Sec. 3. **REPEALER.**

Minnesota Statutes 1984, section 484.68, subdivision 6, is repealed.

Approved March 25, 1986

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## CHAPTER 465—H.F.No. 2287

*An act relating to local government financing; allocating issuance authority for obligations subject to a federal volume limitation act; authorizing issuance of bonds; giving local governments certain powers; prescribing pollution control agency procedures; providing for wastewater treatment control; amending Minnesota Statutes 1984, sections 115.07, subdivision 1; 115A.14, subdivision 4; 124.214, by adding a subdivision; 273.1314, by adding a subdivision; 273.73, subdivision 10; 273.75, subdivision 2; 273.77; 298.2211, subdivision 1; 412.301; 429.091, subdivision 8; 430.12; 459.35; 462.556; 462A.03, subdivision 13; 462C.02, subdivision 6; 462C.06; 462C.07, subdivision 1; 471.59, subdivision 11; 472.09, subdivision 8; 474.01, subdivisions 6 and 7b; 474.02, by adding a subdivision; 475.55, subdivision 1, and by adding a subdivision; 475.77; Minnesota Statutes 1985 Supplement, sections 273.1314, subdivision 16a; 273.75, subdivision 4; 458.1941; 462.445, subdivision 13; 475.56; 475.60, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 115, 116, 297A, 340A, and 475; proposing coding for new law as Minnesota Statutes, chapters 471A, 474A; repealing Minnesota Statutes 1984, sections 462C.09, subdivision 4; 474.16, subdivisions 1, 2, and 5; 474.21; 474.25; Minnesota Statutes 1985 Supplement, sections 116J.58, subdivision 4; 462C.09, subdivisions 1, 2a, 3, 5, and 6; 474.16, subdivisions 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15; 474.17; 474.19; 474.20; 474.23; and 474.26.*

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

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### ARTICLE 1

Section 1. Minnesota Statutes 1984, section 273.77, is amended to read:

273.77 **TAX INCREMENT BONDING.**

Any other law, general or special, notwithstanding, after August 1, 1979 no bonds, payment for which tax increment is pledged, shall be issued in connection with any project for which tax increment financing has been undertaken other than as is authorized hereby and the proceeds therefrom shall be used only in accordance with section 273.75, subdivision 4 as if said proceeds were tax

increment, except that a tax increment financing plan need not be adopted for any project for which tax increment financing has been undertaken prior to August 1, 1979, pursuant to statutes not requiring a tax increment financing plan. Such bonds shall not be included for purposes of computing the net debt of any municipality.

(a) A municipality may issue general obligation bonds to finance any expenditure by the municipality or an authority the jurisdiction of which is wholly or partially within that municipality, pursuant to section 273.75, subdivision 4 in the same manner and subject only to the same conditions as those provided in chapter 475 for bonds financing improvement costs reimbursable from special assessments. Any pledge of tax increment, assessments or other revenues for the payment of the principal of and interest on general obligation bonds issued under this subdivision, except when the authority and the municipality are the same, shall be made by written agreement by and between the authority and the municipality and filed with the county auditor. When the authority and the municipality are the same, the municipality may by covenant pledge tax increment, assessments or other revenues for the payment of the principal of and interest on general obligation bonds issued under this subdivision and thereupon shall file the resolution containing such covenant with the county auditor. When tax increment, assessments and other revenues are pledged, the estimated collections of said tax increment, assessments and any other revenues so pledged may be deducted from the taxes otherwise required to be levied before the issuance of the bonds under section 475.61, subdivision 1, or the collections thereof may be certified annually to reduce or cancel the initial tax levies in accordance with section 475.61, subdivision 1 or 3.

(b) When the authority and the municipality are not the same, an authority may, by resolution, authorize, issue and sell its general obligation bonds to finance any expenditure which that authority is authorized to make by section 273.75, subdivision 4. Said bonds of the authority shall be authorized by its resolution, shall mature as determined by resolution of the authority in accordance with Laws 1979, Chapter 322, and may be issued in one or more series and shall bear such date or dates, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in medium of payment at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide. The bonds may be sold at public or private sale at the price or prices as the authority by resolution shall determine, and any provision of any law to the contrary notwithstanding, the bonds shall be fully negotiable. In any suit, actions, or proceedings involving the validity of enforceability of any bonds of the authority or the security therefor, any bond reciting in substance that it has been issued by the authority to aid in financing a project shall be conclusively deemed to have been issued for such purpose, and the tax increment financing district within the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of Laws 1979, Chapter 322. Neither the

authority, nor any director, commissioner, council member, board member, officer, employee or agent of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds of the authority, and such bonds shall so state on their face, shall not be a debt of any municipality, the state or any political subdivision thereof, and neither the municipality nor the state or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds be payable out of any funds or properties other than those of the authority and any tax increment and revenues of a tax increment financing district pledged therefor.

(c) Notwithstanding any other law general or special, an authority may, by resolution, authorize, issue and sell revenue bonds payable solely from all or a portion of revenues, including but not limited to tax increment revenues and assessments, derived from a tax increment financing district located wholly or partially within the municipality to finance any expenditure which the authority is authorized to make by section 273.75, subdivision 4. The bonds shall mature as determined by resolution of the authority in accordance with Laws 1979, Chapter 322 and may be issued in one or more series and shall bear such date or dates, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in medium of payment at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide. The bonds may be sold at public or private sale at the price or prices as the authority by resolution shall determine, and any provision of any law to the contrary notwithstanding, shall be fully negotiable. In any suit, action, or proceedings involving the validity or enforceability of any bonds of the authority or the security therefor, any bond reciting in substance that it has been issued by the authority to aid in financing a project shall be conclusively deemed to have been issued for such purpose, and the tax increment financing district within the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of Laws 1979, Chapter 322. Neither the authority, nor any director, commissioner, council member, board member, officer, employee or agent of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds may be further secured by a pledge and mortgage of all or any portion of the district in aid of which the bonds are issued and such convenants as the authority shall deem by such resolution to be necessary and proper to secure payment of the bonds. The bonds, and the bonds shall so state on their face, shall not be payable from nor charged upon any funds other than the revenues and property pledged or mortgaged to the payment thereof, nor shall the issuing authority be subject to any liability thereon or have the powers to obligate itself to pay or pay the bonds from funds other than the revenues and properties pledged and mortgaged and no holder or holders of the bonds shall ever have the right to compel any exercise of any taxing power of the issuing authority or any other public body, other than as is permitted or required under Laws 1979, Chapter 322 and

pledged therefor hereunder, to pay the principal of or interest on any such bonds, nor to enforce payment thereof against any property of the authority or other public body other than that expressly pledged or mortgaged for the payment thereof.

