16B.322 STATE ENERGY IMPROVEMENT FINANCING PROGRAM.

Subdivision 1. **Commissioner's authority and duties; state agency authority.** The commissioner shall administer the energy improvement financing program created by this section. A state agency may enter into contracts for the purposes of this section with the commissioner and participating financial institutions. All technical services and construction contracts shall be executed through the appropriate procurement procedure in this chapter, chapter 16C, and other applicable law.

Subd. 2. **Program eligibility; voluntary program participation; targeted technical services.** A state agency may elect to participate in the program. The commissioner may prioritize and target technical services offered under subdivision 3 to state agencies with state buildings or facilities that the commissioner determines offer the greatest potential to improve energy efficiency or reduce use of fossil-fuel energy.

Subd. 3. **Targeted technical services.** The commissioner may require full or partial reimbursement of costs for technical services provided to a state agency, subject to terms and conditions specified and agreed to by contract prior to the delivery of technical services.

Subd. 4. **Financing agreement.** The commissioner shall solicit proposals from private financial institutions and may enter into a financing agreement with one or more financial institutions. The term of the financing agreement shall not exceed 15 years from the date of final completion of the energy improvement project. The financing agreement is assignable to the state agency operating or managing the state building or facility improved by the energy improvement project. The proceeds from the financing agreement are appropriated to the commissioner and may be used for the purposes of this section and are available until spent.

Subd. 4a. **Financing agreement.** The commissioner of administration may, in connection with a financing agreement, covenant in a master lease-purchase agreement that the state will abide by the terms and provisions that are customary in net lease or lease-purchase transactions including, but not limited to, covenants providing that the state:

(1) will maintain insurance as required under the terms of the lease agreement;

(2) is responsible to the lessor for any public liability or property damage claims or costs related to the selection, use, or maintenance of the leased equipment, to the extent of insurance or self-insurance maintained by the lessee, and for costs and expenses incurred by the lessor as a result of any default by the lessee;

(3) authorizes the lessor to exercise the rights of a secured party with respect to the equipment subject to the lease in the event of default by the lessee and, in addition, for the present recovery of lease rentals due during the current term of the lease as liquidated damages.

Subd. 4b. **Master lease-purchase agreements not debt.** A tax-exempt lease-purchase agreement related to a financing agreement does not constitute or create a general or moral obligation or indebtedness of the state in excess of the money from time to time appropriated or otherwise available for the payment of rent coming due under the lease, and the state has no continuing obligation to appropriate money for the payment of rent or other obligations under the lease. Rent due under a master lease-purchase agreement during a current lease term for which money has been appropriated is a current expense of the state.

Subd. 4c. **Budget offset.** The commissioner of management and budget shall reduce the operating budgets of state agencies that use the master lease-purchase program under a financial agreement. The amount of the reduction is the amount sufficient to make the actual master lease payments.

Subd. 5. **Qualifying energy improvement projects.** The commissioner may approve an energy improvement project and enter into a financing agreement if the commissioner determines that:

(1) the project and financing agreement have been approved by the governing body or head of the state agency that operates or manages the state building or facility to be improved;

(2) the project is technically and economically feasible;

(3) the state agency that operates or manages the state building or facility has made adequate provision for the operation and maintenance of the project;

(4) if an energy efficiency improvement, the project is calculated to result in a positive cash flow in each year the financing agreement is in effect;

(5) the project proposer has fully explored the use of conservation investment plan opportunities under section 216B.241 with the utilities providing gas and electric service to the energy improvement project;

(6) if a renewable energy improvement, the project is calculated to reduce use of fossil-fuel energy; and

(7) if a geothermal energy improvement, the project is calculated to produce savings in terms of nongeothermal energy and costs.

For the purpose of clause (6), "renewable energy" is energy produced by an eligible energy technology as defined in section 216B.1691, subdivision 1, paragraph (a), clause (1).

Subd. 6. **Program costs.** Program costs incurred by the commissioner or a state agency that are not reimbursed or paid directly under a financing agreement may be paid with money made available to the commissioner under section 216C.43, subdivision 10.

Subd. 7. **Conservation investment plan savings goals.** A utility or association may count toward its energy-savings goals under section 216B.241, subdivision 1c, the energy savings resulting from its investment in an energy improvement project.

Subd. 8. **Report.** Beginning January 15, 2009, and each year thereafter, the commissioner of administration shall submit to the chairs and ranking minority members of the senate and house of representatives committees on energy finance a report containing, at a minimum, the following information regarding projects implemented under this section:

(1) the total number of projects;

(2) the amount of calculated and, if available, actual energy savings for each project;

(3) the cost of each project; and

(4) the total amount paid for technical services provided under subdivision 3 for each project.

History: *2008 c 356 s 2; 2009 c 101 art 2 s 109; 2009 c 138 art 2 s 9-11*