

1.1 A bill for an act

1.2 relating to greenhouse gas emissions reduction; making findings; providing
1.3 for city growth areas; imposing certain density limits in unincorporated areas;
1.4 prohibiting new incorporations; modifying tax increment financing standards;
1.5 prohibiting the use of minimum acreage standards for new school siting;
1.6 amending Minnesota Statutes 2008, sections 123B.70, subdivision 1; 462.352, by
1.7 adding a subdivision; 462.357, subdivision 1, by adding subdivisions; 462.358,
1.8 subdivision 1a; 469.174, by adding a subdivision; 469.176, subdivision 1b, by
1.9 adding a subdivision; proposing coding for new law in Minnesota Statutes,
1.10 chapter 414; repealing Minnesota Statutes 2008, sections 394.232; 414.02.

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

1.12 Section 1. **LEGISLATIVE FINDINGS.**

1.13 The legislature finds that land use reform is a key strategy in the effort to reduce
1.14 the state's emission of greenhouse gases. Land use reform will reduce the distance and
1.15 frequency of automobile trips and will encourage walking, bicycling, and the use of transit
1.16 to get to school and work.

1.17 The legislature also finds that preservation of agricultural lands, forest, prairie,
1.18 and open space contributes to a healthy and economically vibrant Minnesota. To
1.19 preserve agricultural lands, forest, prairie, and open space, and to decrease vehicle miles
1.20 traveled, economic development policies should give priority to the redevelopment and
1.21 rehabilitation of existing residential, commercial, industrial, recreational, and institutional
1.22 structures over the construction of new buildings on undeveloped land. Preservation of
1.23 Minnesota's agricultural lands, forest, prairie, and open space, as well as the protection and
1.24 enhancement of our cultural heritage, requires careful planning at all levels of government.

1.25 Sec. 2. Minnesota Statutes 2008, section 123B.70, subdivision 1, is amended to read:

2.1 Subdivision 1. **Commissioner approval.** In determining whether to give a school
2.2 facility a positive, negative, or unfavorable review and comment, the commissioner must
2.3 evaluate the proposals for facilities using the information provided under section 123B.71,
2.4 subdivision 9. The commissioner may evaluate the proposals using the most recent
2.5 "Guide for Planning School Construction in Minnesota" prepared by the Department
2.6 of Education, but must not issue a negative or unfavorable review and comment under
2.7 this section for a school facility based on the acreage of the proposed school site. The
2.8 commissioner must evaluate the energy and environmental impact of any new school
2.9 facility. If a school is proposed for a new site, the commissioner must examine the energy
2.10 costs associated with that facility, including the change in pupil transportation costs, and
2.11 the costs of establishing new infrastructure, including roads, sidewalks, and utility lines.

2.12 **EFFECTIVE DATE.** This section is effective for review and comments issued
2.13 after July 1, 2009.

2.14 Sec. 3. **[414.023] INCORPORATIONS PROHIBITED AFTER JUNE 1, 2009.**
2.15 The chief administrative law judge must not order any municipal incorporations
2.16 after June 1, 2009.

2.17 Sec. 4. Minnesota Statutes 2008, section 462.352, is amended by adding a subdivision
2.18 to read:

2.19 **Subd. 1a. City.** "City" means a statutory or home rule charter city.

2.20 Sec. 5. Minnesota Statutes 2008, section 462.357, subdivision 1, is amended to read:

2.21 Subdivision 1. **Authority for zoning.** For the purpose of promoting the public
2.22 health, safety, morals, and general welfare, a municipality may by ordinance regulate
2.23 on the earth's surface, in the air space above the surface, and in subsurface areas, the
2.24 location, height, width, bulk, type of foundation, number of stories, size of buildings
2.25 and other structures, the percentage of lot which may be occupied, the size of yards and
2.26 other open spaces, the density and distribution of population, the uses of buildings and
2.27 structures for trade, industry, residence, recreation, public activities, or other purposes,
2.28 and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil
2.29 conservation, water supply conservation, conservation of shorelands, as defined in
2.30 sections 103F.201 to 103F.221, access to direct sunlight for solar energy systems as
2.31 defined in section 216C.06, flood control or other purposes, and may establish standards
2.32 and procedures regulating such uses. To accomplish these purposes, official controls may
2.33 include provision for purchase of development rights by the governing body in the form of