(d) (1) In anticipation of the issuance of bonds pursuant to either paragraph (a), (b) or (c) of this section, the authority or municipality may by resolution issue and sell temporary bonds pursuant to paragraph (a), (b) or (c), maturing within not more than three years from their date of issue, to pay any part or all of the cost of a project. To the extent that the principal of and interest on the temporary bonds cannot be paid when due from receipts of tax increment, assessments, or other funds appropriated for the purpose, they shall be paid from the proceeds of long-term bonds or additional temporary bonds which the authority or municipality shall offer for sale in advance of the maturity date of the temporary bonds, but the indebtedness funded by an issue of temporary bonds shall not be extended by the issue of additional temporary bonds for more than six years from the date of the first issue. Long-term bonds may be issued pursuant to paragraph (a), (b) or (c) without regard to whether the temporary bonds were issued pursuant to paragraph (a), (b) or (c). If general obligation temporary bonds are issued pursuant to paragraph (a), proceeds of long-term bonds or additional temporary bonds not yet sold may be treated as pledged revenues, in reduction of the tax otherwise required by section 475.61 to be levied prior to delivery of the obligations. Subject to the six-year maturity limitation contained above, but without regard to the requirement of section 475.58, if any temporary bonds are not paid in full at maturity, in addition to any other remedy authorized or permitted by law, the holders may demand, in which case the authority or municipality shall, issue pursuant to paragraph (a), (b) or (c) as the temporary bonds and in exchange for the temporary bonds, at par, replacement temporary bonds dated as of the date of the replaced temporary bonds, maturing within one year from the date of the replacement temporary bonds and earning interest at the rate set forth in the resolution authorizing the issuance of the replaced temporary bonds, provided that the rate shall not exceed the maximum rate permitted by law at the date of issue of the replaced temporary bonds.

(2) Funds of a municipality may be invested in its temporary bonds in accordance with the provisions of section 471.56, and may be purchased upon their initial issue, but shall be purchased only from funds which the governing body of the municipality determines will not be required for other purposes before the maturity date, and shall be resold before maturity only in case of emergency. If purchased from a debt service fund securing other bonds, the holders of those bonds may enforce the municipality's obligations on the temporary bonds in the same manner as if they held the temporary bonds.

(e) Sections ~~474.16 to 474.23~~ 9 to 29 apply to any issuance of obligations under this section which are subject to limitation under a federal volume limitation act as defined in section ~~474.16~~ 10, subdivision ~~5~~ 9, or existing federal tax law as defined in section 10, subdivision 8.

**Changes or additions are indicated by underline, deletions by ~~strikeout~~.**

Sec. 2. Minnesota Statutes 1984, section 298.2211, subdivision 1, is amended to read:

Subdivision 1. **PURPOSE; GRANT OF AUTHORITY.** In order to accomplish the legislative purposes specified in chapters 362A, 462C, and 474, within tax relief areas as defined in section 273.134, the commissioner of iron range resources and rehabilitation may exercise the following powers: (1) all powers conferred upon a rural development financing authority under sections 362A.01 to 362A.05; (2) all powers conferred upon a city under chapter 462C, subject to compliance with the provisions of section ~~462C.09~~ 15; (3) all powers conferred upon a municipality or a redevelopment agency under chapter 474; (4) all powers provided by chapter 362A to further any of the purposes and objectives of chapters 462C and 474; and (5) all powers conferred upon a municipality or an authority under sections 273.73 to 273.76, section 273.77, except paragraph (a) thereof, and section 273.78, subject to compliance with the provisions of section 273.74, subdivisions 1, 2, and 3; provided that any tax increments derived by the commissioner from the exercise of this authority may be used only to finance or pay premiums or fees for insurance, letters of credit, or other contracts guaranteeing the payment when due of net rentals under a project lease or the payment of principal and interest due on or repurchase of bonds issued to finance a project or program, to accumulate and maintain reserves securing the payment when due on bonds issued to finance a project or program, or to provide an interest rate reduction program pursuant to section 462.445, subdivision 10. Tax increments and earnings thereon remaining in any bond reserve account after payment or discharge of any bonds secured thereby shall be used within one year thereafter in furtherance of this section or returned to the county auditor of the county in which the tax increment financing district is located. If returned to the county auditor, the county auditor shall immediately allocate the amount among all government units which would have shared therein had the amount been received as part of the other ad valorem taxes on property in the district most recently paid, in the same proportions as other taxes were distributed, and shall immediately distribute it to the government units in accordance with the allocation.

Sec. 3. Minnesota Statutes 1984, section 429.091, subdivision 8, is amended to read:

Subd. 8. **FEDERAL VOLUME LIMITATION ACT.** Sections ~~474.16 to 474.23~~ 9 to 29 apply to any issuance of obligations under this section which are subject to limitation under a federal volume limitation act as defined in section ~~474.16~~ 10, subdivision ~~5~~ 9, or existing federal tax law as defined in section 10, subdivision 8.

Sec. 4. Minnesota Statutes 1984, section 430.12, is amended to read:

430.12 **BONDS FOR IMPROVEMENTS.**

The city council, for the purpose of realizing the funds for making an improvement and paying damages may, from time to time as may be needed,

issue and sell special certificates of indebtedness, or special street or parkway improvement bonds, as they may decide, which shall entitle the holder thereof to all sums realized upon any assessment or, if deemed advisable, a series of two or more certificates or bonds against any one assessment, or against the assessments in two or more different proceedings, the principal and interest being payable at fixed dates out of the funds collected from the assessments, including interest and penalties, and the whole of the fund or funds is hereby pledged for the pro rata payment of the certificates or bonds and the interest thereon, as they severally become due. These certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed, as hereinafter provided, and for the time specified in section 430.06. If the city, because of this guaranty, shall redeem any certificate or bond, it shall thereupon be subrogated to the holder's rights. For the purpose of this guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. These certificates or bonds shall be sold at public sale or by sealed proposals at a meeting of which at least two weeks' published notice shall be given, to the purchaser who will pay the par value thereof at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed seven percent per annum, payable annually or semiannually. The city clerk shall certify to the county auditor the rate of interest so determined at the first bond sale held for any such improvement, and interest shall be computed upon the assessments at this annual rate, in accordance with the terms of section 430.06. In case the rate of interest so determined at any subsequent bond sale for the same improvement is greater than the rate so determined at the first bond sale therefor, the difference between these rates of interest shall be a general city charge.

