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HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2541

- 02/27/2014 Authored by Hortman
The bill was read for the first time and referred to the Committee on Energy Policy
- 03/04/2014 Adoption of Report: Amended and re-referred to the Committee on Government Operations
- 03/27/2014 Adoption of Report: Placed on the General Register
Read Second Time

1.1 A bill for an act
 1.2 relating to energy; making changes to the energy improvements program for
 1.3 local governments; making technical changes; amending Minnesota Statutes
 1.4 2012, sections 216C.41, subdivision 4; 216C.436, subdivision 4, by adding a
 1.5 subdivision; repealing Minnesota Rules, parts 3300.0800; 3300.0900; 3300.1000,
 1.6 subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23,
 1.7 24, 25, 25a, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; 3300.1100; 3300.1200;
 1.8 3300.1300; 3300.1400; 3300.1500; 3300.1600; 3300.1700; 3300.1800;
 1.9 3300.1900; 7607.0100; 7607.0110; 7607.0120; 7607.0130; 7607.0140;
 1.10 7607.0150; 7607.0160; 7607.0170; 7607.0180; 7610.0300; 7685.0100;
 1.11 7685.0120; 7685.0130; 7685.0140.

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

1.13 Section 1. Minnesota Statutes 2012, section 216C.41, subdivision 4, is amended to read:

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

- 1.16 (1) by a qualified hydroelectric facility after December 31, 2021;
- 1.17 (2) by a qualified wind energy conversion facility after December 31, 2018; or
- 1.18 (3) by a qualified on-farm biogas recovery facility after December 31, ~~2015~~ 2017.

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

1.23 Sec. 2. Minnesota Statutes 2012, section 216C.436, subdivision 4, is amended to read:

1.24 Subd. 4. **Financing terms.** Financing provided under this section must have:

2.1 (1) a weighted average maturity not exceeding the useful life of the energy
2.2 improvements installed, as determined by the implementing entity, but in no event may
2.3 a term exceed 20 years;

2.4 (2) a principal amount not to exceed the lesser of ~~ten~~ 20 percent of the assessed value
2.5 of the real property on which the improvements are to be installed or the actual cost of
2.6 installing the energy improvements, including the costs of necessary equipment, materials,
2.7 and labor, the costs of each related energy audit or renewable energy system feasibility
2.8 study, and the cost of verification of installation; and

2.9 (3) an interest rate sufficient to pay the financing costs of the program, including the
2.10 issuance of bonds and any financing delinquencies.

2.11 Sec. 3. Minnesota Statutes 2012, section 216C.436, is amended by adding a
2.12 subdivision to read:

2.13 Subd. 9. **Supplemental funding sources.** (a) An implementing entity is authorized
2.14 to establish, acquire, and use additional or alternative funding sources for the purposes
2.15 of this section.

2.16 (b) For the purposes of this subdivision, additional or alternative funding sources
2.17 may include, but are not limited to, issuance of general obligation bonds in a manner
2.18 consistent with the requirements of chapter 475.

2.19 Sec. 4. **REPEALER.**

2.20 Subdivision 1. **Weatherization assistance.** Minnesota Rules, parts 3300.0800;
2.21 3300.0900; 3300.1000, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19,
2.22 20, 21, 22, 23, 24, 25, 25a, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36; 3300.1100;
2.23 3300.1200; 3300.1300; 3300.1400; 3300.1500; 3300.1600; 3300.1700; 3300.1800; and
2.24 3300.1900, are repealed.

2.25 Subd. 2. **Energy conservation loan program.** Minnesota Rules, parts 7607.0100;
2.26 7607.0110; 7607.0120; 7607.0130; 7607.0140; 7607.0150; 7607.0160; 7607.0170; and
2.27 7607.0180, are repealed.

2.28 Subd. 3. **Electric utilities; extended forecasts.** Minnesota Rules, part 7610.0300,
2.29 is repealed.

2.30 Subd. 4. **Cooling systems replacement; energy efficiency criteria.** Minnesota
2.31 Rules, parts 7685.0100; 7685.0120; 7685.0130; and 7685.0140, are repealed.

3300.0800 PURPOSE.

The purpose of parts 3300.0800 to 3300.1900 is to develop and implement a state weatherization assistance program under the authority of Minnesota Statutes, section 268.37 in the dwellings of low-income persons in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

3300.0900 ADMINISTRATION OF GRANTS.

Grants awarded under parts 3300.0800 to 3300.1900 shall be administered in accordance with the following:

A. Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, issued as Office of Management and Budget Circular A-102 Revised and found in the Federal Register, volume 42, pages 45828-45891 (1977);

B. Grants and Agreements With Institutions of Higher Education, Hospitals, and other Nonprofit Organizations, issued as Office of Management and Budget Circular A-110 and found in the Federal Register, volume 41, pages 32016-32037 (1976);

C. Audit of Federal Operations and Programs, issued as Office of Management and Budget Circular A-73 and found in the Federal Register, volume 43, pages 12404-12406 (1978);

D. Cost Principles for State and Local Governments, issued as Office of Management and Budget Circular A-87 and found in the Federal Register, volume 46, pages 9548-9554 (1981);

E. Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects, issued as Office of Management and Budget Circular A-95 and found in the Federal Register, volume 40, pages 2052-2065 (1976);

F. Notification to States of Grant-in-Aid Information, issued as United States Treasury Circular 1082 and found in the Federal Register, volume 41, page 2652 (1976); and

G. Withdrawal of Cash From the Treasury for Advances Under Federal Grant and Other Programs, issued as United States Treasury Circular 1075 and found in the Code of Federal Regulations, title 31, part 205 (1980).