3.1 conservation easements under chapter 84C in areas where the governing body considers
3.2 preservation desirable and the transfer of development rights from those areas to areas the
3.3 governing body considers more appropriate for development. No regulation may prohibit
3.4 earth sheltered construction as defined in section 216C.06, subdivision 14, relocated
3.5 residential buildings, or manufactured homes built in conformance with sections 327.31
3.6 to 327.35 that comply with all other zoning ordinances promulgated pursuant to this
3.7 section. The regulations may divide the surface, above surface, and subsurface areas of the
3.8 municipality into districts or zones of suitable numbers, shape, and area. The regulations
3.9 shall be uniform for each class or kind of buildings, structures, or land and for each class
3.10 or kind of use throughout such district, but the regulations in one district may differ from
3.11 those in other districts. The ordinance embodying these regulations shall be known
3.12 as the zoning ordinance and shall consist of text and maps. ~~A city may by ordinance~~
3.13 ~~extend the application of its zoning regulations to unincorporated territory located within~~
3.14 ~~two miles of its limits in any direction, but not in a county or town which has adopted~~
3.15 ~~zoning regulations; provided that where two or more noncontiguous municipalities have~~
3.16 ~~boundaries less than four miles apart, each is authorized to control the zoning of land on~~
3.17 ~~its side of a line equidistant between the two noncontiguous municipalities unless a town~~
3.18 ~~or county in the affected area has adopted zoning regulations. Any city may thereafter~~
3.19 ~~enforce such regulations in the area to the same extent as if such property were situated~~
3.20 ~~within its corporate limits, until the county or town board adopts a comprehensive zoning~~
3.21 ~~regulation which includes the area.~~

3.22 Sec. 6. Minnesota Statutes 2008, section 462.357, is amended by adding a subdivision
3.23 to read:

3.24 Subd. 1i. **Limited residential densities in unincorporated areas.** (a) This
3.25 subdivision does not apply to unincorporated areas within a city's designated growth
3.26 boundary, areas that are subdivided and for which there is a recorded plat as of February
3.27 1, 2009, areas governed by shoreland regulations and zoning, or parcels classified as
3.28 noncommercial seasonal residential recreational property for property tax purposes.

3.29 (b) Unincorporated areas with no more than one residential unit per 40 acres as
3.30 of August 1, 2009, must not be developed with residential densities greater than one
3.31 unit per 40 acres. If the unincorporated area has a residential density greater than one
3.32 residential unit per 40 acres as of August 1, 2009, the density must not be increased. A
3.33 county may enact a new or enforce an existing cluster development ordinance provided
3.34 that the ordinance:

4.1 (1) limits the maximum number of dwelling units to no more than 150 percent of the
4.2 number otherwise permitted in the zoning district;

4.3 (2) limits lot sizes to no larger than two acres; and

4.4 (3) includes cluster development site standards designed to avoid development on,
4.5 fragmentation of, or interference with prime farmland soils, tillable farmland, large tracks
4.6 of land in agricultural use, woodlands, and other significant stands of vegetation.

4.7 Sec. 7. Minnesota Statutes 2008, section 462.357, is amended by adding a subdivision
4.8 to read:

4.9 Subd. 10. **City growth areas.** (a) A city may create a growth area by ordinance
4.10 when the city council determines that:

4.11 (1) population growth demands more housing than can be developed in the space
4.12 available within the city, or growth in commercial or industrial use requires more space
4.13 than available within the city;

4.14 (2) planning of city services is necessary to facilitate the growth; and

4.15 (3) the city has the capacity and willingness to extend city services such as sewer
4.16 and water throughout the growth area.

