
- (4) exercise other powers and duties imposed on it by statute, charter, or by ordinance.

Subd. 4. **Department assistance.** The commissioner may provide professional and financial assistance to communities to establish community energy councils, and develop and implement community energy programs, within available resources.

History: 1984 c 654 art 2 s 106; 1987 c 312 art 1 s 10 subd 1; 1988 c 617 s 5

216C.40 [Expired, 1993 c 254 s 6]

216C.41 RENEWABLE ENERGY PRODUCTION INCENTIVE.

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

(b) "Qualified hydroelectric facility" means a hydroelectric generating facility in this state that:

(1) is located at the site of a dam, if the dam was in existence as of March 31, 1994; and

(2) begins generating electricity after July 1, 1994, or generates electricity after substantial refurbishing of a facility that begins after July 1, 2001.

(c) "Qualified wind energy conversion facility" means a wind energy conversion system in this state that:

(1) produces two megawatts or less of electricity as measured by nameplate rating and begins generating electricity after December 31, 1996, and before July 1, 1999;

(2) begins generating electricity after June 30, 1999, produces two megawatts or less of electricity as measured by nameplate rating, and is:

(i) owned by a resident of Minnesota or an entity that is organized under the laws of this state, is not prohibited from owning agricultural land under section 500.24, and owns the land where the facility is sited;

(ii) owned by a Minnesota small business as defined in section 645.445;

(iii) owned by a Minnesota nonprofit organization;

(iv) owned by a tribal council if the facility is located within the boundaries of the reservation;

(v) owned by a Minnesota municipal utility or a Minnesota cooperative electric association; or

(vi) owned by a Minnesota political subdivision or local government, including, but not limited to, a county, statutory or home rule charter city, town, school district, or any other local or regional governmental organization such as a board, commission, or association; or

(3) begins generating electricity after June 30, 1999, produces seven megawatts or less of electricity as measured by nameplate rating, and:

(i) is owned by a cooperative organized under chapter 308A other than a Minnesota cooperative electric association; and

(ii) all shares and membership in the cooperative are held by an entity that is not prohibited from owning agricultural land under section 500.24.

(d) "Qualified on-farm biogas recovery facility" means an anaerobic digester system that:

(1) is located at the site of an agricultural operation;

(2) is owned by an entity that is not prohibited from owning agricultural land under section 500.24 and that owns or rents the land where the facility is located; and

(3) begins generating electricity after July 1, 2001.

(e) "Anaerobic digester system" means a system of components that processes animal waste based on the absence of oxygen and produces gas used to generate electricity.

Subd. 2. Incentive payment; appropriation. (a) Incentive payments must be made according to this section to (1) a qualified on-farm biogas recovery facility, (2) the owner or operator of a qualified hydropower facility or qualified wind energy conversion facility for electric energy generated and sold by the facility, (3) a publicly owned hydropower facility for electric energy that is generated by the facility and used by the owner of the facility outside the facility, or (4) the owner of a publicly owned dam that is in need of substantial repair, for electric energy that is generated by a hydropower facility at the dam and the annual incentive payments will be used to fund the structural repairs and replacement of structural components of the dam, or to retire debt incurred to fund those repairs.

(b) Payment may only be made upon receipt by the commissioner of finance of an incentive payment application that establishes that the applicant is eligible to receive an

incentive payment and that satisfies other requirements the commissioner deems necessary. The application must be in a form and submitted at a time the commissioner establishes.

(c) There is annually appropriated from the general fund to the commissioner of commerce sums sufficient to make the payments required under this section, other than the amounts funded by the renewable development account as specified in subdivision 5a.

Subd. 3. **Eligibility window.** Payments may be made under this section only for electricity generated:

(1) from a qualified hydroelectric facility that is operational and generating electricity before December 31, 2005;

(2) from a qualified wind energy conversion facility that is operational and generating electricity before January 1, 2007; or

(3) from a qualified on-farm biogas recovery facility from July 1, 2001, through December 31, 2017.

Subd. 4. **Payment period.** (a) A facility may receive payments under this section for a ten-year period. No payment under this section may be made for electricity generated:

(1) by a qualified hydroelectric facility after December 31, 2017;

(2) by a qualified wind energy conversion facility after December 31, 2017; or

(3) by a qualified on-farm biogas recovery facility after December 31, 2015.

(b) The payment period begins and runs consecutively from the date the facility begins generating electricity or, in the case of refurbishment of a hydropower facility, after substantial repairs to the hydropower facility dam funded by the incentive payments are initiated.