3300.1000 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3300.0800 to 3300.1900 the following terms have the meanings given them.

3300.1000 DEFINITIONS.

Subp. 2. **Agency.** "Agency" means an organization that receives funds under parts 3300.0800 to 3300.1900 to operate a weatherization program.

3300.1000 DEFINITIONS.

Subp. 3. **Assistant commissioner.** "Assistant commissioner" means the assistant commissioner of the Division of Training and Community Services of the Department of Employment and Economic Development.

3300.1000 DEFINITIONS.

Subp. 4. **Community action agency.** "Community action agency" means a private corporation or public agency as defined in Minnesota Statutes, section 256E.31, subdivision 1.

3300.1000 DEFINITIONS.

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

3300.1000 DEFINITIONS.

Subp. 6. **Conditioned space.** "Conditioned space" means an area inside the building envelope where the air temperature can be altered by a heating or cooling device.

3300.1000 DEFINITIONS.

Subp. 7. **Cosmetic items.** "Cosmetic items" means items that only enhance the aesthetic appearance of the property. Some examples of "cosmetic items" are finishes, decorative

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fenestration, and elevation materials such as aluminum siding, board and batten, clapboard, brick, stone, shakes, and asphalt siding.

3300.1000 DEFINITIONS.

Subp. 8. **Cost of employment.** "Cost of employment" means compensation for services as defined in Office of Management and Budget Circular A-87, Attachment B, A.10, A.13, and A.14, as cited in part 3300.0900, item D.

3300.1000 DEFINITIONS.

Subp. 9. **Department.** "Department" means the Department of Employment and Economic Development.

3300.1000 DEFINITIONS.

Subp. 10. **Dwelling unit.** "Dwelling unit" means a house or household. It includes stationary mobile homes, homes, apartments, and groups of rooms or single rooms occupied as separate living quarters.

3300.1000 DEFINITIONS.

Subp. 11. **Elderly person.** "Elderly person" means a person who is 60 years of age or older.

3300.1000 DEFINITIONS.

Subp. 12. **Eligible dwelling unit.** "Eligible dwelling unit" means a dwelling unit that is occupied by a low-income family unit.

3300.1000 DEFINITIONS.

Subp. 13. **Family unit.** "Family unit" means all persons living together in a dwelling unit.

3300.1000 DEFINITIONS.

Subp. 14. **Grantee.** "Grantee" means an organization that receives funds under this rule to operate a weatherization program.

3300.1000 DEFINITIONS.

Subp. 15. **Grantor.** "Grantor" means the Division of Training and Community Services, Department of Employment and Economic Development, state of Minnesota.

3300.1000 DEFINITIONS.

Subp. 17. **Heating degree days.** "Heating degree days" means the difference in temperature, in degrees Fahrenheit between the mean temperature for the day and 65 degrees Fahrenheit on any day when the mean temperature is less than 65 degrees Fahrenheit. Data for this factor is from Monthly Normals of Temperature, Precipitation and Heating and Cooling Degree Days, 1941 to 1970, issued by the National Oceanic and Atmospheric Administration (United States Department of Commerce, 1973).

3300.1000 DEFINITIONS.

Subp. 18. **Heating or cooling source.** "Heating or cooling source" means a device that can raise or lower temperatures in a dwelling unit as part of the permanent heating, ventilating, and air conditioning system installed in the dwelling unit. It includes furnaces, heat pumps, stoves, boilers, heaters, fireplaces, air conditioners, fans, and solar devices.

3300.1000 DEFINITIONS.

Subp. 19. **Independent contractor.** "Independent contractor" means an entity that furnishes materials or provides labor or both in the weatherization of buildings of low-income persons.

3300.1000 DEFINITIONS.

Subp. 20. **Indian tribe.** "Indian tribe" means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaska native village, or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act, United States Code, title 43, sections 1601 to 1628 (1977 and Supplement III 1980), which:

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A. is recognized as eligible for special programs and services provided by the United States to Native Americans because of its status as Native American; or

B. is located on or near a federal or state reservation or rancheria.

3300.1000 DEFINITIONS.

Subp. 21. **Low-income.** "Low-income" means having a total household income in relation to family size which:

A. is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Federal Office of Management and Budget in Code of Federal Regulations, title 45, section 1060 (1981); or

B. is the basis for which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act, Statutes at Large, volume 49, page 620, chapter 531 (1935), codified in scattered sections of United States Code, volume 42.

