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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1236

03/04/2013

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The bill was read for the first time and referred to the Committee on Government Operations

1.1

A bill for an act

1.2

relating to public finance; providing an alternative general system to issue state

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and local debt obligations; enacting the "Minnesota All-Government Bond Act";

1.4

appropriating money; proposing coding for new law as Minnesota Statutes,

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chapter 16F.

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

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Section 1. **[16F.01] SHORT TITLE.**

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Sections 16F.01 to 16F.11 may be cited as the "Minnesota All-Government Bond

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Act."

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Sec. 2. **[16F.02] DEFINITIONS.**

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Subdivision 1. **Scope.** For the purposes of sections 16F.01 to 16F.11, the following

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terms have the meanings given them in this section.

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Subd. 2. **Board.** "Board" means the Minnesota State Board of Investment.

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Subd. 3. **Commissioner.** "Commissioner" means the commissioner of management

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and budget.

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Subd. 4. **Minnesota all-government state bonds.** "Minnesota all-government state

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bonds" means bonds issued by the state pursuant to sections 16F.01 to 16F.11.

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Subd. 5. **Political subdivisions.** "Political subdivisions" means cities, counties,

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towns, school districts, special service districts, and any other local units of government in

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Minnesota authorized to incur public debt through the issuance of bonds.

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Sec. 3. **[16F.03] MINNESOTA ALL-GOVERNMENT DEBT FINANCING FUND.**

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For the purpose of providing an alternative financing mechanism for the state

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and for political subdivisions in lieu of the direct issuance of bonds by subdivisions,

the Minnesota all-government debt financing fund is established. Proceeds of bonds issued pursuant to sections 16F.01 to 16F.11 shall be credited to this fund and are annually appropriated to the commissioner for use at any time. The commissioner shall utilize these appropriated funds only:

(1) for loans to political subdivisions as provided in section 16F.05;

(2) for state projects authorized to be financed by state bonds consistent with the Minnesota Constitution, article XI; and

(3) for appropriations made pursuant to this section.

Funds appropriated to this fund shall not cancel and remain available for expenditure.

**Sec. 4. [16F.04] MINNESOTA ALL-GOVERNMENT STATE BONDS.**

Subdivision 1. **Authorization.** The commissioner shall issue bonds of the state of Minnesota designated as Minnesota all-government state bonds to finance state projects authorized by the legislature and to implement the political subdivisions loan program established by section 16F.05. Proceeds of the bonds are appropriated to the commissioner for the Minnesota all-government debt fund. The full faith, credit, and taxing powers of the state are irrevocably pledged for the prompt and full payment of these bonds and their interest. The proceeds of the bonds shall be credited to the Minnesota all-government debt fund, except that accrued interest and any premium received on sale of the bonds shall be credited to the state all-government bond repayment account established in section 16F.08, together with any additional sum directed to be so credited by each law authorizing an issue of the bonds. Bonds shall be issued pursuant to this section only as authorized by section 16F.07 or by other law adopted in accordance with the provisions of the Minnesota Constitution, article XI, section 7. Any law authorizing the issuance of bonds shall, together with this section, constitute complete authority for the issue, and the bonds shall not be subject to restrictions or limitations contained in any other law.

Subd. 2. **Manner of issue.** Upon issue by the commissioner, the State Board of Investment, as fiscal agent, shall market Minnesota all-government state bonds as the board deems appropriate. The board may offer the bonds for sale, either to the public or on a private placement basis, to individual investors, institutional investors, syndicated investors, and other investors. The board may also form and market unit tax exempt bond pools composed of Minnesota all-government state bonds. These units may be sold to any person to whom the bonds may be offered for sale pursuant to this subdivision. The board shall determine the sales price and interest rate of the bonds to be sold and may request the advice of the commissioner, or others, in making this determination. Notwithstanding the provisions of any law to the contrary, if the board determines to purchase Minnesota

all-government state bonds for its own accounts to aid the marketing of the bonds and not for long-term investment, standards of prudence required of the board in its investment decisions are satisfied if any lower investment return realized by the purchase compared with the return that would otherwise be realized is compensated for by marketing fees credited to the account whose funds are so invested.