In case the proceeds of any special certificates of indebtedness or special street or parkway improvement bonds are in excess of the amount actually necessary to make the improvements for which the same were issued, or in case the proceeds are not immediately required for the prosecution or completion of the improvement, these proceeds may meanwhile be used by the city council for the making of other improvements authorized under the provisions of this chapter, and the amount of the proceeds so used shall be replaced and made good so far as may be necessary from the proceeds of special certificates of indebtedness or special bonds issued for the purpose of making such other improvements.

Sections ~~474.16 to 474.23~~ 9 to 29 apply to any issuance of obligations under this section which are subject to limitation under a federal volume limitation act as defined in section ~~474.16~~ 10, subdivision ~~5~~ 9, or existing federal tax law as defined in section 10, subdivision 8.

Sec. 5. Minnesota Statutes 1985 Supplement, section 458.1941, is amended to read:

458.1941 **SECTIONS THAT APPLY IF FEDERAL LIMIT APPLIES.**

Sections ~~474.16 to 474.23~~ 9 to 29 apply to obligations issued under this chapter that are limited by a federal volume limitation act as defined in section ~~474.16~~ 10, subdivision ~~5~~ 9, or existing federal tax law as defined in section 10, subdivision 8.

Sec. 6. Minnesota Statutes 1984, section 459.35, is amended to read:

459.35 **FEDERAL VOLUME LIMITATION ACT.**

Sections ~~474.16 to 474.23~~ 9 to 29 apply to any issuance of obligations under chapter 459 which are subject to limitation under a federal volume limitation act as defined in section ~~474.16~~ 10, subdivision ~~5~~ 9, or existing federal tax law as defined in section 10, subdivision 8.

Sec. 7. Minnesota Statutes 1984, section 462.556, is amended to read:

462.556 **FEDERAL VOLUME LIMITATION ACT.**

Sections ~~474.16 to 474.23~~ 9 to 29 apply to any issuance of obligations under chapter 462 which are subject to limitation under a federal volume limitation act as defined in section ~~474.16~~ 10, subdivision ~~5~~ 9, or existing federal tax law as defined in section 10, subdivision 8.

Sec. 8. Minnesota Statutes 1984, section 472.09, subdivision 8, is amended to read:

Subd. 8. **FEDERAL VOLUME LIMITATION ACT.** Sections ~~474.16 to 474.23~~ 9 to 29 apply to any issuance of obligations under this section which are subject to limitation under a federal volume limitation act as defined in section ~~474.16~~ 10, subdivision ~~5~~ 9, or existing federal tax law as defined in section 10, subdivision 8.

Sec. 9. **[474A.01] CITATION.**

Sections 9 to 29 may be cited as the "Minnesota bond allocation act."

Sec. 10. **[474A.02] DEFINITIONS.**

Subdivision 1. **TERMS DEFINED.** For the purposes of sections 9 to 29, the terms defined in this section shall have the following meanings:

Subd. 2. **ANNUAL VOLUME CAP.** "Annual volume cap" means the aggregate dollar amount of obligations bearing interest excluded from gross income for purposes of federal income taxation which, under the provisions of existing federal tax law or a federal volume limitation act, may be issued in one year by issuers.

Subd. 3. **CERTIFICATE OF ALLOCATION.** "Certificate of allocation" means a certificate provided to an issuer by the department under section 21.

Subd. 4. **CITY.** "City" means a statutory or home rule charter city.

Subd. 5. **COMMERCIAL REDEVELOPMENT PROJECT.** "Commercial redevelopment project" means a project as defined in section 474.02, if it is not a manufacturing project or pollution control project and one of the following conditions is met:

(a) The project site would qualify as a redevelopment district as defined in section 273.73, subdivision 10. To qualify the project need not be included in a tax increment financing district.

(b) At least 75 percent of the proceeds of the obligations will be used to acquire and rehabilitate or replace an existing structure which is functionally obsolete or contains structural or other defects justifying substantial renovation or clearance.

(c) The project will be undertaken and the obligations issued pursuant to a written program administered by the local issuer and the financing provides for a substantial commitment of local public funds.

(d) At least 90 percent of the proceeds of the obligations will be used to finance facilities with respect to which an urban development action grant has been made under section 119 of the federal Housing and Community Development Act of 1974.

Subd. 6. **DEPARTMENT; DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT.** "Department" or "department of energy and economic development" means the department of energy and economic development or its successor agency or agencies with respect to the duties that the department is to perform under sections 9 to 29.

Subd. 7. **ENTITLEMENT ISSUER.** "Entitlement issuer" means an issuer to which an allocation is made under sections 12, 16, or 17.

Subd. 8. **EXISTING FEDERAL TAX LAW.** "Existing federal tax law" means those provisions of the Internal Revenue Code of 1954, as amended through December 31, 1985, that limit the aggregate amount of obligations of a specified type or types which may be issued by an issuer during a calendar year whose interest is exempt from inclusion in gross income for purposes of federal income taxation.

Subd. 9. **FEDERAL VOLUME LIMITATION ACT.** "Federal Volume Limitation Act" means Title VII of the bill that was adopted by the United States House of Representatives on December 17, 1985, as H.R. 3838, 99th Congress 1st Session (1985), or any law of the United States that is effective after December 31, 1985, and that:

(1) imposes an annual volume cap;

(2) allocates the annual volume cap among various uses for which the

proceeds of the obligations may be used or among various issuers of obligations or both; and

(3) allows the governor during a specified interim period or the state legislature by law to provide for a different allocation of the annual volume cap among uses and among issuers.

Subd. 10. **GENERAL OBLIGATION.** "General obligation" means any obligation that pledges the full faith and credit of an issuer with general taxing powers, other than a state issuer, to the payment of the obligation.

Subd. 11. **GOVERNMENTAL VOLUME CAP.** "Governmental volume cap" means the annual volume cap less the amount, if any, that a federal volume limitation act requires be set aside or reserved, without the right to override by state legislation, for qualified 501(c)(3) bonds or if a federal volume limitation act does not require an amount to be set aside for qualified 501(c)(3) bonds, the amount set aside pursuant to section 20, subdivision 9.

Subd. 12. **ISSUER.** "Issuer" means any entitlement issuer or other issuer.

Subd. 13. **LOCAL PUBLIC FUNDS.** "Local public funds" means the funds of a governmental unit except the following:

(1) the proceeds of an obligation subject to existing federal tax law or a federal volume limitation act;

(2) payments or property furnished by a nonexempt person to repay or secure the loan of proceeds of an obligation subject to existing federal tax law or a federal volume limitation act or other payments made in consideration of the issuance of an obligation subject to existing federal tax law or a federal volume limitation act;

(3) payments furnished by a nonexempt person for its right to use in its trade or business a facility financed with the proceeds of obligations subject to existing federal tax law or a federal volume limitation act;

(4) tax increments, as defined in section 273.76; or

(5) tax reductions provided pursuant to sections 273.1312 to 273.1314.