3300.1000 DEFINITIONS.

Subp. 22. **Mechanical equipment.** "Mechanical equipment" means control devices or apparatus that is primarily designed to improve the heating or cooling efficiency of a dwelling unit and that will be permanently affixed to an existing heating or cooling source. It includes a flue damper, clock setback thermostat, filter, and replacement limit switches.

3300.1000 DEFINITIONS.

Subp. 23. **Multifamily dwelling unit.** "Multifamily dwelling unit" means a dwelling unit that is located in a structure containing more than one dwelling unit.

3300.1000 DEFINITIONS.

Subp. 24. **Number of low-income, owner-occupied dwelling units in the county.** "Number of low-income, owner-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

3300.1000 DEFINITIONS.

Subp. 25. **Number of low-income, renter-occupied dwelling units in the county.** "Number of low-income, renter-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

3300.1000 DEFINITIONS.

Subp. 25a. **Person with a disability.** "Person with a disability" means a person who, in the opinion of a qualified medical person, is permanently physically or mentally disabled. "Qualified medical person" means a qualified physician or chiropractor authorized to practice in the state of Minnesota.

3300.1000 DEFINITIONS.

Subp. 26. **Repair material.** "Repair material" means an item necessary for the effective performance or preservation of weatherization materials. "Repair material" includes lumber used to frame or repair windows and doors that could not otherwise be caulked or weather-stripped, and protective materials, such as paint, used to seal materials installed under this program. "Repair material" also includes furnace efficiency modifications limited to:

- A. replacement burners;
- B. devices for modifying fuel openings, including one-time replacement of furnace filters; and
- C. electrical or mechanical furnace ignition systems that replace standing gas pilot lights.

3300.1000 DEFINITIONS.

Subp. 27. **Regional clearinghouse.** "Regional clearinghouse" means the local regional development commission that has the authority under title IV of the Intergovernmental Cooperation Act of 1968, United States Code, volume 42, sections 4231 to 4233 (1977), to review and comment with respect to projects funded by the federal and state governments.

3300.1000 DEFINITIONS.

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Subp. 28. **Rental dwelling unit.** "Rental dwelling unit" means a dwelling unit occupied by a person who pays periodic sums of money to occupy the dwelling unit.

3300.1000 DEFINITIONS.

Subp. 29. **Separate living quarters.** "Separate living quarters" means those in which the occupants do not regularly live and eat with any other persons in the structure and which have either direct access from the outside of the building or through a common hall, or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

3300.1000 DEFINITIONS.

Subp. 30. **Single-family dwelling unit.** "Single-family dwelling unit" means a structure containing no more than one dwelling unit.

3300.1000 DEFINITIONS.

Subp. 31. **State.** "State" means the state of Minnesota.

3300.1000 DEFINITIONS.

Subp. 32. **Weatherization crew.** "Weatherization crew" means a group of weatherization laborers with a weatherization supervisor.

3300.1000 DEFINITIONS.

Subp. 33. **Weatherization laborer.** "Weatherization laborer" means a person who performs weatherization and repair activities necessary to complete work on eligible dwelling units. The work may include auditing, inspecting, delivery, and physical warehousing of weatherization materials and equipment.

3300.1000 DEFINITIONS.

Subp. 34. **Weatherization project.** "Weatherization project" means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are thermally inefficient.

3300.1000 DEFINITIONS.

Subp. 35. **Weatherization supervisor.** "Weatherization supervisor" means a person who inspects weatherization and repair activities and who is responsible for crew laborers' conduct, performance, and evaluation.

3300.1000 DEFINITIONS.

Subp. 36. **Weatherization materials.** "Weatherization materials" means materials used to weatherize homes as defined in Code of Federal Regulations, title 10, sections 456.101 to 456.914 (1980) amended by Federal Register, volume 45, pages 63449, 63453, 63793 (1980).

3300.1100 ALLOCATION OF FUNDS.

Subpart 1. **Determination.** The department shall allocate funds by county to eligible grantees with a demonstrated ability to administer and deliver weatherization services. The department shall determine whether or not a grantee has a demonstrated ability to administer and deliver weatherization services by taking into account the criteria in subpart 4. Equal weight shall be given to each of the criteria. The department shall also allocate funds to eligible grantees who have been engaged in contracting for the construction and repair of real property.

Subp. 2. **Contracts.** All contracts between the state and a grantee will run for six months beginning July 1.

Subp. 3. **Termination of grant.** A grant shall be terminated if the department determines, after a public hearing conducted by the Office of Administrative Hearings, that the grantee has been ineffective in meeting the purpose of Minnesota Statutes, section 268.37.