Subd. 3. **Issuance and marketing expenses.** All expenses incidental to the sale, printing, execution, marketing, and delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for these purposes, shall be deducted from the Minnesota all-government financing fund, and are appropriated for expenditure to the state officials or entities incurring the expense. The amounts necessary for the expenses are appropriated from the fund, but if any amount is specifically appropriated for this purpose in an act authorizing the issuance of bonds pursuant to this section, expenses are limited to the amount so appropriated.

Subd. 4. **Form and nature of bonds.** The bonds shall be issued and sold at the times, in the form and denominations, at the maturities, with provision for registration, conversion, and exchange and for the issuance of notes in anticipation of the sale and delivery of definitive bonds, and in accordance with further rules, as the commissioner determines. The bonds shall be issued and sold without option of prior payment or subject to prepayment upon the notice and at the times and prices, payable at the bank or banks, within or without the state as the commissioner determines. The bonds shall be subject to the approval of the attorney general, but not subject to the provisions of the Administrative Procedure Act. Each bond shall mature not later than 20 years from its date of issue, shall be sold at not less than par plus accrued interest, and shall be executed by the commissioner and attested by the secretary of state under their official seals. The signature of one of these officers on the face of any bond, and their seals, and the signature of both officers on the interest coupons appurtenant to any bond, may be printed, lithographed, stamped, or engraved on them. The commissioner may issue uncertificated securities in accordance with the provisions of Article VIII of the Uniform Commercial Code.

Subd. 5. **Bondholder indemnification.** The commissioner, subject to the approval of the attorney general, shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding obligations of the state of Minnesota in accordance with their terms. The state shall be a self-insurer as to errors by any state official affecting the validity or tax exempt status of Minnesota all-government state bonds. The state shall hold harmless and indemnify any person suffering loss due to an error as described in this subdivision. There

is annually appropriated to the commissioner from the general fund, as an open, standing appropriation, amounts sufficient at any time to carry out the provisions of this subdivision.

**Subd. 6. Partial redemption.** If in any case a portion of the debt underlying an issue of Minnesota all-government state bonds is defective because it is unauthorized, or is invalid as a basis for tax-exempt status, or in any way impairs the value or validity of a Minnesota all-government state bond, the defect shall be allocated by the commissioner to a portion of the particular bond issue equal to the amount of the defective debt. Without impairing the rights of any person as provided in subdivision 5, the portion of bonds to which the defect is allocated under this subdivision shall be redeemed and damages shall be paid as specified in subdivision 5. Bonds in the remaining portion of the issue shall not be affected in any way by the redemption nor by the defect which caused the redemption.

**Subd. 7. Purchase by financial institutions.** Notwithstanding any provision of law to the contrary, Minnesota all-government state bonds, whether or not rated by a national rating service, satisfy all rating requirements imposed for its investments on any financial institution.

**Sec. 5. [16F.05] LOAN AUTHORIZATION; APPLICATIONS FROM POLITICAL SUBDIVISIONS.**

**Subdivision 1. Authorization.** The commissioner, upon timely receipt of a loan application from a political subdivision, may loan to the political subdivision proceeds from the issuance of Minnesota all-government state bonds. The commissioner's decision whether or not to make the loan is discretionary, but the commissioner shall not effect a loan if the commissioner determines that:

(1) the political subdivision lacks legal authority to issue general obligation bonds for the purpose for which the loan is requested;

(2) the political subdivision is currently in default on a loan pursuant to this program;

(3) the political subdivision does not appear to be financially able to repay the loan requested;

(4) the political subdivision has not taken reasonable, preliminary steps in preparation for repayment of the loan;

(5) the issuance of Minnesota all-government state bonds in connection with the loan would violate the Minnesota Constitution; or

(6) it would not be financially feasible or wise for the state to make the requested loan.

