

A bill for an act

relating to economic development; amending tax increment financing requirements; authorizing state investment in a loan guaranty fund; creating a loan guaranty program; authorizing issuance of bonds for nonprofit housing; requiring establishment of a second mortgage loan program; authorizing issuance of bonds for sustainable development projects; limiting environmental review for certain projects; requiring certain projects to comply with procurement regulations; providing income tax credits for historic structure rehabilitation on low-income housing projects; authorizing the use of special assessments for energy improvements; extending the JOBZ program to the metropolitan area; appropriating money; amending Minnesota Statutes 2008, sections 11A.24, by adding a subdivision; 15.99, by adding a subdivision; 16C.16, by adding a subdivision; 429.011, by adding subdivisions; 429.021, subdivision 1; 429.031, subdivision 3; 462A.36, subdivisions 1, 2, 4, by adding a subdivision; 469.176, subdivision 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 116J; 290; 462A; repealing Minnesota Statutes 2008, section 469.312, subdivision 3.

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

Section 1. Minnesota Statutes 2008, section 11A.24, is amended by adding a subdivision to read:

Subd. 8. **Stimulus project loans.** The State Investment Board may invest funds with the Minnesota loan guaranty fund or any successor to its functions for the purpose of allowing the Minnesota loan guaranty fund or its successor to make loan guaranties through an economic development authority as defined by section 469.090, for planning, design, development, and construction of a stimulus project as defined by section 469.176, subdivision 1b. The investment shall be evidenced by a loan agreement that provides the terms and conditions for repayment of the investment.

Sec. 2. Minnesota Statutes 2008, section 15.99, is amended by adding a subdivision to read:

Subd. 4. **Continued review prohibited.** Notwithstanding any other law to the contrary, a proposed economic development project or subdivision under this section or section 462.358 is not subject to continued environmental review or local planning review if no substantial plan modification is made after the initial review is conducted. For purposes of this subdivision, a "substantial plan modification" is a modification that proposes a substantial change to the use, density, or infrastructure needs of an economic development project or subdivision or poses an adverse environmental effect that is unmitigated. This subdivision applies to projects commencing on or before December 31, 2010.

Sec. 3. Minnesota Statutes 2008, section 16C.16, is amended by adding a subdivision to read:

Subd. 13. **Actions related to stimulus projects.** To the extent possible, any action related to the construction of a stimulus project, as defined in section 469.176, subdivision 8, must comply with this section.

Sec. 4. **[116J.408] MINNESOTA LOAN GUARANTY FUND.**

Subdivision 1. **Loan guarantee.** Upon determination that a loan will serve a public purpose, including job creation, expansion of tax base, tourism, or economic development, the commissioner of employment and economic development must create a program as provided in this section under which the state guarantees and commits to guarantee against loss an amount not exceeding 25 percent, exclusive of accrued interest, of a loan for the cost of an economic development project, including housing, or the refunding or refinancing of such a loan. The loan must be secured by the best available collateral, including a mortgage on and security interest in all real and personal property comprising the project and other collateral as provided in the loan agreement. The guaranty may be on the final 25 percent of the loan or may be proportionate.

Subd. 2. **Limitation of loan amount.** The total principal amount of any guaranteed loan must not exceed 80 percent of the total cost of the related project as determined by the commissioner at the time the commitment to guarantee is made or, in the case of a refunding or refinancing loan, 80 percent of the aggregate amount of principal and interest refunded or refinanced. If the actual cost exceeds the estimate, the commissioner may, upon request of the borrower and the lender, consent to an increase of the loan by a principal amount not greater than 25 percent of the excess cost.

3.1 Subd. 3. **Required provisions.** A loan guaranty or loan agreement pertaining to any
3.2 loan guaranteed by the state must provide the following terms.

3.3 (a) Payments of principal and interest made by the borrower under the loan shall
3.4 be applied by the lender to reduce the guaranteed and nonguaranteed portion of the loan
3.5 on a proportionate basis, and the nonguaranteed portion shall not in any event receive
3.6 preferential treatment over the guaranteed portion.

3.7 (b) A grace period shall be allowed of not less than 60 days from a date a principal
3.8 or interest payment is due, prior to the making of demand for payment pursuant to the loan
3.9 guaranty, to permit adequate time for a decision on behalf of the state regarding principal
3.10 and interest assistance in accordance with subdivision 4. Payment as required by the
3.11 loan guaranty shall be made within 60 days after receipt by the commissioner of written
3.12 demand complying with the terms and conditions of the guaranty.

3.13 (c) The lender may not accelerate repayment of the loan or exercise other remedies
3.14 available to the lender if the borrower defaults, unless:

3.15 (1) the borrower fails to pay a required payment of principal or interest;

3.16 (2) the state consents in writing; or

3.17 (3) as otherwise permitted in the loan guaranty.

3.18 In the event of a default, the lender may not make demand for payment pursuant to the
3.19 guaranty unless the commissioner agrees in writing that the default has materially affected
3.20 the rights or security of the parties, and finds that the lender is entitled to receive payment
3.21 pursuant to the loan guaranty.

3.22 (d) If a payment of principal or interest is made by the state upon default of the
3.23 borrower, the state is subrogated to the rights of the lender with respect to the payment.

3.24 (e) The borrower must promptly prepare and deliver to the commissioner annual
3.25 audited or reviewed financial statements of the project prepared by a certified public
3.26 accountant according to generally accepted accounting principles.

3.27 (f) Authorized representatives of the state must have access to the project site at
3.28 reasonable times during construction and operation of the project.

3.29 (g) The borrower shall maintain adequate records and documents concerning the
3.30 construction and operation of the project in order that the commissioner may determine its
3.31 technical and financial conditions and its compliance with environmental requirements.
3.32 The records must include the amounts of all sales and use taxes paid on personal property
3.33 and services purchased for the construction and operation of the project, with tax receipts
3.34 furnished by the sellers or other supporting documentation determined by the board to be
3.35 satisfactory. The amounts of those taxes must be reported to the board in the manner and
3.36 at the times required by the board.