Subp. 4. **Criteria.** In making a determination under subpart 3, the department shall evaluate the performance of the grantee and shall consider:

A. how quickly the weatherization project achieves the goals of Minnesota Statutes, section 268.37;

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- B. whether the grantee has adhered to the plan submitted;
- C. the quality of work performed through the grantee; and
- D. the number, qualifications, and experience of staff members of the grantee.

3300.1200 GRANT APPLICATIONS.

Subpart 1. **Application procedure.** Applications to the department must contain a plan for the use of state funds which is submitted not later than 30 days after receipt of written notice from the department of the availability of funds for each year. The department shall review each timely application and if the submission complies with the applicable provisions of this rule, approve a final budget and issue a notice of grant award.

Subp. 2. **Application.** Each application must include:

- A. the name and address of the grantee responsible for administering the program;
- B. a financial schedule which indicates the monthly funding requirements based on projected production;
- C. staffing patterns for all weatherization personnel to allow local program grantees to attain production goals;
- D. a written review of the plan by the regional clearinghouse; and
- E. a statement by grantee ensuring that:
 - (1) no dwelling unit may be weatherized without written documentation that the unit is eligible for weatherization as provided in parts 3300.0800 to 3300.1900;
 - (2) there is an outreach process used to obtain applications together with a description of that process; and
 - (3) it will establish a priority system for client applications.

Each application must state the minimum number of dwelling units to be completed by each grantee which are to be established by the department.

Subp. 3. **Maximum amount of material in dwelling unit.** The grantee shall ensure that no eligible dwelling unit receives more than \$750 in material and that each dwelling unit is weatherized according to the priority list established by the department as found in subparts 4 and 5. The department shall waive the \$750 restriction for individual eligible dwelling units on written application documenting that the material costs on the applicant's dwelling exceed \$750 and that all activities are eligible according to the agency's priority list. A waiver will be granted if the eligible dwelling exceeds 1,500 square feet, or is two story, or requires more than 16 storm windows. If a waiver is granted, the total material expenditures may not exceed \$1,000. For purposes of subparts 4 and 5, home types have the following meanings:

- A. "Type I" means homes with accessible attics;
- B. "Type II" means homes with inaccessible basements;
- C. "Type III" means homes with solid walls;
- D. "Type IV" means homes with knee wall construction;
- E. "Type V" means mobile homes.

Subp. 4. **Department's memorandum; weatherization priorities for home types I-IV, 8-28-81.** The following list of priorities is a departmental memorandum:

Weatherization deliverers will follow the priority list given below. If the particular activity listed currently exists or cannot be done, then an explanation must be made on the Retro Tech Job Sheet. If the client will not permit certain activities, then a statement with an explanation of the refusal to permit work, signed by the client, must be in the file.

Priorities

I. General Heat Waste

- A. Caulk all exterior envelope infiltration points including:
 - 1. Window and door frames.
 - 2. Sill plates.
 - 3. Foundation cracks.
 - 4. Corners of buildings.
 - 5. Under door sills.
 - 6. Around all electrical & plumbing entrances.
 - 7. All other infiltration areas.

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- B. Install hot water heater jackets except where a vent damper is present.
 - C. Insulate hot water pipes in accessible unheated space.
 - D. Weatherstrip movable windows and doors between conditioned and unconditioned space, including basement doors, attic scuttles and knee wall entrances.
 - E. Install gaskets on electrical boxes located on the interior side of exterior walls.
 - F. Replace or reset broken or loose glass.
- II. Insulate Attic area
- A. To R-38
 - B. Vent in accordance with FHA/HUD Minimum Property Standards. (No vapor barrier 1 to 150 ratio; with vapor barrier 1 to 300 ratio.)
 - C. Insulate attic scuttle doors to R-30; dam access area allowing entry to attic.
- III. Insulate exterior walls to minimum of R-11.
- IV. Insulate rim joist area to a minimum of R-19 with vapor barrier on warm side.
- V. Insulate above-grade foundation walls to R-11. When insulation is applied to interior side of the foundation wall, extend insulation 2 feet below grade.
- On crawl space, either insulate perimeter foundation wall to R-11 or floor to minimum of R-19 where freezing of pipes is not a factor.
- VI. Install storm windows on single-glazed windows where storm windows are missing or existing storm windows are deteriorated beyond repair.
- VII. Install new primary doors and windows only where old ones are beyond repair and cannot be weatherstripped.

Optional Items – Only after all of the required items are completed and if maximum material limit has not been reached.

I. Clock set back thermostats.

II. Storm doors.

Subp. 5. **Department's memorandum; mobile home priorities, 8-28-81.** The following list of priorities is a departmental memorandum:

Priorities for Type V Home

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

- 1. Window and door frames.
- 2. Corners of buildings.
- 3. Under door sills.
- 4. Around all electrical and plumbing entrances.
- 5. Along all siding seams.
- 6. Around all "through the wall" accessories.

B. Install hot water heater jackets on electrical water heaters, or
Insulate water heater closet on gas and oil fired water heaters.