**Subd. 2. Authorization; conditions.** The commissioner, on behalf of the state and the authorized representatives of the political subdivision, shall enter into an agreement providing:

5.1 (1) the political subdivision is irrevocably bound to repay the loan in full;

5.2 (2) the political subdivision shall hold the state and its officers and employees  
5.3 harmless from any claim, cause of action, or damages arising from the political  
5.4 subdivision's misapplication of loaned funds;

5.5 (3) the books, records, and accounts of the political subdivision shall be available  
5.6 during business hours at any time for inspection by either the commissioner or state  
5.7 auditor; and

5.8 (4) other conditions as may be required by the commissioner.

5.9 Subd. 3. **Withholding by commissioner.** When making a loan to a political  
5.10 subdivision, the commissioner shall deduct an amount sufficient, when added to the  
5.11 balance on hand in the portion of the bond account dedicated to debt service for the subject  
5.12 loan, to pay all principal and interest due and to become due on the portion of the bonds  
5.13 issued for the particular loan to and including July 1 in the second ensuing year. The funds  
5.14 so withheld shall be placed in the Minnesota all-government repayment bond account in  
5.15 the state bond fund and are appropriated for expenditure at any time for debt service  
5.16 on Minnesota all-government state bonds.

5.17 Subd. 4. **Repayment by political subdivisions.** Political subdivisions receiving  
5.18 loans pursuant to this section shall obtain repayment funds and transmit those funds to the  
5.19 state in the same manner as if the political subdivisions had themselves issued bonds for  
5.20 the purposes for which they obtained loans from the Minnesota all-government financing  
5.21 fund. In addition to the initial withholding undertaken by the commissioner pursuant to  
5.22 subdivision 3, each loan recipient shall, not later than October 15 of each year, transmit to  
5.23 the commissioner a loan repayment sum sufficient in amount, when added to the balance  
5.24 on hand in the bond account, to pay all principal and interest due and to become due on  
5.25 the portion of the bonds issued for the subject loan to and including July 1 in the second  
5.26 ensuing year. The funds so transmitted shall be placed in the Minnesota all-government  
5.27 repayment bond account in the state bond fund and are appropriated for expenditure at any  
5.28 time for debt service on Minnesota all-government state bonds.

5.29 Subd. 5. **Loan rules.** The commissioner shall promulgate and adopt rules necessary  
5.30 regarding loan applications, the granting of loans, and administration of this program.

5.31 **Sec. 6. [16F.06] STATE PROJECTS.**

5.32 The commissioner may issue Minnesota all-government state bonds pursuant to the  
5.33 provisions of sections 16F.01 to 16F.11 to finance state projects if the commissioner  
5.34 determines that the project has been authorized by the legislature in accordance with the  
5.35 Minnesota Constitution, article XI, section 7. The proceeds of the bonds are annually

appropriated to the commissioner to be disbursed for the purposes of sections 16F.01 to 16F.11.

Sec. 7. **[16F.07] BOND AUTHORIZATION.**

For the purpose of providing funds to the commissioner for establishment and implementation of the political subdivision loan programs established by section 16F.05, and state projects as authorized by section 16F.06 and other law, the commissioner is authorized to sell and issue Minnesota all-government state bonds in the manner and upon the conditions provided in sections 16F.01 to 16F.11 and in the Minnesota Constitution, article XI, section 7. The proceeds of the bonds, except premium and accrued interest, are appropriated to the Minnesota all-government state debt fund in the general fund, for expenditure by the commissioner for the purpose for which the bonds are authorized in accordance with the provisions of section 16F.03. In order to reduce the amount of taxes otherwise required by the Minnesota Constitution and by section 16F.09 to be levied for the payment of interest and principal on Minnesota all-government state bonds, there is also appropriated annually to the Minnesota all-government state bond repayment account in the state bond fund from the general fund a sum of money sufficient in amount, when added to the balance on hand on November 1 in each year in the bond repayment account, to pay all principal and interest due and to become due on the bonds to and including July 1 in the second ensuing year. The money received and on hand pursuant to this annual appropriation is available in the state bond fund prior to the levy of the tax in any year required by the Minnesota Constitution and by section 16F.09 and shall be used to reduce the amount of the tax otherwise required to be levied.