4.1 (h) The borrower shall protect and preserve at all times the project assets and other
4.2 collateral securing the loan and shall assist in liquidation of collateral to minimize loss in
4.3 the event of default.

4.4 (i) Orderly liquidation of assets of the project must be provided for in the event of
4.5 default, with an option on the part of the state to acquire from the lender the lender's
4.6 interest in the assets pursuant to the nonguaranteed portion of the loan.

4.7 (j) The state must be paid at or prior to the closing of the guaranteed loan a fee or
4.8 fees for the loan guaranty or the commitment to guarantee the loan in the amount the state
4.9 determines appropriate, provided that all fees may not exceed two percent of the total
4.10 principal amount of the guaranteed portion of the loan.

4.11 (k) The lender shall perfect and maintain the mortgage lien on the real estate and the
4.12 security interest in personal property and collateral granted as security for the loan, and
4.13 shall cause to be performed all other loan servicing functions that are normally required or
4.14 performed by a reasonable and prudent lender with respect to a loan without a guaranty.

4.15 (l) The state must be notified in writing without delay of:

4.16 (1) the date and amount and basis for each disbursement of loan proceeds;

4.17 (2) any nonpayment of principal or interest due;

4.18 (3) any failure to honor a commitment by any person of an intended source of capital
4.19 for the project; and

4.20 (4) any significant adverse changes from original cash flow projections as evidenced
4.21 by reports from the borrower, or any other known evidence that the borrower might be
4.22 unable to meet a future scheduled payment of principal or interest.

4.23 (m) The loan agreement must require the borrower to establish a reserve, from the
4.24 proceeds of the loan or otherwise, to be maintained with the lender or with a trustee for
4.25 the holders of the borrower's obligations in cash or securities of a specified market value
4.26 not less than one-half of the annual amount that would be required to amortize the entire
4.27 amount of the loan over the term and at the interest rate, or at the rate of yield resulting
4.28 from the interest rates, provided in the loan agreement.

4.29 (n) The agreement must contain other terms and conditions that the board determines
4.30 necessary and appropriate to carry out the purposes of this section.

4.31 Subd. 4. **Principal and interest assistance.** The commissioner may enter into a
4.32 written contract with the borrower to pay the lender, on behalf of the borrower, an amount
4.33 not greater than the amount of principal and interest to become due on one or more
4.34 subsequent dates, without acceleration, if the commissioner determines that:

4.35 (1) the borrower is not in default in payment of principal or interest due more than
4.36 60 days prior to the date of the contract;

(2) the borrower is or may become unable to meet in full principal or interest payments, or both, which are due or to become due within a specified period;

(3) it is in the public interest to permit the borrower to continue to pursue the purposes of the project;

(4) the probable net financial loss to the state will be less than that which would result in the event of a default;

(5) the borrower is obligated by the contract to reimburse the state for all principal or interest advanced, with interest on those amounts, upon terms and conditions satisfactory to the commissioner; and

(6) funds are available for allocation to the account established for the project in the guaranty fund, and are continuously allocated to the account in accordance with the provisions of subdivision 7, in an amount equal to the amount of interest on the advances until actually reimbursed to the state by the borrower.

All sums so advanced and interest on those amounts must be secured by the mortgage lien and security interest granted by the loan agreement, but none of the advances shall thereafter be repaid to the state until and unless all principal and interest currently due on the loan has been fully paid. In the event of subsequent default by the borrower, acceleration by the lender, and payment by the state of the full amount due under the loan guaranty, the state shall be subrogated to the rights of the lender with respect to the principal paid by it under the contract. Upon payment of the loan in full, with accrued interest, the remaining amount of the advances and interest on the advances may be paid to the state.

Subd. 5. **Limitation on liability.** The liability of the state for loan guaranties or bonds authorized under this section is limited to the amount of funds appropriated to the guaranty fund. The legislature does not intend to appropriate money from the general fund to the guaranty fund, other than the sales and use taxes from a project as provided for in subdivision 9 or tax increments from any projects in default as provided in subdivision 10. The loan guaranties or bonds are not a general obligation or debt of the state.

Subd. 6. **Project taxes and other charges.** The payments, taxes, and governmental charges described in this subdivision and subdivisions 7 to 10 that are received as a consequence of the undertaking, completion, and operation of each economic development loan guaranty made by the state are appropriated to the loan guaranty fund. This appropriation shall not lapse at the close of any fiscal year under section 16A.28. The state is not obligated to continue the appropriation with respect to charges not yet collected, except to the extent determined to be necessary for compliance with the terms of the loan guaranty agreement.

6.1 Subd. 7. **Allocation to project accounts.** Receipts of charges related to a particular
6.2 project must be deposited and recorded in its project account in the guaranty fund,
6.3 provided that the board may reallocate receipts in any project account that cause the
6.4 amount held in the account to exceed the minimum balance established initially. The
6.5 reallocation may be made to another project account for the purpose of maintaining the
6.6 minimum balance in the account.

6.7 Subd. 8. **Payments by borrowers.** Guaranty and commitment fees paid by
6.8 borrowers and repayments by borrowers of amounts advanced by the state under contracts
6.9 must be deposited in the project account for the borrower's project and must not be
6.10 disbursed or transferred for any purpose other than the fulfillment of the state's obligations
6.11 under the loan guaranty for that project. Funds may be transferred out of the account if the
6.12 minimum required balance in the project account is maintained and exceeds the aggregate
6.13 amount of fees and payments previously received from the borrower plus interest received
6.14 from investment of those amounts.

6.15 Subd. 9. **Sales and use taxes.** The amount collected from taxes imposed by
6.16 chapter 297A, upon retail sales, and upon the privilege of use, storage, or consumption in
6.17 Minnesota, of personal property and services purchased for the construction or operation
6.18 of any project for which a loan guaranty has been made or conditionally committed, less
6.19 any refunds required by law and a proportionate share of the cost of administration and
6.20 enforcement of the assessment and collection of the taxes, are appropriated and must be
6.21 deposited from the general fund into the project account in the guaranty fund at least once
6.22 each year from and after the date of the conditional commitment. The commissioner
6.23 of finance shall determine from information provided by each borrower the amount of
6.24 taxes so imposed and from the information provided by the commissioner of revenue the
6.25 amount of refunds or costs to be deducted from them.