4.17 A city must not include in the growth area any area to which it is not willing or able to
4.18 extend sewer or water services. An area is appropriate to be included in a city's growth
4.19 area to the extent that future development within the growth area will maximize existing
4.20 transportation, water, sewer, and other municipal infrastructure, while avoiding to the
4.21 extent practicable the development of class A agricultural land. Upon making the findings
4.22 in this paragraph and after the county review and public hearings in paragraph (b), the
4.23 city may designate the growth area and update its comprehensive plan to include the
4.24 growth area.

4.25 (b) Before designating the growth area, the city must hold a hearing to present to the
4.26 public its proposed findings for a designated growth area. Notice of the hearing must be
4.27 published in the city and in the proposed designated growth area. Members of the public
4.28 must be given a reasonable opportunity to present their comments. The city also must
4.29 provide the proposed findings and designated growth area to the county planning authority
4.30 of each county affected. Each county has 45 days to review and comment on the proposal.
4.31 The city may but is not required to make changes to its proposed designated growth
4.32 area based on comments from the public and each affected county. After receiving and
4.33 considering the comments and before adopting the growth area ordinance, the city must
4.34 provide notice and hold a second public hearing to present its findings and designated
4.35 growth area, and any changes made to them based on comments received by the city.

5.1 (c) A city's growth area may extend into the unincorporated area beyond the city
5.2 limits in any direction. If more than one city claims the same unincorporated area for its
5.3 growth area, an administrative law judge will determine which city is best positioned to
5.4 serve the area weighing factors that include existing development and population growth
5.5 patterns; existing transportation infrastructure; impact on vehicle miles traveled from area
5.6 to regional amenities, schools, jobs, and governmental services; and the overall costs
5.7 of extending services to the area.

5.8 (d) If the city's growth area includes land zoned by the county or town for
5.9 agricultural use at the time the growth area ordinance is adopted, that land continues to
5.10 be subject only to the county's or town's official controls for agricultural use. When the
5.11 county, city, or town receives a request to change the zoning classification of that land to a
5.12 nonagricultural use, it becomes subject to the city's land use controls.

5.13 (e) Except as provided in paragraph (d), a city has the exclusive right to plan, adopt,
5.14 and enforce official controls in its growth area as though the area were within the city.
5.15 Planning and development in the growth area must be at densities that are consistent
5.16 with the rest of the city.

5.17 (f) Growth areas must be reviewed by the city council at least every ten years.

5.18 (g) As development occurs in the growth area and sewer and water service is
5.19 extended to the development, that part of the growth area may be annexed to the city
5.20 by ordinance following the procedures in chapter 414. Annexation by ordinance under
5.21 this paragraph is not subject to the conditions for annexation by ordinance in section
5.22 414.033, subdivision 2.

5.23 (h) A city that has established a growth area must file its growth area ordinance and
5.24 maps with the Office of Administrative Hearings municipal boundary adjustments.

5.25 Sec. 8. Minnesota Statutes 2008, section 462.358, subdivision 1a, is amended to read:

5.26 Subd. 1a. **Authority.** To protect and promote the public health, safety, and general
5.27 welfare, to provide for the orderly, economic, and safe development of land, to preserve
5.28 agricultural lands, to promote the availability of housing affordable to persons and families
5.29 of all income levels, and to facilitate adequate provision for transportation, water, sewage,
5.30 storm drainage, schools, parks, playgrounds, and other public services and facilities, a
5.31 municipality may by ordinance adopt subdivision regulations establishing standards,
5.32 requirements, and procedures for the review and approval or disapproval of subdivisions.
5.33 The regulations may contain varied provisions respecting, and be made applicable only
5.34 to, certain classes or kinds of subdivisions. The regulations shall be uniform for each
5.35 class or kind of subdivision.