Sec. 8. **[16F.08] MINNESOTA ALL-GOVERNMENT BOND REPAYMENT ACCOUNT.**

The commissioner of management and budget shall maintain in the state bond fund a separate bookkeeping account which shall be designated as the Minnesota all-government state bond repayment account, to record receipts and disbursements of money transferred to the fund to pay Minnesota all-government state bonds and to record income from the investment of the money, which income shall be credited to the account in each fiscal year. The amounts directed to be transferred to this bond repayment account are appropriated to it, and the legislature may also appropriate to the bond repayment account any other money in the state treasury not otherwise appropriated. On November 1 of each year there shall be transferred to the bond repayment account all of the money then available under any appropriation or a lesser sum as will be sufficient, with all money previously transferred to

the bond repayment account and all income from the investment of the money, and all payments by political subdivisions, to pay all principal and interest then and theretofore due and all principal and interest to become due to and including July 1 in the second ensuing year on Minnesota all-government state bonds. All money so transferred and all income from the investment of it shall be available to pay the bonds and interest on them, and so much thereof as may be necessary is appropriated for these payments. The state auditor is directed to make the appropriate entries in the accounts of the respective funds.

Sec. 9. **[16F.09] TAX LEVY.**

On or before December 1 in each year, the state auditor shall levy on all taxable property within the state whatever tax may be necessary to produce an amount sufficient, with all money then and theretofore credited to the Minnesota all-government state bond repayment account, to pay the entire amount of principal and interest then and theretofore due and principal and interest to become due on or before July 1 in the second year thereafter on Minnesota all-government state bonds. This tax shall be levied upon all real property used for the purposes of a homestead, as well as other taxable property, notwithstanding the provisions of other law, and shall be subject to no limitation of rate or amount until all these bonds and interest on them are fully paid. The proceeds of this tax are appropriated and shall be credited to the state bond fund, and the principal of and interest on the bonds are payable from the proceeds, and the whole of the proceeds, or so much as may be necessary, is appropriated for the payments. If at any time there is insufficient money from the proceeds of taxes to pay the principal and interest when due on Minnesota all-government state bonds, the principal and interest shall be paid out of the general fund in the state treasury, and the amount necessary is annually appropriated, with the sums from tax levies and the general fund subject to future reimbursement to the bond fund by the Minnesota all-government state bond repayment account.

Sec. 10. **[16F.10] CERTIFICATES OF INDEBTEDNESS.**

Whenever the state auditor would otherwise be required to levy a property tax to pay obligations incurred under sections 16F.01 to 16F.11, and there is a reasonable expectation that the obligations will be paid from appropriations or payments by political subdivisions pursuant to section 16F.07, the commissioner may issue certificates of indebtedness as authorized by the Minnesota Constitution, article XI, section 6, in an amount sufficient to avoid the necessity of a levy pursuant to the Minnesota Constitution, article XI, section 7.

Sec. 11. **[16F.11] DEFAULT.**

8.1        If a political subdivision defaults on repayment of any loan financed through  
8.2        Minnesota all-government state bonds, the state auditor shall cause taxes to be levied on  
8.3        the real property of the defaulting political subdivision in an amount sufficient to make  
8.4        overdue payments plus interest at a reasonable rate not greater than one percent more than  
8.5        the average annual rate of interest on Minnesota all-government state bonds issued during  
8.6        the preceding calendar year and to make future loan payments as they become due. The  
8.7        interest rate shall be calculated to yield an amount sufficient to discharge the costs to the  
8.8        state of the default. All funds generated from this levy shall be transmitted to the state,  
8.9        placed in the Minnesota all-government state bond repayment account in the state bond  
8.10       fund, and are appropriated for expenditure at any time for debt service on Minnesota  
8.11       all-government state bonds.

8.12       Sec. 12. **APPROPRIATION.**

8.13       \$150,000 is appropriated to the commissioner as a revolving fund to cover the initial  
8.14       cost of issuance of Minnesota all-government state bonds.

8.15       Sec. 13. **EFFECTIVE DATE.**

8.16       Sections 1 to 12 are effective the day following final enactment. To facilitate the  
8.17       prompt implementation of this loan program, the commissioner is authorized to promulgate  
8.18       temporary rules pursuant to the provisions of the Administrative Procedure Act.