6.26 Subd. 10. **Tax increment.** Notwithstanding any other law to the contrary, upon a
6.27 default by any project on debt which has been guaranteed under this section, the following
6.28 payments must be made.

6.29 (a) If the project on which the guaranty is given is not located in a tax increment
6.30 district, 40 percent of all tax increment paid on the property on which the project is located
6.31 must be paid to the state to reimburse the guaranty fund for any losses, including interest
6.32 on that amount at four percent.

6.33 (b) If the project on which the guaranty is given is located in a tax increment district,
6.34 all amounts payable to a local governmental authority for administration, any excess
6.35 increment, and 40 percent of all tax increment after expiration of the district for a period

of up to 15 years must be paid to the state to reimburse the guaranty fund for any losses, including interest on that amount at four percent.

Tax increment is determined as provided in section 469.177, provided that, for purposes of that determination, the election under section 469.177, subdivision 3, paragraph (b), is deemed to have not been made by the local governing body.

Subd. 11. **Limitation on guaranteed amount.** The amount of all guaranties under this section must not exceed \$500,000,000. No less than 40 percent of all amounts guaranteed shall be for projects located outside the seven-county metropolitan area. No more than \$25,000,000 may be guaranteed on any one project.

Subd. 12. **Program timing; rules.** The commissioner shall establish criteria for selection of projects and rules for administration of the guaranty program, which are not subject to chapter 15. Projects with guaranties must be under construction not later than December 31, 2010.

Sec. 5. [116J.997] BONDS FOR QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Commissioner" means the commissioner of employment and economic development.

(c) "Net benefit of revenue bond financing" means the present value of the interest savings determined by the commissioner that result from the issuance of revenue bonds.

(d) "Rural area" means an area of the state that has:

(1) a population density of less than 150 people per square mile according to the 2000 census; and

(2) increased in population by less than half the rate of the national population increase between the 1990 and 2000 censuses.

Subd. 2. **Authority.** A state agency, economic development authority, or port authority may apply to the commissioner for authorization to issue revenue bonds, either at one time or in a series from time to time, for a qualified green building and sustainable design project that meets the criteria in subdivision 3.

Subd. 3. **Project designations.** (a) Within 60 days after the end of the nomination period described in paragraph (c), clause (1), the commissioner shall designate qualified green building and sustainable design projects for which bonds may be issued under this section. A project must not include a stadium or arena for professional sports exhibitions or games.

(b) The commissioner shall ensure that each designated project substantially:
(1) reduces consumption of electricity as compared to conventional generation;
(2) reduces daily sulfur dioxide emissions compared to coal generation power;
(3) increases the use of the domestic solar photovoltaic market in the state as
measured against the average use in the state from 2004 to 2008; or
(4) increases use of fuel cell energy generation.

(c) The commissioner may not designate a project under this subdivision unless:
(1) the project is nominated by a state agency, economic development authority, or
port authority within 24 months of enactment of this section; and
(2) the state agency, economic development authority, or port authority provides
written verification to the commissioner that the project will satisfy the eligibility criteria
in this section.

Subd. 4. **Applications.** (a) An application for designation under this section must
include a project proposal that describes the energy-efficiency, renewable energy, and
sustainable design features of the project and demonstrates that the project satisfies the
eligibility criteria in this subdivision.

(b) At least 75 percent of the square footage of commercial buildings that are
part of the project must be registered with a recognized green building rating system,
including Minnesota's B3 standards or the United States Green Building Council's LEED
certification, or in the case of residential buildings, Minnesota GreenStar rating, and must
be reasonably expected to receive the certification.

(c) The project must have commitments to be granted state or local government
resources worth at least \$500,000, including tax increment financing, tax abatement
benefits, revenues derived from lodging, food and beverage taxes, or in-kind contributions.

(d) The project must include at least 100,000 square feet of building area, or be
located on a parcel that is at least two acres in size.

Subd. 5. **Use of bond financing.** The project proposal must include a description of
the net benefit of the revenue bond financing that will be allocated for financing of one
or more of the following:

(1) the purchase, construction, integration, or other use of energy-efficiency,
renewable energy, and sustainable design features of the project;

(2) compliance with certification standards cited under subdivision 4, paragraph
(b); or

(3) the purchase, remediation, and foundation construction and preparation of the
project site.

9.1 Subd. 6. **Employment requirements.** (a) To qualify for designation under this
9.2 section, the project must be projected to provide permanent employment of at least 250
9.3 full-time equivalents, or 25 full-time equivalents in rural areas when completed, and
9.4 construction employment of at least 100 full-time equivalents or ten full-time equivalents
9.5 in rural areas.

9.6 (b) The application must include an independent analysis that describes the project's
9.7 economic impact, including the amount of projected employment.

9.8 Subd. 7. **Project description.** Each application must contain for each project a
9.9 description of:

9.10 (1) the amount of electric consumption reduced as compared to conventional
9.11 construction;

9.12 (2) the amount of sulfur dioxide daily emissions reduced compared to coal
9.13 generation;

9.14 (3) the amount of the gross installed capacity of the project's solar photovoltaic
9.15 capacity measured in megawatts; and

9.16 (4) the amount in megawatts of the project's fuel cell energy generation.

9.17 Subd. 8. **Certification of use of revenue bond financing.** No later than 30 days
9.18 after the completion of the project, each project must certify to the commissioner that
9.19 the net benefit of the revenue bond financing was used for the purposes described in
9.20 this section.

