

1.1 Senator moves to amend H.F. No. 1830, in conference committee, as
1.2 follows:

1.3 On R33 (State and Local Government Policy), Senate language, (UEH1830-1)

1.4 Page 48, after line 19, insert:

1.5 "Sec. 23. **[16B.981] FINANCIAL REVIEW OF GRANT AND BUSINESS SUBSIDY**
1.6 **RECIPIENTS.**

1.7 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
1.8 meanings given.

1.9 (b) "Grant" means a grant of \$50,000 or more as defined in section 16B.97, subdivision
1.10 1, paragraph (a); or business subsidy of \$50,000 or more as defined in section 116J.994,
1.11 subdivision 3, paragraph (b).

1.12 (c) "Grantee" means a political subdivision as defined in section 471.345, subdivision
1.13 1; a nonprofit, as defined in section 317A; or a business entity, as defined in section 5.001.

1.14 Subd. 2. **Financial information required; determination of ability to perform.** For
1.15 grants of \$50,000 or more and subject to sections 16B.97 and 16B.98, before an agency
1.16 awards a competitive, legislatively named, single source, or sole source grant, the agency
1.17 must complete a preaward risk assessment to assess the risk that a potential grantee cannot
1.18 or would not perform the required duties. In making this assessment, the agency must review
1.19 the following information as applicable:

1.20 (1) the potential grantee's history of performing duties similar to those required by the
1.21 grant, whether the grant requires the potential grantee to perform services at a significantly
1.22 increased scale, and whether the grant will require significant changes to the operation of
1.23 the potential grantee's organization;

1.24 (2) for a potential grantee that is a nonprofit organization, the potential grantee's most
1.25 recent Form 990 or Form 990-EZ filed with the Internal Revenue Service. If the potential
1.26 grantee has not been in existence long enough or is not required to file Form 990 or Form
1.27 990-EZ, the potential grantee must demonstrate to the agency's satisfaction that the potential
1.28 grantee is exempt and must instead submit the potential grantee's most recent board-reviewed
1.29 financial statements and documentation of internal controls, or if there is no such board, by
1.30 the applicant's managing group;

1.31 (3) for a potential grantee that is a for-profit business, the potential grantee's most recent
1.32 federal and state tax returns, current financial statements, certification that the business is

2.1 not under bankruptcy proceedings, and disclosure of any liens on its assets. If a business
2.2 has not been in business long enough to have a tax return, the grantee must demonstrate to
2.3 the agency's satisfaction that the grantee has appropriate internal financial controls;

2.4 (4) evidence of good standing with the secretary of state under chapter 317A, or other
2.5 applicable law;

2.6 (5) if the potential grantee is required to complete an audit under section 309.53,
2.7 subdivision 3, the potential grantee's most recent audit report performed by an independent
2.8 third party in accordance with generally accepted accounting principles; and

2.9 (6) certification, provided by the potential grantee, that none of its current principals
2.10 have been convicted of a felony financial crime in the last ten years. For this section, a
2.11 principal is defined as public officials, board members, or staff with the authority to access
2.12 funds provided by this agency or determine how those funds are used.

2.13 Subd. 3. **Additional measures for some grantees.** The agency may require additional
2.14 information and may provide enhanced oversight for grantees that have not previously
2.15 received state or federal grants for similar amounts or similar duties and so have not yet
2.16 demonstrated the ability to perform the duties required under the grant on the scale required.

2.17 Subd. 4. **Agency authority to not award grant.** (a) If, while performing the required
2.18 steps in subdivision 2 and pursuant to sections 16B.97, 16B.98, and 16B.991, the agency
2.19 requires additional information to determine whether there is a substantial risk that the
2.20 potential grantee cannot or would not perform the required duties of the grant agreement,
2.21 the agency must give the grantee 30 business days within which they can respond to the
2.22 agency for the purpose of satisfying its concerns or work with the agency to develop a plan
2.23 to satisfy the concerns.

2.24 (b) If, after performing the required steps in subdivision 2 and pursuant to sections
2.25 16B.97, 16B.98, and 16B.991, and reviewing any additional requested information from
2.26 the grantee, the agency still has concerns that there is a substantial risk that a potential
2.27 grantee cannot or would not perform the required duties under the grant agreement, the
2.28 agency must either create a plan to satisfy remaining concerns with the grantee or must not
2.29 award the grant.

2.30 (c) If, pursuant to paragraphs (a) and (b), the agency does not award a competitive, single
2.31 source, or sole source grant, the agency must provide notification to the grantee and the
2.32 commissioner of administration of the determination. The notification to the grantee must
2.33 include the agency's reason for postponing or forgoing the grant, including information
2.34 sufficient to explain and support the agency's decision and notify the applicant of the process

3.1 for contesting the agency's decision with the agency and their options under paragraph (d).
3.2 If the applicant contests the agency's decision no later than 15 business days after receiving
3.3 the notice, the agency must consider any additional written information submitted by the
3.4 grantee. The agency has 15 business days to consider this information, during which the
3.5 agency may reverse or modify the agency's initial decision to postpone or forgo the grant.