Subd. 5. **Amount of payment; wind facilities limit.** (a) An incentive payment is based on the number of kilowatt hours of electricity generated. The amount of the payment is:

(1) for a facility described under subdivision 2, paragraph (a), clause (4), 1.0 cent per kilowatt hour; and

(2) for all other facilities, 1.5 cents per kilowatt hour.

For electricity generated by qualified wind energy conversion facilities, the incentive payment under this section is limited to no more than 100 megawatts of nameplate capacity.

(b) For wind energy conversion systems installed and contracted for after January 1, 2002, the total size of a wind energy conversion system under this section must be determined according to this paragraph. Unless the systems are interconnected with different distribution systems, the nameplate capacity of one wind energy conversion system must be combined with the nameplate capacity of any other wind energy conversion system that is:

(1) located within five miles of the wind energy conversion system;

(2) constructed within the same calendar year as the wind energy conversion system; and

(3) under common ownership.

In the case of a dispute, the commissioner of commerce shall determine the total size of the system, and shall draw all reasonable inferences in favor of combining the systems.

(c) In making a determination under paragraph (b), the commissioner of commerce may determine that two wind energy conversion systems are under common ownership when the underlying ownership structure contains similar persons or entities, even if the ownership shares differ between the two systems. Wind energy conversion systems are not under common ownership solely because the same person or entity provided equity financing for the systems.

Subd. 5a. **Renewable development account.** The Department of Commerce shall authorize payment of the renewable energy production incentive to wind energy conversion systems for 100 megawatts of nameplate capacity in addition to the capacity authorized under subdivision 5 and to on-farm biogas recovery facilities. Payment of the incentive shall be made from the renewable energy development account as provided under section 116C.779, subdivision 2.

Subd. 6. **Ownership; financing; cure.** (a) For the purposes of subdivision 1, paragraph (c), clause (2), a wind energy conversion facility qualifies if it is owned at least 51 percent by one or more of any combination of the entities listed in that clause.

(b) A subsequent owner of a qualified facility may continue to receive the incentive payment for the duration of the original payment period if the subsequent owner qualifies for the incentive under subdivision 1.

(c) Nothing in this section may be construed to deny incentive payment to an otherwise qualified facility that has obtained debt or equity financing for construction or operation as long as the ownership requirements of subdivision 1 and this subdivision are met. If, during the incentive payment period for a qualified facility, the owner of the facility is in default of a lending agreement and the lender takes possession of and operates the facility and makes reasonable efforts to transfer ownership of the facility to an entity other than the lender, the lender may continue to receive the incentive payment for electricity generated and sold by the facility for a period not to exceed 18 months. A lender who takes possession of a facility shall notify the commissioner immediately on taking possession and, at least quarterly, document efforts to transfer ownership of the facility.

(d) If, during the incentive payment period, a qualified facility loses the right to receive the incentive because of changes in ownership, the facility may regain the right to receive the incentive upon cure of the ownership structure that resulted in the loss of eligibility and may reapply for the incentive, but in no case may the payment period be extended beyond the original ten-year limit.

(e) A subsequent or requalifying owner under paragraph (b) or (d) retains the facility's original priority order for incentive payments as long as the ownership structure requalifies within two years from the date the facility became unqualified or two years from the date a lender takes possession.

Subd. 7. **Eligibility process.** (a) A qualifying project is eligible for the incentive on the date the commissioner receives:

- (1) an application for payment of the incentive;
- (2) one of the following:
 - (i) a copy of a signed power purchase agreement;
 - (ii) a copy of a binding agreement other than a power purchase agreement to sell electricity generated by the project to a third person; or
 - (iii) if the project developer or owner will sell electricity to its own members or customers, a copy of the purchase order for equipment to construct the project with a delivery date and a copy of a signed receipt for a nonrefundable deposit; and
- (3) any other information the commissioner deems necessary to determine whether the proposed project qualifies for the incentive under this section.

(b) The commissioner shall determine whether a project qualifies for the incentive and respond in writing to the applicant approving or denying the application within 15 working days of receipt of the information required in paragraph (a). A project that is not operational within 18 months of receipt of a letter of approval is no longer approved for the incentive. The commissioner shall notify an applicant of potential loss of approval not less than 60 days prior to the end of the 18-month period. Eligibility for a project that loses approval may be reestablished as of the date the commissioner receives a new completed application.

History: 1994 c 643 s 71; 1995 c 245 s 4-8; 1997 c 216 s 124; 1999 c 223 art 2 s 34,35; 2000 c 488 art 2 s 15; 2001 c 212 art 5 s 1-3; 1Sp2001 c 4 art 2 s 21; 2002 c 398 s 6; 2003 c 128 art 3 s 44; 1Sp2003 c 11 art 2 s 9-15; 2004 c 228 art 1 s 35,76 subd 10