9.21 Subd. 9. **Accountability.** Each issuer shall maintain, on behalf of each project, an
9.22 interest-bearing reserve account into which one percent of the net proceeds of any bond
9.23 issued under this section for the project is deposited. Not later than five years after the
9.24 date of issuance, the commissioner shall determine whether the project has substantially
9.25 complied with the terms and conditions described in this section. If the commissioner
9.26 certifies that the project has substantially complied with the terms and conditions and
9.27 meets the commitments in the application for the project described in this section, the
9.28 issuer must release the amount in the reserve account, including accrued interest, to the
9.29 project. If the commissioner determines that the project has not substantially complied
9.30 with the terms and conditions, the issuer must remit the amount in the account, including
9.31 accrued interest, to the general fund.

9.32 **EFFECTIVE DATE.** This section is effective for bonds issued after June 30, 2009.

9.33 **Sec. 6. [290.0681] CREDIT FOR HISTORIC STRUCTURE REHABILITATION.**

9.34 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this
9.35 subdivision have the meanings given them.

(b) "Certified historic structure" means a property located in Minnesota and listed individually on the National Register of Historic Places or a historic property designated by either a certified local government or a heritage preservation commission created under the National Historic Preservation Act of 1966 and whose designation is approved by the state historic preservation officer.

(c) "Eligible property" means a certified historic structure or a structure in a certified historic district that is offered or used for residential or business purposes.

(d) "Structure in a certified historic district" means a structure located in Minnesota that is certified by the State Historic Preservation Office as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places or a local district that has been certified by the United States Department of the Interior.

Subd. 2. **Credit allowed.** A taxpayer who incurs costs for the rehabilitation of eligible property may take a credit against the tax imposed under this chapter in an amount equal to 25 percent of the total costs of rehabilitation. Costs of rehabilitation include, but are not limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code, provided that the costs of rehabilitation must exceed 50 percent of the total basis in the property at the time the rehabilitation activity begins and the rehabilitation must meet standards consistent with the standards of the Secretary of the Interior for rehabilitation as determined by the State Historic Preservation Office of the Minnesota Historical Society.

Subd. 3. **Carryback and carryforward.** If the amount of the credit under subdivision 2 exceeds the tax liability under this chapter for the year in which the cost is incurred, the amount that exceeds the tax liability may be carried back to any of the three preceding taxable years or carried forward to each of the ten taxable years succeeding the taxable year in which the expense was incurred. The entire amount of the credit must be carried to the earliest taxable year to which the amount may be carried. The unused portion of the credit must be carried to the following taxable year.

Subd. 4. **Partnerships; multiple owners; transfers.** (a) Credits granted to a partnership, a limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners, respectively, pro rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method.

(b) Taxpayers eligible for credits may transfer, sell, or assign the credits in whole or part. Any assignee may use acquired credits to offset up to 100 percent of the taxes otherwise imposed by this chapter. The assignee shall perfect a transfer by notifying the Department of Revenue in writing within 30 calendar days following the effective date

of the transfer in a form and manner as prescribed by the Department of Revenue. The proceeds of any sale or assignment of a credit is exempt from taxation under this chapter.

Subd. 5. Process. To claim the credit, the taxpayer must apply to the State Historic Preservation Office of the Minnesota Historical Society before a historic rehabilitation project begins. The State Historic Preservation Office shall determine the amount of eligible rehabilitation costs and whether the rehabilitation meets the standards of the United States Department of the Interior. The State Historic Preservation Office shall issue certificates verifying eligibility for and the amount of credit. The taxpayer shall attach the certificate to any income tax return on which the credit is claimed. The State Historic Preservation Office of the Minnesota Historical Society may collect fees for applications for the historic preservation tax credit. Fees shall be set at an amount that does not exceed the costs of administering the tax credit program.

Subd. 6. Mortgage certificates; credit for lending institutions. (a) The taxpayer may elect, in lieu of the credit otherwise allowed under this section, to receive a historic rehabilitation mortgage credit certificate.

(b) For purposes of this subdivision, a historic rehabilitation mortgage credit is a certificate that is issued to the taxpayer according to procedures prescribed by the State Historic Preservation Office with respect to the certified rehabilitation and meets the requirements of this paragraph. The face amount of the certificate must be equal to the credit that would be allowable under subdivision 2 to the taxpayer with respect to the rehabilitation. The certificate may only be transferred by the taxpayer to a lending institution, including a nondepository home mortgage lending institution, in connection with a loan:

(1) that is secured by the building with respect to which the credit is issued; and

(2) the proceeds of which may not be used for any purpose other than the acquisition or rehabilitation of the building.

(c) In exchange for the certificate, the lending institution must provide to the taxpayer an amount equal to the face amount of the certificate discounted by the amount by which the federal income tax liability of the lending institution is increased due to its use of the certificate in the manner provided in this section. That amount must be applied, as directed by the taxpayer, in whole or in part, to reduce:

(1) the principal amount of the loan;

(2) the rate of interest on the loan; or

(3) the taxpayer's cost of purchasing the building, but only in the case of a qualified historic home that is located in a poverty-impacted area as designated by the State Historic Preservation Office.

(d) The lending institution may take as a credit against the tax due under this chapter an amount equal to the amount specified in the certificate. If the amount of the discount retained by the lender exceeds the amount by which the lending institution's federal income tax liability is increased due to the use of a mortgage credit certificate, the excess shall be refunded to the borrower with interest at the rate prescribed by the State Historic Preservation Office. The lending institution may carry forward all unused credits under this subdivision until exhausted. Nothing in this subdivision requires a lending institution to accept a historic rehabilitation certificate from any person.

Subd. 7. **National landmarks.** Notwithstanding subdivision 2, the rehabilitation of a property designated as a National Historic Landmark on the National Register of Historic Places shall be eligible for the credit under this section provided that:

(1) renovation of the specific property, designated as a National Historic Landmark, without regard to its being part of a larger project, is consistent with the standards set forth in section 47(c) of the Internal Revenue Code;

(2) any project of which the National Historic Landmark is a part that has received the approval of any local heritage preservation commission under section 471.193, with review jurisdiction, or, if there is no applicable local heritage preservation commission, the Minnesota State Historic Preservation Officer; and

(3) all other requirements of this section are met.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 7. [290.0682] LOW-INCOME HOUSING CREDIT.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Agency" means the Minnesota Housing Finance Agency.