Subd. 14. **MANUFACTURING PROJECT.** "Manufacturing project" means properties, real or personal, used in connection with a revenue producing enterprise in connection with assembling, fabricating, manufacturing, mixing, or processing any products of agriculture, forestry, mining, or manufacture. Properties used for storing, warehousing, or distributing qualify under this definition (1) if they are used as part of or in connection with an assembly, fabricating, manufacturing, mixing, or processing facility, or (2) if they are used for the storing of agricultural products and are located outside of the metropolitan area, as defined in section 473.121, subdivision 2. Manufacturing project includes properties, real or personal, used in connection with research and development activity to

develop or improve products, production processes, or materials. For purposes of this subdivision, "a product of manufacture" includes information and directions which dictate the functions to be performed by data processing equipment, commonly called computer software, regardless of whether they are embodied in or recorded on tangible personal property. A project qualifies as a manufacturing project only if 75 percent of the proceeds of the proposed obligations will be used for construction, acquisition, installation, or addition of properties described in this subdivision.

Subd. 15. **MORTGAGE CREDIT CERTIFICATE.** "Mortgage credit certificate" means any certificate which satisfies the definition of such term as contained in section 25(c)(1) of the Internal Revenue Code of 1954, as amended through July 18, 1984.

Subd. 16. **MULTIFAMILY HOUSING PROJECT.** "Multifamily housing project" means a development defined in section 462C.02, subdivision 5, for which the applicable housing plan and program approval requirements of chapter 462C have been met.

Subd. 17. **NONEXEMPT PERSON.** "Nonexempt person" means a person or entity other than an exempt person as defined in section 103(b)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985.

Subd. 18. **NOTICE OF ENTITLEMENT ALLOCATION.** "Notice of entitlement allocation" means a notice provided to an entitlement issuer under section 12, subdivision 5, or under section 16, subdivision 2.

Subd. 19. **OTHER ISSUER.** "Other issuer" means any entity other than an entitlement issuer which may issue obligations subject to an annual volume cap, including but not limited to the University of Minnesota, any city, any town, any federally recognized American Indian tribe or subdivision thereof located in Minnesota, any housing and redevelopment authority referred to in chapter 462, or any body authorized to exercise the powers of a housing and redevelopment authority, any port authority referred to in chapter 458, or any body authorized to exercise the powers of a port authority, any area or municipal redevelopment agency referred to in chapter 472, any county, or any other municipal authority or agency established pursuant to special law, or any entity issuing on behalf of the foregoing.

Subd. 20. **POLLUTION CONTROL PROJECT.** "Pollution control project" means properties, real or personal, used in the abatement or control of noise, air, or water pollution, or in the disposal of solid waste, in connection with a revenue producing enterprise, engaged in or to be engaged in any business or industry. A project qualifies as a pollution control project only:

(1) if at least 75 percent of the proceeds of the obligations will be used for the construction, acquisition, installation, or addition of properties described in this subdivision; or

(2) if it is not a manufacturing project and at least 75 percent of the proceeds of the obligations will be used for the construction, acquisition, installation, or addition of properties described in this subdivision and in subdivision 14.

Subd. 21. **PRELIMINARY RESOLUTION.** "Preliminary resolution" means a resolution adopted by the governing body of the issuer or in the case of the iron range resources and rehabilitation board by the commissioner. The resolution must express a preliminary intention of the issuer to issue obligations for a specific project and must identify the proposed project and the proposed amount of the obligations to be issued.

Subd. 22. **QUALIFIED 501(c)(3) BONDS.** "Qualified 501(c)(3) bonds" mean obligations the proceeds of which are to be used by, or loaned or otherwise made available to, an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985, in activities directly related and essential to the conduct of the charitable activities of the organization and that are not used by a nonexempt person in its trade or business or obligations with a comparable definition in a federal volume limitation act.

Subd. 23. **QUALIFIED MORTGAGE BONDS.** "Qualified mortgage bonds" mean obligations which are qualified mortgage bonds as defined by section 103A(c) of existing federal tax law.

Subd. 24. **QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.** "Qualified mortgage credit certificate program" means any program which satisfies the definition of such term as contained in section 25(c)(2) of the Internal Revenue Code of 1954, as amended through July 18, 1984.

Subd. 25. **QUALIFIED MULTIFAMILY HOUSING PROJECT.** "Qualified multifamily housing project" means a multifamily housing project in which at least 50 percent of the units will be held for occupancy by families or individuals with adjusted gross income not in excess of 80 percent of the median family income as estimated by the United States Department of Housing and Urban Development for the metropolitan statistical area.

Subd. 26. **STATE ISSUER.** "State issuer" means the state of Minnesota; the iron range resources and rehabilitation board; or other agency, department, board, or commission of the state, which is authorized to issue obligations and has statewide jurisdiction.

Subd. 27. **SUBSTANTIAL COMMITMENT OF LOCAL PUBLIC FUNDS.** "Substantial commitment of local public funds" means that either of the following two conditions is satisfied.

(a) Under the project financing the governmental unit appropriates, pledges, guarantees, or otherwise provides local public funds to pay part of the cost of financing the obligations, including bond issuance, debt service, loan origination,

and carrying expenses, or of the facility financed with the proceeds of the obligations. This condition is satisfied only if at the time the obligations are issued, the issuer reasonably expects that the aggregate value of the local public funds will exceed the lesser of $1,000,000 or one percent of the face amount of the obligations. No provision may be made for a nonexempt person to reimburse the governmental unit for the local public funds.

(b) The governmental unit appropriates, pledges, guarantees, or otherwise provides a program contribution of local public funds or governmental services to the program or a facility financed with the proceeds of the obligations. This condition is satisfied only if the issuer reasonably expects at the time the obligations are issued that the aggregate value of the local public funds will exceed $5,000,000 or five percent of the aggregate face amount of the obligations. The issuer must value the services at the reasonable cost of delivering them. The program contribution must be used for one or more of the following purposes:

(i) reducing the cost of financing the obligations, as described in clause (a);

(ii) securing the payment of debt service on obligations issued pursuant to the program;

(iii) financing public improvements under a comprehensive redevelopment or renewal program, if the costs are reasonably allocable to a facility financed with the proceeds of the obligations and if the improvements are made no earlier than three years prior to issuance of the obligations to which the contribution applies or more than one year after issuance; or

(iv) other costs reasonably related to the program.