C. Insulate hot water pipes where accessible.

D. Replace all worn weather stripping on all movable windows.

E. Weatherstrip all exterior prime doors.

F. Replace or reset broken or loose glass.

II. Insulate ceiling to maximum extent possible not to exceed R-38 and install at least two 8-inch round vents or equivalent.

III. Insulate floor to maximum extent possible not to exceed R-38.

IV. Install storm windows on those single glazed windows where the original storm is either missing or damaged beyond repair.

V. Install new prime doors and windows where existing ones are beyond repair.

Optional Items (Only after all required items are completed.)

I. Replace damaged or missing storm door.

II. Repair and tighten skirting – certify that permanent vent equaling 36 sq. in. per 25 lineal feet of skirt is installed if skirting repair is done.

3300.1300 ALLOWABLE EXPENDITURES.

Expenditures shall be limited to:

- A. the cost of purchase, delivery, and storage of weatherization materials;
- B. transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the dwelling work site;
- C. maintenance, operation, and insurance of vehicles to transport items in item B;
- D. maintenance of tools and equipment;
- E. purchases of tools, equipment, and vehicles;
- F. payments to an independent contractor for furnishing materials or providing labor or both in the weatherization of dwellings of low-income persons;
- G. the cost of employment of weatherization supervisors;
- H. the cost of employment of weatherization laborers;
- I. the cost, not to exceed \$150 per dwelling unit, for repair materials and repairs to the heating source necessary to make the installation of weatherization materials effective;
- J. building permits where applicable;
- K. the cost of liability insurance for weatherization projects for personal injury and property damage;
- L. administrative expenses not to exceed 7.5 percent of each grantee's allocation; and
- M. weatherization of a building containing eligible rental dwelling units if at least 66 percent of the rental units in the building are eligible dwelling units and if the landlord or landlord's agent agrees in writing that the grantee may do the weatherization work and that rents will not be raised because of the weatherization work.

All purchases in item E with an acquisition value of \$300 or more must have written approval from the department. Purchasing must follow procedures outlined in Office of Management and Budget Circulars A-87, A-102, and A-110, as cited in part 3300.0900.

3300.1400 UNALLOWABLE EXPENDITURES.

Grant funds may not be used for any of the following purposes:

- A. to weatherize a dwelling unit that has been weatherized previously with grant funds from the United States Department of Energy or state assistance under Minnesota Statutes, section 268.37 or parts 3300.0800 to 3300.1900, unless the dwelling unit has been damaged by fire, flood, or an act of God, and repair of the damage to weatherization materials is not paid for by insurance;
- B. to weatherize a dwelling unit that is vacant or designated for acquisition or clearance by a federal, state, or local government program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or
- C. to purchase cosmetic items, remodeling items, or a heating or cooling source.

3300.1500 OVERSIGHT RESPONSIBILITY.

The department shall supervise the projects of the grantees in the following manner:

- A. At least once every three months the department shall monitor and evaluate the operation of projects carried out by the grantees receiving financial assistance under parts 3300.0800 to 3300.1900 through on-site inspections, reviews of reports submitted by grantees, and inspection of their books and records.
- B. The grantee shall give the department access, for the purpose of audit and examination, to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under parts 3300.0800 to 3300.1900.
- C. The commissioner shall conduct an annual audit of the records of a grantee receiving financial assistance under parts 3300.0800 to 3300.1900.

3300.1600 RECORD KEEPING.

Record keeping shall be in accordance with Office of Management and Budget Circular A-87 as cited in part 3300.0900, item D. Each grantee receiving state financial assistance under parts 3300.0800 to 3300.1900 shall keep records the department requires, including records which fully disclose the amount and disposition by each grantee of funds received under parts 3300.0800 to 3300.1900, the total cost of the weatherization project for which the assistance was given or

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used, including all sources and amounts of funds for the project or program, and other records the department deems necessary for an effective audit and performance evaluation.

3300.1700 MONTHLY REPORTS.

Each grantee receiving financial assistance under parts 3300.0800 to 3300.1900 shall submit a monthly program performance report and a monthly financial report or invoice to the department.

3300.1800 GRANTING PROCESS.

When the department approves an application for a grant, it shall notify the grantee, in writing, of the approval. The department and the grantee shall sign a grant contract. The grant contract must specify what report requirements and other grant requirements must be met prior to any obligation of funds. Payments on grant contracts shall be made on the basis of grantee activity in the program. Cash on hand in excess of 30-day program requirements shall not be delivered. Payments to grantees shall be reviewed in comparison to expenditures to determine cash needs. Grantees shall report expenditures monthly on forms to be supplied by the department. The department shall require the grantees to project the next month's cash needs on the previous month's expenditure report. If the grantee determines that it cannot fulfill its obligations under the plan in whole or part, the grantee may request an amendment or revision of the existing approved plan and resubmit a new plan or amendments within 30 days after the written notice of request for consideration. The request from the grantee must be in writing detailing its specific views with supporting data and arguments.