(b) "Applicable percentage" means the appropriate percentage prescribed by the secretary of the treasury for the type of building for purposes of section 42 of the Internal Revenue Code for the month that is the earlier of:

(1) the month in which the eligible low-income project is placed in service; or

(2) at the election of the taxpayer, the month in which the taxpayer and the agency or suballocator enter into an agreement with respect to the building, which is binding on the agency or suballocator, the taxpayer, and all successors in interest, as to the housing credit dollar amount to be allocated to the project.

A month may be elected under clause (2) only if the election is made not later than the fifth day after the close of the month. The election, once made, is irrevocable.

13.1 If, as of the close of a taxable year in the credit period, the qualified basis of an
13.2 eligible low-income building exceeds the basis as of the close of the first year of the credit
13.3 period, the applicable percentage that applies to the excess is two-thirds of the applicable
13.4 percentage originally ascribed to the building.

13.5 (c) "Compliance period" means the period of 15 taxable years beginning with the
13.6 first taxable year of the credit period with respect to a building.

13.7 (d) "Credit period" means, with respect to any eligible low-income project, the
13.8 period of ten taxable years beginning with:

13.9 (1) the taxable year in which the project is placed in service; or

13.10 (2) at the election of the taxpayer, the succeeding taxable year, but only if the
13.11 project is an eligible low-income project as of the close of the first year of the period.
13.12 The election, once made, is irrevocable.

13.13 (e) "Eligibility statement" means a statement issued by the agency or the suballocator
13.14 certifying that a project is an eligible low-income housing project. The statement must
13.15 set forth the taxable year in which the project is placed in service, the dollar amount
13.16 of low-income housing credit allocated to the project as provided in subdivision 5, the
13.17 applicable percentage and maximum qualified basis with respect to the project taken
13.18 into account in determining the dollar amount, sufficient information to identify each
13.19 project and the taxpayer or taxpayers who may claim a credit for each project, and other
13.20 information as the agency, in consultation with the commissioners of revenue and finance,
13.21 prescribe. The statement must be first issued following the close of the first taxable year in
13.22 the credit period, and thereafter, to the extent required by the commissioners of revenue
13.23 and finance, following the close of each taxable year of the compliance period.

13.24 (f) "Eligible low-income housing project" or "project" means a housing project
13.25 located in this state that is a qualified low-income project as defined in section 42(c) of
13.26 the Internal Revenue Code and that has been allocated federal low-income housing tax
13.27 credits from the agency or a suballocator.

13.28 (g) "Low-income project" means a project that has received an allocation of federal
13.29 nine percent low-income housing credits for the applicable year.

13.30 (h) "Qualified basis" of an eligible low-income housing project means the qualified
13.31 basis of the building determined under section 42(c) of the Internal Revenue Code.

13.32 (i) "Suballocator" means an allocator of low-income housing credits other than the
13.33 agency, as provided in section 462A.222.

13.34 (j) Terms not otherwise defined in this subdivision have the meanings provided in
13.35 section 42 of the Internal Revenue Code.

14.1 Subd. 2. **Allowance.** A taxpayer that owns an interest in one or more eligible
14.2 low-income housing projects shall be allowed a credit against the tax imposed under
14.3 this chapter for the amount of low-income housing credit allocated by the agency or a
14.4 suballocator to the project. The credit amount allocated shall be allowed as a credit against
14.5 the tax for the ten taxable years in the credit period, provided the credit allowable for the
14.6 first taxable year of the credit period for any project shall be adjusted as provided in section
14.7 42(f)(2) of the Internal Revenue Code and any reduction in first-year credit by reason of
14.8 the adjustment shall be allowable for the first taxable year following the credit period.

14.9 Subd. 3. **Amount of credit.** Except as provided in subdivisions 4 and 5, the amount
14.10 of low-income housing credit shall be the applicable percentage multiplied by the qualified
14.11 basis of each eligible low-income project.

14.12 Subd. 4. **Statewide limitation.** The aggregate dollar amount of credit available for
14.13 eligible low-income housing projects under this section is \$5,000,000 per year. The annual
14.14 amount of low-income credit shall be allocated between the agency and suballocators
14.15 in the same proportion as provided for federal credits and the allocation process shall
14.16 be as provided in section 462A.222. The state credit need not be allocated in the same
14.17 proportion among eligible low-income projects as the federal credit. The limitation
14.18 provided by this subdivision applies only to allocation of the annual aggregate dollar
14.19 amount of credit to be allocated by the agency and the suballocators, and does not apply
14.20 to allowance to a taxpayer of the credit with respect to an eligible low-income building
14.21 for each year of the credit period.

14.22 Subd. 5. **Project allocation limitation.** The dollar amount of credit allocated to
14.23 any project must not exceed the amount the agency and the suballocators determine is
14.24 necessary for the financial feasibility of the project as an eligible low-income project
14.25 throughout the credit period. In allocating a dollar amount of credit to any eligible
14.26 low-income project, the agency and suballocators must specify the applicable percentage
14.27 and the maximum qualified basis that may be taken into account under this section with
14.28 respect to the project. The applicable percentage and the maximum qualified basis for a
14.29 project must not exceed the amounts determined under this subdivision.

14.30 Subd. 6. **Long-term commitment to low-income housing required.** No credit
14.31 shall be allowed under this section with respect to a project or the taxable year, unless an
14.32 extended low-income housing commitment is in effect as of the end of the taxable year.
14.33 In this subdivision, the term "extended low-income housing commitment" means an
14.34 agreement between the taxpayer and the agency or suballocator, substantially similar to
14.35 the agreement specified in section 42(h)(6)(B) of the Internal Revenue Code.