If the governmental unit is reimbursed by a nonexempt person for any part of the program within five years after the contribution was made, the reimbursement must be applied for one or more of the purposes described in this paragraph.

For purposes of this subdivision, "governmental unit" means the issuer that issues the obligations for the project or the governmental unit that approves the obligations for purposes of section 103(k)(2) of the Internal Revenue Code of 1954, as amended through December 31, 1985, or both.

Subd. 28. **WASTE MANAGEMENT PROJECT.** "Waste management project" means a project which is authorized by chapter 115A or 400, sections 473.801 to 473.834, or by any other law or home rule charter authorizing substantially the same type of project.

Subd. 29. **WRITTEN DEVELOPMENT PROGRAM.** "Written development program" or "program" means a written economic development plan that contains at least substantially all of the following:

(1) a description of the area subject to the plan, which may not exceed 20 percent of the total acreage of the issuer;

(2) a statement of the objectives for the development of the area subject to the plan;

(3) a statement of the development plan for the area subject to the plan, including the property within the area, if any, which is to be acquired by a governmental unit;

(4) a description of the type of specific development reasonably expected to take place within the area subject to the plan; and

(5) a description of the kind and an estimate of the amount of public funds, including local public funds, expected to be spent in connection with the development of the area subject to the plan.

Sec. 11. **[474A.03] DETERMINATION OF ANNUAL VOLUME CAP.**

Subdivision 1. **ANNUAL VOLUME CAP UNDER EXISTING FEDERAL TAX LAW.** At the beginning of each calendar year, the department shall determine the aggregate dollar amount of the annual volume cap under existing federal tax law for the calendar year, and of this amount the department shall determine the following amounts:

(1) the amount that is allocated to entitlement issuers under section 12;

(2) the amount initially available for allocation through the pool under section 13, which is the annual volume cap determined under this subdivision less the amount determined under clause (1); and

(3) the amount available for issuance of qualified mortgage bonds under section 15.

Subd. 2. **ANNUAL VOLUME CAP UNDER FEDERAL VOLUME LIMITATION ACT.** At the beginning of each calendar year, the department shall determine the aggregate dollar amount of the annual volume cap under a federal volume limitation act during the calendar year, and of this amount the department shall determine the following amounts:

(1) the amount, if any, that a federal volume limitation act requires be reserved for qualified 501(c)(3) bonds or the amount provided by section 20, subdivision 9;

(2) the amount of the governmental volume cap allocated to entitlement issuers under section 16, stating separately (i) the amount available for issuance of "qualified mortgage bonds" or obligations with a comparable definition in a federal volume limitation act, and (ii) the amount available for issuance of any obligations; and

(3) the amount initially available for allocation through the pool under section 19, which is the amount of the governmental volume cap less the aggregate of the amounts determined in clause (2).

Notwithstanding the foregoing, for the period from and including January 1, 1987, to and including June 30, 1987, the following limitations shall apply: (i) one-half of the amount determined pursuant to clause (2)(ii) shall be allocated to entitlement issuers under section 16; (ii) the entire amount determined pursuant to clause (2)(i) shall be allocated to entitlement issuers under section 16; (iii) one-half of the amount determined pursuant to clause (3) shall be made available for allocation under section 19; and (iv) one-half of the amount, if any, determined pursuant to clause (1) shall be made available for allocation under section 20. The remaining amount of annual volume cap for calendar year 1987 not so allocated, or made available for allocation, shall remain unallocated unless otherwise provided by law.

Subd. 3. **ADJUSTMENTS FOR CHANGES TO VOLUME CAP IN FEDERAL VOLUME LIMITATION ACT.** If the annual volume cap in a federal volume limitation act that becomes law is greater than or less than the annual volume cap that existed in a federal volume limitation act in the form that existed as of January 1, 1986, the department shall adjust the calculations made under subdivision 2, except for clause (1), and section 16, except as provided in section 27. If the annual volume cap is adjusted, the commissioner may withdraw any allocation granted before the adjustment was made pursuant to which obligations have been issued, only with the written consent of the issuer.

Sec. 12. **[474A.04] ENTITLEMENT ALLOCATIONS UNDER EXISTING FEDERAL TAX LAW.**

Subdivision 1. **HIGHER EDUCATION COORDINATING BOARD ALLOCATION.** Of the aggregate annual volume cap under existing federal tax law, $25,000,000 for each calendar year is allocated to the higher education coordinating board for the issuance of obligations pursuant to chapter 136A. On September 1, any unused portion of the amount allocated to the higher education coordinating board pursuant to this subdivision cancels and the authority must be reallocated pursuant to section 13.

Subd. 2. **IRON RANGE RESOURCES AND REHABILITATION ALLOCATION.** Of the aggregate annual volume cap under existing federal tax law, $30,000,000 for each calendar year is allocated to the iron range resources and rehabilitation commissioner. After September 1 of each year, the iron range resources and rehabilitation commissioner may retain any unused portion of the allocation only if the commissioner has submitted to the department on or before September 1 a preliminary resolution for a specific project and a letter which states (1) the intent to issue obligations pursuant to the allocation or a portion of it before the end of the calendar year or within the time period permitted under existing federal tax law, and (2) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of the unused allocation or the portion of it pursuant to which the commissioner intends to issue obligations. The commissioner may subsequently reallocate the retained allocation among the projects described in clause (2). On September 1, any

unused portion of the amount allocated to the iron range resources and rehabilitation commissioner and not reserved by a preliminary resolution, a letter of intent, and an application deposit is canceled and must be reallocated under section 13. If the iron range resources and rehabilitation commissioner returns for reallocation all or a part of the allocation on or before October 31, that portion of the application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Upon the request of a statutory city located in the taconite tax relief area which received an entitlement allocation under Minnesota Statutes 1984, section 474.18, of $5,000,000 or more for calendar year 1985, the iron range resources and rehabilitation commissioner shall enter into an agreement with the city whereby the commissioner issues obligations, in an amount requested by the city but not to exceed $5,000,000, on behalf of the city.