3.6 (d) The final decision by an agency under paragraph (c) may be challenged as a contested
3.7 case under chapter 14. The contested case proceeding must be initiated within 30 business
3.8 days of the date of written notification of a final decision by the agency.

3.9 (e) If, pursuant to paragraphs (a) and (b), the agency does not award a legislatively named
3.10 grant, the agency must delay award of the grant until adjournment of the next regular or
3.11 special legislative session for action from the legislature. The agency must provide
3.12 notification to the potential grantee, the commissioner of administration, and the chairs and
3.13 ranking minority members of the Ways and Means Committee in the house of representatives,
3.14 and the chairs and ranking minority members of the Finance Committee in the senate. The
3.15 notification to the grantee must include the agency's reason for postponing or forgoing the
3.16 grant, including information sufficient to explain and support the agency's decision and
3.17 notify the applicant of the process for contesting the agency's decision. If the applicant
3.18 contests the agency's decision no later than 15 business days after receiving the notice, the
3.19 agency must consider any additional written information submitted by the grantee. The
3.20 agency has 15 business days to consider this information, during which the agency may
3.21 reverse or modify the agency's initial decision to postpone or forgo the grant. The notification
3.22 to the commissioner of administration and legislators must identify the legislatively named
3.23 potential grantee and the agency's reason for postponing or forgoing the grant. After hearing
3.24 the concerns of the agency, the legislature may reaffirm the award of the grant or
3.25 reappropriate the funds to a different legislatively named grantee. Based on the action of
3.26 the legislature, the agency must award the grant to the legislatively named grantee. If the
3.27 legislature does not provide direction to the agency on the disposition of the grant, the funds
3.28 revert to the original appropriation source.

3.29 Subd. 5. **Authority to award subject to additional assistance and oversight.** An
3.30 agency that identifies an area of significant concern regarding an applicant's financial
3.31 standing or management may award a grant to the applicant if the agency provides or the
3.32 potential grantee otherwise obtains necessary technical assistance. If the agency cannot
3.33 provide and the grantee cannot otherwise reasonably obtain necessary technical assistance,
3.34 the agency may award the grant if the agency establishes additional requirements in the
3.35 grant agreement. Additional requirements may include, but are not limited to, enhanced

4.1 monitoring, additional reporting, or other reasonable requirements imposed by the agency
4.2 to protect the interests of the state.

4.3 Subd. 6. **Grants with Indian Tribes and bands.** Notwithstanding any other law, an
4.4 agency may not require an Indian Tribe or band to deny its sovereignty as a requirement or
4.5 condition of a grant with an agency.

4.6 **EFFECTIVE DATE.** This section is effective January 15, 2024, and applies to grants
4.7 issued on or after that date."

4.8 On R94 (State and Local Government Policy), Senate language, (UEH1830-1)

4.9 Page 50, after line 28, insert:

4.10 "Sec. 27. Minnesota Statutes 2022, section 116J.994, subdivision 3, is amended to read:

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

4.13 (1) a description of the subsidy, including the amount and type of subsidy, and type of
4.14 district if the subsidy is tax increment financing;

4.15 (2) a statement of the public purposes for the subsidy;

4.16 (3) measurable, specific, and tangible goals for the subsidy;

4.17 (4) a description of the financial obligation of the recipient if the goals are not met;

4.18 (5) a statement of why the subsidy is needed;

4.19 (6) a commitment to continue operations in the jurisdiction where the subsidy is used
4.20 for at least five years after the benefit date;

4.21 (7) the name and address of the parent corporation of the recipient, if any; and

4.22 (8) a list of all financial assistance by all grantors for the project.

4.23 (b) Business subsidies in the form of grants must be structured as forgivable loans and
4.24 are subject to the financial review under section 16B.981. For other types of business
4.25 subsidies, the agreement must state the fair market value of the subsidy to the recipient,
4.26 including the value of conveying property at less than a fair market price, or other in-kind
4.27 benefits to the recipient.

4.28 (c) If a business subsidy benefits more than one recipient, the grantor must assign a
4.29 proportion of the business subsidy to each recipient that signs a subsidy agreement. The

5.1 proportion assessed to each recipient must reflect a reasonable estimate of the recipient's
5.2 share of the total benefits of the project.

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

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

5.13 **EFFECTIVE DATE.** This section is effective January 15, 2024, and applies to grants
5.14 issued on or after that date."

5.15 Renumber the sections in sequence and correct the internal references

5.16 Amend the title accordingly