6.1 ~~A municipality may by resolution extend the application of its subdivision~~
6.2 ~~regulations to unincorporated territory located within two miles of its limits in any~~
6.3 ~~direction but not in a town which has adopted subdivision regulations; provided that where~~
6.4 ~~two or more noncontiguous municipalities have boundaries less than four miles apart,~~
6.5 ~~each is authorized to control the subdivision of land equal distance from its boundaries~~
6.6 ~~within this area.~~

6.7 Sec. 9. Minnesota Statutes 2008, section 469.174, is amended by adding a subdivision
6.8 to read:

6.9 Subd. 10c. **Compact development district.** "Compact development district" means
6.10 a type of tax increment financing district consisting of a project, or portions of a project,
6.11 within which the authority finds by resolution that the following conditions are satisfied:

6.12 (1) parcels consisting of 70 percent of the area of the district are occupied by
6.13 buildings or other structures that are classified as class 3a property under section 273.13,
6.14 subdivision 24; and

6.15 (2) the planned redevelopment or development of the district, when completed, will
6.16 increase the total square footage of buildings, classified as class 3a under section 273.13,
6.17 subdivision 24, occupying the district by three times or more relative to the square footage
6.18 of similar buildings occupying the district when the resolution was approved.

6.19 **EFFECTIVE DATE.** This section is effective for districts for which the request for
6.20 certification is made after June 30, 2009.

6.21 Sec. 10. Minnesota Statutes 2008, section 469.176, subdivision 1b, is amended to read:

6.22 Subd. 1b. **Duration limits; terms.** (a) No tax increment shall in any event be
6.23 paid to the authority

6.24 (1) after 15 years after receipt by the authority of the first increment for a renewal
6.25 and renovation district,

6.26 (2) after 20 years after receipt by the authority of the first increment for a soils
6.27 condition district,

6.28 (3) after eight years after receipt by the authority of the first increment for an
6.29 economic development district,

6.30 (4) for a housing district, a compact development district, or a redevelopment
6.31 district, after 25 years from the date of receipt by the authority of the first increment.

6.32 (b) For purposes of determining a duration limit under this subdivision or subdivision
6.33 1e that is based on the receipt of an increment, any increments from taxes payable in
6.34 the year in which the district terminates shall be paid to the authority. This paragraph

7.1 does not affect a duration limit calculated from the date of approval of the tax increment
7.2 financing plan or based on the recovery of costs or to a duration limit under subdivision
7.3 1c. This paragraph does not supersede the restrictions on payment of delinquent taxes in
7.4 subdivision 1f.

7.5 (c) An action by the authority to waive or decline to accept an increment has no
7.6 effect for purposes of computing a duration limit based on the receipt of increment under
7.7 this subdivision or any other provision of law. The authority is deemed to have received an
7.8 increment for any year in which it waived or declined to accept an increment, regardless
7.9 of whether the increment was paid to the authority.

7.10 (d) Receipt by a hazardous substance subdistrict of an increment as a result of a
7.11 reduction in original net tax capacity under section 469.174, subdivision 7, paragraph
7.12 (b), does not constitute receipt of increment by the overlying district for the purpose of
7.13 calculating the duration limit under this section.

7.14 **EFFECTIVE DATE.** This section is effective for districts for which the request for
7.15 certification is made after June 30, 2009.

7.16 Sec. 11. Minnesota Statutes 2008, section 469.176, is amended by adding a subdivision
7.17 to read:

7.18 Subd. 1i. **Compact development districts.** Tax increments derived from a compact
7.19 development district may only be used to pay:

7.20 (1) administrative expenses up to the amount permitted under subdivision 3;

7.21 (2) the cost of acquiring land located in the district or abutting the boundary of
7.22 the district;

7.23 (3) demolition and removal of buildings or other improvements and other site
7.24 preparation costs for lands located in the district or abutting the boundary of the district;

7.25 and

7.26 (4) installation of public infrastructure or public improvements serving the district,
7.27 but excluding the costs of streets, roads, highways, parking, or other public improvements
7.28 primarily designed to serve private passenger motor vehicles.

7.29 **EFFECTIVE DATE.** This section is effective for districts for which the request for
7.30 certification is made after June 30, 2009.

7.31 Sec. 12. **REPEALER.**

7.32 Minnesota Statutes 2008, sections 394.232; and 414.02, are repealed.