15.1 Subd. 7. **Credit to successor owner.** If a credit is allowed under this section to an
15.2 eligible low-income housing project and the project or an interest in it is sold during the
15.3 credit period, the credit for the period after the sale that would have been allowable to the
15.4 prior owner had the project not been sold shall be allowable to the new owner. Credit for
15.5 the year of sale shall be allocated between the parties on the basis of the number of days
15.6 during the year that the project interest was held by each.

15.7 Subd. 8. **Project monitoring.** The agency shall establish procedures it deems
15.8 necessary for monitoring compliance of all eligible low-income projects with the
15.9 provisions of this section and section 42 of the Internal Revenue Code and for notifying
15.10 the commissioners of revenue and finance of any known noncompliance. The procedure
15.11 shall utilize existing procedures for monitoring the federal low-income housing tax credit
15.12 compliance with section 42 of the Internal Revenue Code.

15.13 Subd. 9. **Credit recapture.** If, as of the close of any taxable year in the compliance
15.14 period, the amount of the qualified basis of any low-income housing project for the
15.15 taxpayer is less than the amount of the basis as of the close of the preceding taxable
15.16 year, the credit under this section may be recaptured under a procedure to be established
15.17 by the commissioner of revenue.

15.18 Subd. 10. **Education and promotion.** The agency, in cooperation with the
15.19 suballocators, shall conduct a series of educational seminars and promotional events
15.20 targeted to corporations with major operations in Minnesota to inform potentially
15.21 interested purchasers of the state credit regarding the program and shall facilitate and
15.22 encourage creation of state credit buyer pools to acquire federal and state credits in
15.23 Minnesota.

15.24 **EFFECTIVE DATE.** This section is effective the day following final enactment,
15.25 provided that the tax credits are effective for taxable year beginning after December
15.26 31, 2009.

15.27 Sec. 8. Minnesota Statutes 2008, section 429.011, is amended by adding a subdivision
15.28 to read:

15.29 Subd. 2c. **Municipality, energy conservation improvements.** For purposes
15.30 of construction, improvement, alteration, and reconstruction of an on-site energy
15.31 conservation system, a municipality may provide the improvements through and impose
15.32 special assessments upon the request of a port authority, economic development authority,
15.33 industrial development authority, or housing and redevelopment authority.

Sec. 9. Minnesota Statutes 2008, section 429.011, is amended by adding a subdivision to read:

Subd. 17. **On-site energy conservation improvements.** "On-site energy conservation improvement" means any type of active or passive improvement, including insulation; windows or doors; heating, cooling, or other building systems; lighting systems; energy-related process or manufacturing changes; energy demand monitoring and regulation equipment; and any other type of device, improvement, or equipment installed in a building for the primary purpose of reduction in the use of energy in the building, whether the devices, equipment, or improvements so installed are publicly or privately owned.

Sec. 10. Minnesota Statutes 2008, section 429.021, subdivision 1, is amended to read:

Subdivision 1. **Improvements authorized.** The council of a municipality shall have power to make the following improvements:

(1) To acquire, open, and widen any street, and to improve the same by constructing, reconstructing, and maintaining sidewalks, pavement, gutters, curbs, and vehicle parking strips of any material, or by grading, graveling, oiling, or otherwise improving the same, including the beautification thereof and including storm sewers or other street drainage and connections from sewer, water, or similar mains to curb lines.

(2) To acquire, develop, construct, reconstruct, extend, and maintain storm and sanitary sewers and systems, including outlets, holding areas and ponds, treatment plants, pumps, lift stations, service connections, and other appurtenances of a sewer system, within and without the corporate limits.

(3) To construct, reconstruct, extend, and maintain steam heating mains.

(4) To install, replace, extend, and maintain street lights and street lighting systems and special lighting systems.

(5) To acquire, improve, construct, reconstruct, extend, and maintain water works systems, including mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, and other appurtenances of a water works system, within and without the corporate limits.

(6) To acquire, improve and equip parks, open space areas, playgrounds, and recreational facilities within or without the corporate limits.

(7) To plant trees on streets and provide for their trimming, care, and removal.

(8) To abate nuisances and to drain swamps, marshes, and ponds on public or private property and to fill the same.

17.1 (9) To construct, reconstruct, extend, and maintain dikes and other flood control
17.2 works.

17.3 (10) To construct, reconstruct, extend, and maintain retaining walls and area walls.

17.4 (11) To acquire, construct, reconstruct, improve, alter, extend, operate, maintain, and
17.5 promote a pedestrian skyway system. Such improvement may be made upon a petition
17.6 pursuant to section 429.031, subdivision 3.

17.7 (12) To acquire, construct, reconstruct, extend, operate, maintain, and promote
17.8 underground pedestrian concourses.

17.9 (13) To acquire, construct, improve, alter, extend, operate, maintain, and promote
17.10 public malls, plazas or courtyards.

17.11 (14) To construct, reconstruct, extend, and maintain district heating systems.

17.12 (15) To construct, reconstruct, alter, extend, operate, maintain, and promote fire
17.13 protection systems in existing buildings, but only upon a petition pursuant to section
17.14 429.031, subdivision 3.

17.15 (16) To acquire, construct, reconstruct, improve, alter, extend, and maintain highway
17.16 sound barriers.

17.17 (17) To improve, construct, reconstruct, extend, and maintain gas and electric
17.18 distribution facilities owned by a municipal gas or electric utility.

17.19 (18) To purchase, install, and maintain signs, posts, and other markers for addressing
17.20 related to the operation of enhanced 911 telephone service.

17.21 (19) To improve, construct, extend, and maintain facilities for Internet access and
17.22 other communications purposes, if the council finds that:

17.23 (i) the facilities are necessary to make available Internet access or other
17.24 communications services that are not and will not be available through other providers or
17.25 the private market in the reasonably foreseeable future; and

17.26 (ii) the service to be provided by the facilities will not compete with service provided
17.27 by private entities.

17.28 (20) To assess affected property owners for all or a portion of the costs agreed to
17.29 with an electric utility, telecommunications carrier, or cable system operator to bury or
17.30 alter a new or existing distribution system within the public right-of-way that exceeds the
17.31 utility's design and construction standards, or those set by law, tariff, or franchise, but only
17.32 upon petition under section 429.031, subdivision 3.