Subd. 3. **ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY ALLOCATION.** Of the aggregate annual volume cap under existing federal tax law, $60,000,000 for each calendar year is allocated to the energy and economic development authority. After September 1 of each year, the energy and economic development authority or any issuer which receives an allocation from the energy and economic development authority may retain any unused portion of its allocation only if it has submitted to the department, on or before September 1 a preliminary resolution for a specific project and a letter which states (1) its intent to issue obligations pursuant to its allocation or a portion of it before the end of the calendar year or within the time period permitted under existing federal tax law, and (2) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of its unused allocation or the portion of it pursuant to which it intends to issue obligations. The energy and economic development authority may subsequently reallocate the retained allocation among the projects described in clause (2). On September 1 any unused portion of the amount allocated to the energy and economic development authority and not reserved by a preliminary resolution, a letter of intent, and an application deposit is canceled and must be reallocated under section 13. If the energy and economic development authority or any issuer which receives an allocation from the authority returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 4. **ENTITLEMENT CITIES.** Of the aggregate annual volume cap under existing federal tax law, for each calendar year the amount determined pursuant to this subdivision is allocated to (1) cities of the first class, and (2) the largest Minnesota city located in a metropolitan statistical area that does not contain a city of the first class, if the city has a population of 25,000 or more. The amount allocated to a first class city shall be an amount equal to $200 multiplied by the city's population. The amount allocated to each city qualifying under clause (2) is $5,000,000. After September 1 of each year, an issuer receiving an allocation under this subdivision may retain any unused portion of

its allocation only if it has submitted to the department by September 1 a letter stating its intent to issue obligations pursuant to its allocation before the end of the calendar year or within the time permitted under existing federal tax law and an application deposit equal to one percent of the amount of the unused allocation for which it intends to issue obligations. Any unused portion of an allocation for which an application deposit and letter of intent has not been received by the department by September 1 must be canceled and reallocated under section 13. If an issuer returns for reallocation all or part of its allocation under this subdivision by October 31, the application deposit equal to one percent of the amount returned must be refunded to the issuer.

For purposes of this subdivision, "population" means the population determined under section 477A.011, subdivision 3.

Subd. 5. **NOTICE OF ENTITLEMENT ALLOCATION.** As soon as possible in each calendar year, the department shall provide to each entitlement issuer a written notice of the amount of its entitlement allocation under this section.

Subd. 6. **ENTITLEMENT TRANSFERS.** An entitlement issuer may enter into an agreement with another entitlement issuer whereby the recipient entitlement issuer issues obligations pursuant to issuance authority allocated to the original entitlement issuer under this section.

Sec. 13. **[474A.05] ALLOCATION OF POOL AMOUNT UNDER EXISTING FEDERAL TAX LAW.**

Subdivision 1. **POOL AMOUNT.** Of the aggregate annual volume cap under existing federal tax law, the amount determined pursuant to section 11, subdivision 1, clause (2), shall be allocated among issuers pursuant to this section for each calendar year. An entitlement issuer may apply for an allocation pursuant to this section only after August 20. An entitlement issuer may apply for an allocation before November 1 only if the entitlement issuer has adopted a final resolution authorizing the sale of obligations equal to any allocation received under section 12 or has returned all of its unused allocation for reallocation under this section.

Notwithstanding the preceding paragraph, the following entitlement issuers may apply for an allocation under this section:

(a) A city of the first class may apply for an allocation for a manufacturing project at any time.

(b) State issuers may apply for and receive allocations under this section at any time for an aggregate amount not to exceed that portion of its entitlement allocation returned for reallocation under section 12.

Subd. 2. **APPLICATION.** An issuer may apply for an allocation pursuant to this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, and (2) an application deposit in the amount of one percent of the requested allocation.

An issuer may elect not to submit an application for an allocation for a project for which the issuer previously adopted a preliminary resolution.

Subd. 3. **ALLOCATION CRITERIA.** The department shall rank each application received pursuant to this section on the basis of the number of points awarded to it, with one point being awarded for each of the following criteria satisfied:

(a) The current rate of unemployment for the applicant is at or above 110 percent of the statewide average unemployment rate for the most recently available reporting period, as determined by the department of economic security. The unemployment rate for the applicant shall be the greater of (1) the most recent estimate available for the smallest jurisdiction which wholly includes the jurisdiction of the applicant, as reported by the department of economic security, or (2) another estimate supplied by the applicant with respect to its jurisdiction, which is documented by the applicant.

(b) The number of individuals employed in the applicant's jurisdiction declined from the second calendar year before the application, to the first calendar year before the application. The estimate of the number of individuals employed for each year must be based on the same source, and must be (1) the most recent estimate available for the smallest jurisdiction which wholly includes the applicant, as reported by the department of economic security, or (2) another estimate supplied by the applicant with respect to its jurisdiction, which is documented by the applicant.

(c) The project will provide additional general tax revenue to the taxing jurisdictions in which the project is located beginning not later than three years after issuance of the obligations.

(d) The number of jobs to be created by the project is at least two jobs for each $100,000 of issuance authority requested for the project.

(e) As of the date of application the total market value of all taxable property in the applicant's jurisdiction, based on the most recent certification of assessed value to the commissioner of revenue, has either (1) declined in relation to the first calendar year before the certification, or (2) increased in relation to the first calendar year before the certification at a rate which is less than 90 percent of the rate of increase of the state average market value over the same period.

(f) The total capital expenditures for the project exceed by ten percent the amount of the proceeds of the obligations to be issued for the project.

(g) The project is wholly located in an enterprise zone designated pursuant to section 273.1312.

(h) The project site meets the criteria necessary to qualify as a tax increment redevelopment district as defined in section 273.73, subdivision 10. To qualify under this clause the project need not be included in a tax increment financing district.

(i) The project meets one of the following energy conservation criteria: (1) the project is eligible for the additional federal investment tax credits for energy property, (2) the project involves construction or expansion of a district heating system as defined in section 116J.36, or (3) the project involves construction of an energy source as described in section 116J.26, clause (a), (b), or (d) or 116M.03, subdivisions 22, 23 and 26.

(j) The project consists of the renovation, rehabilitation, or reconstruction of an existing building which is (1) located in a historic district designated under section 138.73, or on a site listed in the state registry of historical sites under sections 138.53 to 138.5819; or (2) designated in the National Register pursuant to United States Code, title 16, section 470a.

(k) Service connections to sewer and water systems are available to the project at the time the application is submitted.

(l) As provided by a binding agreement by the principal user or users of the project with the applicant, at least ten percent of the individuals employed by the principal user or users of the project will be minority or low income individuals.

(m) When the application is submitted either (1) the anticipated owner of the project, or any party of which the owner is a controlling partner or shareholder, or which is a controlling shareholder or partner of the owner, does not own or operate a substantially similar business within the state or (2) the project is an expansion of the operations of an existing business which is not likely to have the effect of transferring existing employment from one or more other municipalities within the state to the municipality in which the project is located.

(n) A controlling interest in the project will be owned by one or more women or minority persons.

(o) Seventy-five percent or more of the proceeds of the proposed issue will be used to rehabilitate an existing structure.