3300.1900 VARIANCES.

Subpart 1. **Granting of variance.** The department shall grant a variance to the use of materials required by part 3300.1000, subpart 36, if it appears that:

- A. product or test standards have changed; and
- B. granting the variance would not adversely affect the public health or safety; and
- C. granting the variance would not conflict with applicable building codes.

Subp. 2. **Written request for a variance.** A grantee may submit to the department a written request for a variance documenting the need to include or exclude additional or existing materials required by part 3300.1000, subpart 36. If the agency initiates the variance as a result of a United States Department of Energy directive it will notify all grantees in accordance with subpart 3. If the agency denies a request for a variance it shall notify the applicant, in writing, of the reasons for the denial.

Subp. 3. **Notification of variance.** The department shall notify all grantees, in writing, that a variance has been granted. Notification will be issued within 30 days after the granting of the variance.

7607.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part and in Minnesota Statutes, section 216C.37, subdivision 1, apply to parts 7607.0110 to 7607.0180.

Subp. 2. **Applicant.** "Applicant" means an eligible municipality.

Subp. 3. **Municipality.** "Municipality" means any county, statutory or home rule charter city, town, school district, or any combination of those units under an agreement to jointly undertake projects authorized in this section.

Subp. 4. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

Subp. 5. **Project.** "Project" means all proposed work set forth in an application for a loan to a municipality.

Subp. 6. **Maxi-audit.** "Maxi-audit" means a detailed analysis of energy-saving improvements to existing buildings or stationary energy-using systems, including:

- A. modifications to building structures;
- B. heating, ventilating, and air conditioning systems;
- C. operation practice;
- D. lighting; and
- E. other factors that relate to energy use.

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The primary purpose of the engineering analysis is to quantify the economic and engineering feasibility of energy-saving improvements that require capital expenditures of major operational modifications.

A maxi-audit must be performed by or under the direction of and signed by a professional mechanical or electrical engineer or by an architect registered in Minnesota.

Subp. 7. **Conservation measure.** "Conservation measure" means an energy conservation measure that is an installation to a building on stationary energy-using system, and that is primarily intended to reduce energy consumption or allow the use of an alternate energy source including solar, wind, peat, wood, and agricultural residue.

Subp. 8. **Building.** "Building" means an existing building owned and operated by a municipality.

Subp. 9. **Stationary energy-using system.** A "stationary energy-using system" means any permanent structure or system owned and operated by a municipality that requires energy consumption for its function.

Subp. 10. **Payback.** "Payback" means the simple payback that is equal to the design, acquisition, and installation costs of a conservation measure divided by the estimated first year energy cost savings attributable to that measure.

7607.0110 MUNICIPAL ENERGY LOAN ELIGIBILITY CRITERIA.

Subpart 1. **In general.** The authority shall approve energy loans to municipalities to cover the costs of capital expenditures that are conservation measures that have paybacks of ten years or less as specified in a maxi-audit in compliance with Minnesota Statutes, section 216C.37, and parts 7607.0110 to 7607.0140.

Loans are available to municipalities that have not previously received or been offered loan funds under this program, for new projects in municipalities that previously received or were offered loan funds under this program, and as amendments to loans for conservation measures in progress that are experiencing cost overruns or for previously unidentified but related work necessary to successful implementation of a previously approved conservation measure if the payback remains at ten years or less. With the exception of amendments as described above, the authority shall not approve more than one loan for the same conservation measure in the same building or stationary energy-using systems.

Subp. 2. **Prior approval required.** Except for a loan amendment under subpart 1, projects that have been contracted for or begun before the authority notifies the municipality that the loan application is approved are not eligible. This prior approval requirement applies to the acquisition and installation costs as identified in the maxi-audit.

Subp. 3. **New construction.** Only projects for existing buildings and energy-using systems are eligible. New construction is not eligible except if it is a necessary part of successful implementation of a conservation measure for an existing building or energy-using system.

7607.0120 MAXIMUM LOAN AMOUNT.

To assure equitable statewide distribution of loan funds, given that loans will be issued on a first-come, first-served basis, the authority shall establish a maximum loan amount of \$1,500,000 for each municipality.

7607.0130 MUNICIPAL ENERGY LOAN APPLICATION.

Subpart 1. **In general.** A municipality shall submit an application to the authority on a form provided by the authority. An application must be completed, dated, and signed in ink by a duly authorized official of the applicant and must include the authorized official's title.