17.33 (21) To construct, reconstruct, improve, alter, and maintain on-site energy
17.34 conservation improvements in existing buildings, but only upon a petition under section
17.35 429.031, subdivision 3. The activities under this clause may also be undertaken by a port
17.36 authority, economic development authority, industrial development authority, or housing

18.1 and redevelopment authority, and the municipality may act on the request of those entities
18.2 in imposing special assessments.

18.3 Sec. 11. Minnesota Statutes 2008, section 429.031, subdivision 3, is amended to read:

18.4 Subd. 3. **Petition by all owners.** Whenever all owners of real property abutting
18.5 upon any street named as the location of any improvement shall petition the council
18.6 to construct the improvement and to assess the entire cost against their property, the
18.7 council may, without a public hearing, adopt a resolution determining such fact and
18.8 ordering the improvement. The validity of the resolution shall not be questioned by
18.9 any taxpayer or property owner or the municipality unless an action for that purpose
18.10 is commenced within 30 days after adoption of the resolution as provided in section
18.11 429.036. Nothing herein prevents any property owner from questioning the amount
18.12 or validity of the special assessment against the owner's property pursuant to section
18.13 429.081. In the case of a petition for the municipality to own and install a fire protection
18.14 system, a pedestrian skyway system, on-site energy conservation improvements, or
18.15 on-site water contaminant improvements, the petition must contain or be accompanied
18.16 by an undertaking satisfactory to the city by the petitioner that the petitioner will grant
18.17 the municipality the necessary property interest in the building to permit the city to enter
18.18 upon the property and the building to construct, maintain, and operate the fire protection
18.19 system, pedestrian skyway system, on-site energy conservation improvements, or on-site
18.20 water contaminant improvements. In the case of a petition for the installation of a
18.21 privately owned fire protection system, a privately owned pedestrian skyway system,
18.22 privately owned on-site energy conservation improvements, or privately owned on-site
18.23 water contaminant improvements, the petition shall contain the plans and specifications
18.24 for the improvement, the estimated cost of the improvement and a statement indicating
18.25 whether the city or the owner will contract for the construction of the improvement. If the
18.26 owner is contracting for the construction of the improvement, the city shall not approve
18.27 the petition until it has reviewed and approved the plans, specifications, and cost estimates
18.28 contained in the petition. The construction cost financed under section 429.091 shall not
18.29 exceed the amount of the cost estimate contained in the petition. In the case of a petition
18.30 for the installation of a fire protection system, a pedestrian skyway system, on-site energy
18.31 conservation improvements, or on-site water contaminant improvements, the petitioner
18.32 may request abandonment of the improvement at any time after it has been ordered
18.33 pursuant to subdivision 1 and before contracts have been awarded for the construction of
18.34 the improvement under section 429.041, subdivision 2. If such a request is received, the

19.1 city council shall abandon the proceedings but in such case the petitioner shall reimburse
19.2 the city for any and all expenses incurred by the city in connection with the improvement.

19.3 Sec. 12. **[462A.2094] TAX CREDIT ADVANCE LOAN PROGRAM.**

19.4 The agency must develop the tax credit advance loan program. The loan program
19.5 provides second mortgages for first-time home buyers to finance loans for up to \$8,000 of
19.6 the home purchase price. Tax credit advance loans must be used in conjunction with a
19.7 conventional loan at a 30-year fixed rate mortgage and require that the home buyer file
19.8 for a federal tax credit for first-time home buyers and use the credit refund to repay the
19.9 loan. If the tax credit advance loan is repaid when due, the homeowner will be required to
19.10 pay no interest, although reasonable servicing fees may be required to be paid. If the tax
19.11 credit advance loan is not paid when due, principal and interest payments to repay the loan
19.12 over ten years begins. The agency must issue tax-exempt bonds to fund the program. The
19.13 program shall remain in effect during the time when the federal tax credit is in effect.

19.14 Sec. 13. Minnesota Statutes 2008, section 462A.36, subdivision 1, is amended to read:

19.15 Subdivision 1. **Definitions.** (a) For purposes of this section the following terms have
19.16 the meanings given them in this subdivision.

19.17 (b) "Debt service" means the amount payable in any fiscal year of principal,
19.18 premium, if any, and interest on nonprofit housing bonds and the fees, charges, and
19.19 expenses related to the bonds.

19.20 (c) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

19.21 (d) "Nonprofit housing bonds" means bonds issued by the agency under chapter
19.22 462A that are "qualified 501(c)(3) bonds" (within the meaning of Section 145(a) of
19.23 the Internal Revenue Code) or are not "private activity bonds" (within the meaning of
19.24 Section 141(a) of the Internal Revenue Code), for the purpose of financing or refinancing
19.25 affordable housing authorized under this chapter.

19.26 (e) "Permanent supportive housing" means housing that is not time-limited and
19.27 provides or coordinates with linkages to services necessary for residents to maintain
19.28 housing stability and maximize opportunities for education and employment.

19.29 (f) "Qualified nonprofit housing" means housing constructed by a 501(c)(3)
19.30 organization and serving, in part, a low- or moderate-income group of tenants.

19.31 Sec. 14. Minnesota Statutes 2008, section 462A.36, subdivision 2, is amended to read:

Subd. 2. **Authorization.** (a) The agency may issue up to ~~\$30,000,000~~ \$180,000,000 of nonprofit housing bonds in one or more series to which the payments made under this section may be pledged.

(b) The nonprofit housing bonds up to an amount of \$30,000,000 authorized in this subdivision may be issued for the purpose of making loans, on terms and conditions the agency deems appropriate, to finance the costs of the construction, acquisition, preservation, and rehabilitation of permanent supportive housing for individuals and families who: (1) either have been without a permanent residence for at least 12 months or at least four times in the last three years; or (2) are at significant risk of lacking a permanent residence for 12 months or at least four times in the last three years.