Subd. 4. **ALLOCATION PROCEDURE.** (a) The department shall allocate available issuance authority under this section on Monday of each week to applications received on or before Monday of the preceding week in the following order of priority and available issuance authority may not be allocated to any other project:

(1) applications for manufacturing projects;

(2) applications for pollution control projects or waste management projects; and

(3) applications for commercial redevelopment projects.

Within each category of applications available authority shall be allocated on the basis of the numerical rank determined pursuant to this section. In the

case of an application for issuance authority that includes more than one project to be financed by one issue of obligations, the points assigned to the application shall be computed on the basis of the weighted average of points for the projects. The projects must all be of the same category of projects to be submitted as a multiproject application. If two or more applications have the same numerical rank, the ranking of the applications must be by lot unless otherwise agreed by the respective issuers. If an application is rejected, the department must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted.

(b)(1) From January 1 through September 30, no more than 20 percent of the total amount available for allocation during the calendar year pursuant to this section may be allocated to pollution control and waste management projects.

(2) From January 1 to September 30, no more than 35 percent of the total amount available for allocation during the calendar year pursuant to this section may be allocated to commercial redevelopment projects. This amount is increased to 50 percent of the total available authority for the next month's allocation if the following two conditions occur: (i) on or after June 30 the total amount of issuance authority available under this section which has not been allocated or has been allocated to but was returned by an issuer exceeds 45 percent of the total amount of issuance authority available for allocation under this section for the calendar year; and (ii) the entire amount of issuance authority available under this subparagraph for commercial redevelopment projects has been allocated.

Subd. 5. **LETTER OF INTENT.** After September 1 of each year, an issuer which has received an allocation pursuant to this section prior to September 1 may retain any unused portion of the allocation only if the issuer has submitted to the department on or before September 1 a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by existing federal tax law. If the letter of intent is not submitted to the department, the one percent application deposit must be returned to the issuer, the allocation is canceled, and the issuance authority is available for reallocation pursuant to this section. If an issuer returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 6. **FINAL ALLOCATION.** From October 1 to December 31 of each year, the annual volume cap under existing federal tax law, which is not both previously allocated and subject to a preliminary resolution for a specific project, whether or not committed pursuant to a letter of intent, is available for allocation or reallocation and shall be allocated among issuers. The iron range resources and rehabilitation commissioner, the energy and economic development authority, or an entitlement city may reallocate after September 30 its retained allocation among projects identified in preliminary resolutions filed with the department prior to October 1. An application for an allocation under this subdivision must include evidence of passage of a preliminary resolution and state that it is the

intent of the applicant that the obligations will be issued by the end of the year or within the time period permitted by existing federal tax law, and must be accompanied by an application deposit in the amount of one percent of the requested allocation. Applications must be made and allocations shall be awarded in accordance with subdivisions 3 and 4.

After September 30, authority may be allocated under this subdivision to any project, notwithstanding the percentage limits and other restrictions contained in subdivision 4. Applications must be ranked and authority allocated first according to the order of priority and ranking of points under subdivisions 3 and 4. The remaining authority must be allocated according to the ranking of points under subdivision 3. If two or more applications receive an equal number of points, allocations among them must be made by lot unless otherwise agreed by the respective applicants.

If issuance authority remains or becomes available following the last Monday on which allocations are made for any calendar year, the department must allocate the available authority to the department of finance. The department of finance shall allocate the remaining authority between the Minnesota housing finance agency and the higher education coordinating board. Amounts allocated to the Minnesota housing finance agency shall be used for the issuance of mortgage credit certificates, and amounts allocated to the higher education coordinating board shall be used for the issuance of obligations under chapter 136A.

Subd. 7. **RETURN OF ALLOCATION.** If on or after November 1 but prior to December 1 of any year, an issuer determines that it will not issue obligations pursuant to an allocation received by it pursuant to this section or section 12 by the end of that year or within the time period permitted by existing federal tax law, the issuer must notify the department and the amount will be available for reallocation pursuant to this subdivision. In such case, the department shall refund to the issuer within 30 days that portion of any application deposit equal to one-third of one percent of the amount returned for reallocation. The amounts available for reallocation must be allocated on or before December 31 pursuant to subdivision 6.

Sec. 14. **[474A.06] NOTICE OF ISSUE UNDER EXISTING FEDERAL TAX LAW.**

Issuers that issue obligations subject to existing federal tax law shall file with the department within five days after the obligations are issued a written notice of issue stating the date of issuance of the obligations, the allocation under which the obligations are issued, and the principal amount of the obligations. If obligations are to be issued as a series of obligations, the notice of issue must be filed for each series of obligations that is issued. If the notice of issue is not filed within five days after the obligations are issued, the obligations shall be considered not to have received an allocation under existing federal tax law. Within 30 days after receipt of the notice, the department shall refund a portion of the application deposit required under section 12 or section 13 equal to one percent of the principal amount of the obligations issued.

Sec. 15. **[474A.07] QUALIFIED MORTGAGE BONDS.**

Subdivision 1. **HOUSING FINANCE AGENCY ALLOCATION.** The applicable volume limit for qualified mortgage bonds for the Minnesota housing finance agency, pursuant to existing federal tax law, for a calendar year is 100 percent of the state ceiling for qualified mortgage bonds for that year, reduced only by (1) any amounts of qualified mortgage bonds which have been or may be allocated by law to specified cities, and (2) any amounts of qualified mortgage bonds which are allocated to cities pursuant to subdivisions 2 and 3. The aggregate amount allocated to cities, under clause (1) or (2), together with the amount of qualified mortgage bonds reserved for the agency, shall not exceed the limit for the state under existing federal tax law.

By August 1 of each year, a city which has received by law an allocation of the state ceiling for qualified mortgage bonds shall submit its housing programs to the Minnesota housing finance agency for approval pursuant to section 462C.04, subdivision 2, in an amount of bonds equal to or less than, the city's allocation. If the amount of qualified mortgage bonds, for which program approval is granted on or before September 1 is less than the amount allocated by law to the city, the applicable limit for the agency shall be increased by the difference between the amount allocated by law to the city, and the amount for which program approval has been granted.