Subp. 2. **Contents.** The application must contain:

- A. the municipality name or school district or vocational center number;
- B. the complete mailing address of the applicant, including the county;
- C. the contact person's name, title, and telephone number;
- D. the federal employer identification number;
- E. a list of buildings and stationary energy-using systems included in the request and the dollar amount requested per building or system;
- F. the name and address of each building or system, including the county;
- G. the total floor area in square feet for each building;

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H. the original construction date for each system, building, and building additions;

I. the state legislative district;

J. a summary description of each conservation measure, its maxi-audit item number, its estimated cost, the loan amount requested, its estimated annual energy-cost savings, its estimated annual fuel and electric savings, its estimated payback, and the estimated dates the conservation measure will be started and completed; and

K. a certification to assure proper and efficient operation of the building or system once the project is completed.

An application must also contain an irrevocable resolution of the governing body of the municipality to annually levy or otherwise collect sufficient funds to guarantee loan repayment and a maxi-audit for each building and energy-using system involved in the project. One copy of the application is required.

7607.0140 MUNICIPAL ENERGY LOAN APPLICATION REVIEW.

Subpart 1. **Administrative review.** The authority shall examine the loan application to verify that the applicant is eligible, that the required forms and reports are included and are correctly completed, that an irrevocable resolution of the governing body of the municipality is included, and that the estimated start and end dates of the conservation measures included in the project are reasonable.

Subp. 2. **Technical review.** The authority shall forward a copy of the application to the commissioner of commerce. The commissioner of commerce shall prepare and submit to the authority a technical evaluation of the application. The technical evaluation must be on the forms provided by the authority.

Conservation measures with paybacks of ten years or less that are identified and described in maxi-audits are eligible. The minimum requirements for maxi-audits are as provided in Code of Federal Regulations, title 10, section 455.42 (May 21, 1981). Loans may not be awarded to buildings or systems with a remaining useful life less than or equal to the payback of the conservation measures proposed. Loans may not be awarded for a conservation measure if the payback of the conservation measure proposed is greater than or equal to the useful life of the measure.

The commissioner of commerce shall examine a maxi-audit that accompanies a loan application to verify that conservation measures requested are analyzed with adequate details of the existing conditions and proposed changes using appropriate calculation procedures, and that the proposed measures are eligible.

Subp. 3. **Review results.** The commissioner of commerce shall forward the technical evaluation of an application to the authority. The authority shall accept, reject, or modify a loan application request as necessary based on the administrative and the technical review. The authority shall give to an applicant whose application is rejected a notice of problems encountered in the review process and options available to correct them for resubmission of the application.

7607.0150 LOAN APPROVAL; DISBURSEMENT OF FUNDS.

Subpart 1. **Authority approval; priority.** The authority shall approve loans that comply with Minnesota Statutes, section 216C.37, and with parts 7607.0110 to 7607.0140, on a first-come, first-served basis based on the order in which eligible and complete loan applications are received by the authority. If eligible and complete loan applications received at the same time cannot all be funded due to a lack of available funds, the authority shall first approve loans to school districts. If funds are not available for all eligible applications from school districts, the authority shall approve loans so that each affected district receives an equal percentage of the eligible loan amount request. If the available funds are adequate to fully fund all eligible applications from school districts, but not all other eligible applications, the authority shall approve loans to school districts for the full eligible loan amount request and approve loans to other eligible municipalities so that each affected applicant receives an equal percentage of the eligible loan amount request.

Subp. 2. **Execution of loan contract and disbursement of funds.** Upon approval of a municipal energy loan, the authority shall send a loan contract to the applicant. The authority shall attach to a loan contract a loan repayment schedule based on the approved loan application according to Minnesota Statutes, section 216C.37, subdivision 4, paragraph (b). The applicant shall have a duly authorized official execute and return the loan contract to the Department of Management and Budget for execution of the loan contract by state officials and for disbursement

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of the loan funds. Loan funds must be disbursed for the reimbursement of eligible project costs upon execution of and according to the terms of the loan contract.

7607.0160 MONITORING MUNICIPAL ENERGY LOANS, REPORTS.

Subpart 1. **In general.** A municipality that receives a loan from the authority shall submit the reports listed in subparts 2 to 5.

Subp. 2. **Annual project status report.** The municipality shall submit to the authority, on forms provided by the authority, an annual project status report covering the period from July 1 to June 30. This report is due each July 31 until the project is completed. The project status report must indicate the progress of the implementation of the measures funded, problems encountered, the effect of the problems on the project, and the corrective action taken. If at any time the municipality fails to substantially comply with the start and end dates given in the loan application as approved, and if the municipality cannot reasonably justify to the authority its lack of progress, the entire loan amount may become due and payable at the discretion of the authority.

Subp. 3. **Quarterly financial report.** A municipality shall submit to the authority, on forms provided by the authority, a quarterly financial status report that indicates expenditures of loan funds through the last date of each quarter. This report is due within 30 days of the end of each calendar quarter until the project is completed.

Subp. 4. **Final report.** Within 60 days of the completion of the project, the municipality shall submit to the authority, on forms provided by the authority, a final project status report and a financial status report that gives actual expenditures of the measures implemented.

Subp. 5. **Annual energy report.** The municipality shall submit to the commissioner of commerce, on forms provided by the authority, an annual energy use and energy expenditure report by fuel type. The report is due each October 31 for the duration of the loan contract period, or for a minimum of three years after project completion if the loan is paid in less than three years, unless the authority cancels this requirement before the end of the loan contract period.