~~(b)~~ (c) An insubstantial portion of the bond proceeds may be used for permanent supportive housing for individuals and families experiencing homelessness who do not meet the criteria of paragraph ~~(a)~~ (b).

(d) The nonprofit housing bonds up to an amount of \$150,000,000 authorized in this subdivision may be issued for the purpose of making loans, on terms and conditions the agency deems appropriate, to finance the costs of the construction, acquisition, preservation, and rehabilitation for other types of qualified nonprofit housing provided that the housing has a material low-income component according to standards established by the agency.

Sec. 15. Minnesota Statutes 2008, section 462A.36, is amended by adding a subdivision to read:

Subd. 3a. **State fee for issuance.** The state may charge a fee for its issuance of the bonds under this section equivalent to actual costs, plus an additional amount, not to exceed 0.5 percent, as determined by the agency. Amounts received in excess of costs shall be held in the nonprofit bond account as provided in subdivision 4, paragraph (b), and may be used to pay the nonprofit housing bonds.

Sec. 16. Minnesota Statutes 2008, section 462A.36, subdivision 4, is amended to read:

Subd. 4. **Appropriation; payment to the agency or trustee.** (a) The agency must certify annually to the commissioner of finance the actual amount of annual debt service on each series of bonds issued under subdivision 2, paragraph (a).

(b) Each July 15, beginning in 2009 and through 2031, if any nonprofit housing bonds issued under subdivision 2 remain outstanding, the commissioner of finance must transfer to the nonprofit housing bond account established under section 462A.21, subdivision 32, the amount certified under paragraph (a), not to exceed \$2,400,000

21.1 annually. The amounts necessary to make the transfers are appropriated from the general
21.2 fund to the commissioner of finance.

21.3 (c) The agency may pledge to the payment of the nonprofit housing bonds the
21.4 payments to be made by the state under this section.

21.5 Sec. 17. Minnesota Statutes 2008, section 469.176, subdivision 2, is amended to read:

21.6 Subd. 2. **Excess increments.** (a) The authority shall annually determine the amount
21.7 of excess increments for a district, if any. This determination must be based on the tax
21.8 increment financing plan in effect on December 31 of the year and the increments and
21.9 other revenues received as of December 31 of the year. The authority must spend or return
21.10 the excess increments under paragraph (c) within nine months after the end of the year.

21.11 (b) For purposes of this subdivision, "excess increments" equals the excess of:

21.12 (1) total increments collected from the district since its certification, reduced by any
21.13 excess increments paid under paragraph (c), clause (4), for a prior year, over

21.14 (2) the total costs authorized by the tax increment financing plan to be paid with
21.15 increments from the district, reduced, but not below zero, by the sum of:

21.16 (i) the amounts of those authorized costs that have been paid from sources other than
21.17 tax increments from the district;

21.18 (ii) revenues, other than tax increments from the district, that are dedicated for or
21.19 otherwise required to be used to pay those authorized costs and that the authority has
21.20 received and that are not included in item (i);

21.21 (iii) the amount of principal and interest obligations due on outstanding bonds after
21.22 December 31 of the year and not prepaid under paragraph (c) in a prior year; and

21.23 (iv) increased by the sum of the transfers of increments made under section 469.1763,
21.24 subdivision 6, to reduce deficits in other districts made by December 31 of the year.

21.25 (c) The authority shall use excess increment only to do one or more of the following:

21.26 (1) prepay any outstanding bonds;

21.27 (2) discharge the pledge of tax increment for any outstanding bonds;

21.28 (3) pay into an escrow account dedicated to the payment of any outstanding bonds; ~~or~~

21.29 (4) pay or reimburse eligible project costs for a stimulus project certified by the
21.30 authority as defined in section 469.176, subdivision 8, paragraph (b); or

21.31 (5) return the excess amount to the county auditor who shall distribute the excess

21.32 amount to the city or town, county, and school district in which the tax increment financing
21.33 district is located in direct proportion to their respective local tax rates.

21.34 (d) For purposes of a district for which the request for certification was made prior to
21.35 August 1, 1979, excess increments equal the amount of increments on hand on December

22.1 31, less the principal and interest obligations due on outstanding bonds or advances,
22.2 qualifying under subdivision 1c, clauses (1), (2), (4), and (5), after December 31 of the
22.3 year and not prepaid under paragraph (c).

22.4 (e) The county auditor must report to the commissioner of education the amount of
22.5 any excess tax increment distributed to a school district within 30 days of the distribution.

22.6 (f) For purposes of this subdivision, "outstanding bonds" means bonds which are
22.7 secured by increments from the district.

22.8 (g) The state auditor may exempt an authority from reporting the amounts calculated
22.9 under this subdivision for a calendar year, if the authority certifies to the auditor in
22.10 its report that the total amount authorized by the tax increment plan to be paid with
22.11 increments from the district exceeds the sum of the total increments collected for the
22.12 district for all years by 20 percent.

22.13 Sec. 18. Minnesota Statutes 2008, section 469.176, is amended by adding a subdivision
22.14 to read:

22.15 Subd. 8. **Economic stimulus projects.** (a) In connection with a stimulus project,
22.16 the authority may extend by ten years the duration limits in subdivision 1b, paragraph (a),
22.17 for any district for which the request for certification was made after July 31, 1979, and
22.18 before January 1, 2013, to pay expenditures relating to a stimulus project.

22.19 (b) A "stimulus project" means any capital project, the construction of which
22.20 commences not later than December 31, 2012, determined to create or retain jobs in the
22.21 state, including construction jobs, by the governing body of the municipality in which the
22.22 project is located.

22.23 Sec. 19. **REPEALER.**

22.24 Minnesota Statutes 2008, section 469.312, subdivision 3, is repealed.

APPENDIX
Repealed Minnesota Statutes: 09-3690

469.312 JOB OPPORTUNITY BUILDING ZONES; LIMITATIONS.

Subd. 3. **Outside metropolitan area.** The area of a job opportunity building zone must be located outside of the metropolitan area, as defined in section 473.121, subdivision 2.