7607.0170 MUNICIPAL ENERGY LOAN PROGRAM EVALUATION.

The authority shall evaluate the program's effectiveness in reducing the energy costs of participating municipalities. The municipalities shall provide the authority with information that is reasonably needed to conduct an evaluation of the loan program, including the reports required in part 8300.2507.

7607.0180 CLOSURE OF MUNICIPAL ENERGY LOAN ACCOUNT.

If the authority determines that the project that was approved for loan funds has been implemented, it shall authorize closure of the loan account upon full repayment.

7610.0300 WHO MUST FILE.

The following utilities must file the information required by parts 7610.0100 to 7610.0700: Northern States Power Company, Minnesota Power, Otter Tail Power Company, Interstate Power Company, Minnkota Power Cooperative, Cooperative Power Association, United Power Association and Dairyland Power Cooperative, and the Southern Minnesota Municipal Power Agency. Data that is compiled within the same calendar year for either an extended forecast or a certificate of need application may be substituted interchangeably to satisfy those portions of both sets of rules that have identical data requirements. For these cases, references to the material substituted and a copy of the appropriate reference material must be submitted to meet the reporting requirements.

7685.0100 AUTHORITY, APPLICABILITY, AND PURPOSE.

Subpart 1. **Authority.** The commissioner is authorized by Minnesota Statutes, section 446A.21, subdivision 2, to establish energy efficiency criteria for replacement cooling systems.

Subp. 2. **Applicability.** This chapter applies to all applications for loans for replacement of once-through cooling systems with environmentally acceptable cooling systems under Minnesota Statutes, section 446A.21.

Subp. 3. **Purpose.** Loans for replacement of once-through cooling systems with environmentally acceptable cooling systems under Minnesota Statutes, section 446A.21, must not be approved unless the system complies with the energy efficiency criteria of part 7685.0130.

7685.0120 DEFINITIONS.

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Subpart 1. **Scope.** The definitions in this part apply to parts 7685.0100 to 7685.0140.

Subp. 2. **CFC.** "CFC" means a chlorofluorocarbon refrigerant.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subp. 4. **Cooling efficiency.** "Cooling efficiency" means an expression of energy or energy performance in items A to C.

A. Kilowatts per ton (kW/ton) is the total electrical input (kW) divided by the net cooling capacity (in tons).

B. Coefficient of performance is the net cooling capacity divided by the energy input rate, when both are expressed in the same unit of measure.

C. One ton of cooling capacity equals 12,000 Btu's per hour, or 3.516 kilowatts.

Subp. 5. **Once-through cooling system.** "Once-through cooling system" means a once-through system that has been issued a permit by the Department of Natural Resources to use in excess of 5,000,000 gallons of water annually from a groundwater source.

Subp. 6. **Once-through system.** "Once-through system" means a space heating, ventilation, air conditioning (HVAC), or refrigeration system used for any type of temperature or humidity control application, using groundwater that circulates through the system and is then discharged without reusing it for a higher priority purpose.

7685.0130 ENERGY EFFICIENCY CRITERIA.

Subpart 1. **Cooling efficiency.** All systems must meet the cooling efficiency criteria established in this subpart.

A. The cooling efficiency of a new centrifugal or rotary screw chiller must be 0.61 kW/ton or less (or equivalent if other energy sources are used) at standard rating conditions specified in ARI Standard 550-1992.

B. The cooling efficiency of a previously used (existing) centrifugal or rotary screw chiller that has been rebuilt or modified must be 0.70 kW/ton or less (or equivalent if other energy sources are used) at standard rating conditions specified in ARI Standard 550-1992.

C. The coefficient of performance of a new absorption chiller must be at least 0.90 at standard rating conditions specified in ARI Standard 560-1992.

D. The cooling efficiency of district cooling systems must be at least one kW/ton based on seasonal performance of the district cooling system.

Subp. 2. **Noncompliance of CFC systems.** A system using CFC refrigerants does not comply with the energy efficiency criteria of this part.

Subp. 3. **Cooling efficiency certification.** The cooling efficiency of a system must be certified by a mechanical engineer registered in Minnesota using data provided by the equipment manufacturer.

7685.0140 INCORPORATIONS BY REFERENCE.

Subpart 1. **Incorporated items.** The standards in items A and B are incorporated by reference.

A. ARI Standard 550-1992, Standard for Centrifugal and Rotary Screw Water-Chilling Packages.

B. ARI Standard 560-1992, Standard for Absorption Water Chilling and Water Heating Packages.

Subp. 2. **Availability.** The standards incorporated by reference are available for public inspection at the Minnesota State Law Library and through the Minitex interlibrary loan system. In addition, ARI standards are available through the Air-Conditioning & Refrigeration Institute, 4301 North Fairfax Drive, Suite 425, Arlington, VA 22203.