Subd. 2. **CITY ALLOCATION.** Unless otherwise authorized by law, a city that intends to issue during any calendar year qualified mortgage bonds that are subject to existing federal tax law, shall by January 2 of that year submit to the Minnesota housing finance agency a program that will use a portion of the state qualified mortgage bond ceiling. The total amount of qualified mortgage bonds included in all programs submitted pursuant to this subdivision by a city may not exceed $10,000,000. Each program shall be accompanied by a certificate from the city that states that the qualified mortgage bond issue is feasible. By February 1, the Minnesota housing finance agency shall review each program pursuant to section 462C.04, subdivision 2. The Minnesota housing finance agency shall approve all programs that the agency determines are consistent with chapter 462C, and that meet the following conditions:

(1) all of the loans must be reserved for a period of not less than six months for persons and families whose adjusted family income is below 80 percent of the limits on adjusted gross income provided in section 462C.03, subdivision 2; and

(2) loans must be made only to finance homes that are serviced by municipal water and sewer utilities; provided that if the approval of all programs would result in an allocation to cities in excess of 27-1/2 percent of the state ceiling for the calendar year 1985, reduced by the amount of qualified mortgage bonds that are allocated by law to specified cities, the Minnesota housing finance agency shall approve programs that are submitted by a city which meets any of the following three criteria: (i) a city of the first class, (ii) a city that did not receive

an allocation under this subdivision or Minnesota Statutes 1984, section 462C.09, subdivision 2(a), or Minnesota Statutes 1985 Supplement, section 462C.09 subdivision 2(a), during the preceding two calendar years, or (iii) a group of cities that plan to jointly issue bonds for the program provided further that if approval of all of the programs submitted by cities that meet one or more of the criteria in (i), (ii), or (iii) would result in a total allocation to cities in excess of the portion of the state ceiling available for allocation, then from among those programs the agency shall select by lot the programs to be approved. If a portion of the state ceiling remains unallocated after the agency has approved all programs submitted by cities that meet one or more of the criteria in (i), (ii), or (iii), the Minnesota housing finance agency shall select by lot from among the remaining programs the programs to be approved. The Minnesota housing finance agency shall determine if a program meets the conditions in clauses (1) and (2) based solely upon the program with accompanying information submitted to the agency. Approval of a program shall constitute an allocation of a portion of the state ceiling for qualified mortgage bonds equal to the proposed bond issue or issues contained in the program, provided that the allocation for the last selected program that receives an allocation may be equal to or less than the amount of the bond issue or issues proposed in the program.

If a city which received an allocation pursuant to this subdivision, or which has been allocated a portion of the state ceiling by law and has received approval of one or more programs, has not issued bonds by September 1 in an amount equal to the allocation, and the city intends to issue qualified mortgage bonds prior to the end of the calendar year, the city shall by September 1 submit to the Minnesota housing finance agency for each program a letter that states the city's intent to issue the qualified mortgage bonds prior to the end of the calendar year. If the Minnesota housing finance agency does not receive the letter from the city, then the allocation of the state ceiling for that program expires on September 1, and the applicable limit for the Minnesota housing finance agency is increased by an amount equal to the unused portion of the allocation to the city. A city referred to in subdivision 1, clause (1), need not apply under this subdivision with respect to bonds allocated by law to the city. Nothing in this subdivision shall prevent any such city from applying for an additional allocation of bonds under this subdivision.

Subd. 3. **ADDITIONAL CITY ALLOCATION.** On or before September 1 of each year, the Minnesota housing finance agency shall identify the amount, if any, of its applicable limit for qualified mortgage bonds for that calendar year that it does not intend to issue. A city that intends to issue qualified mortgage bonds prior to the end of the calendar year for which it has not received an allocation of the state ceiling may submit a program for approval on or before September 1 to the Minnesota housing finance agency for a portion of the amount of the Minnesota housing finance agency's applicable limit as provided in subdivision 1 which the agency does not intend to issue. The total amount of qualified mortgage bonds included in all programs of any city submitted pursuant to this subdivision shall not exceed $10,000,000. The program shall be accompanied by the same certificate required by subdivision 2. The Minnesota housing finance agency shall allocate the amount of the state ceiling to be

allocated pursuant to this subdivision using the same factors listed in subdivision 2, provided that a program for a city receiving an allocation pursuant to subdivision 2 during the calendar year shall be ranked below all other programs if the bonds proposed in the program, when added to the bonds included in programs approved pursuant to subdivision 2, exceed $10,000,000. A city that submitted a program pursuant to subdivision 2 but that did not receive an allocation may renew its application with a letter of intent to issue. Nothing in this subdivision shall prevent a city referred to in subdivision 1, clause (1), from applying for an additional allocation of bonds under this subdivision.

Subd. 4. **AGENCY REVIEW.** The 30-day review requirement in section 462C.04, subdivision 2, does not apply to programs submitted to the agency that require an allocation of the state ceiling pursuant to this section. A failure by the agency to complete any action by the dates set forth in this section shall not result in the approval of any program or the allocation of any portion of the applicable limit of the agency. Approval by the agency of programs after the dates provided in this section is effective in allocating a portion of the state ceiling. Programs approved by the agency may be amended with the approval of the agency under section 462C.04, subdivision 2, provided that the dollar amount of bonds for the program may not be increased.

Subd. 5. **STATE CERTIFICATION.** The executive director of the Minnesota housing finance agency is designated as the state official to provide the preissuance certification required by section 103A(j)(4)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1985.

Subd. 6. **CORRECTION AMOUNTS FOR MORTGAGE CREDIT CERTIFICATE PROGRAMS.** A reduction in the state ceiling for qualified mortgage bonds caused by the failure of a mortgage credit certificate program to comply with a federal statute or regulation shall be assessed against the amount of qualified mortgage bonds allocated by law, other than by way of this section, to the city which adopted the program. If no such allocation exists or it is less than the correction amount determined by the secretary of the treasury, then the amount of the correction amount in excess of the allocation shall be assessed against the 27-1/2 percent of the state ceiling allocated to the cities under subdivision 2.

Subd. 7. **FEDERAL VOLUME LIMITATION ACT.** Any issuance authority received by the agency under section 17 or by a city under section 16 or subdivision 3 may be used for the issuance of "qualified mortgage bonds" or obligations with a comparable definition in a federal volume limitation act, in the same manner and subject to the same conditions provided for in this section for qualified mortgage bonds.

Sec. 16. **[474A.08] DETERMINATION OF ENTITLEMENT ALLOCATIONS UNDER FEDERAL VOLUME LIMITATION ACT.**

Subdivision 1. **ENTITLEMENT ISSUERS.** The dollar amount of the governmental volume cap allocated to entitlement issuers under a federal vol-

ume limitation act for each calendar year must be determined by the department as follows:

(1) to the department of finance 24 percent of the governmental volume cap to be allocated among state issuers under section 17;

(2) to each city, a sum equal to 75.6 percent of the amount of bond issuance authority allocated to the city under section 12, subdivision 4, provided that if there is an adjustment to the annual volume cap under section 11, subdivision 3, the amount of issuance authority allocated by this clause must be adjusted so that each city is allocated a percentage of the adjusted governmental volume cap that is equal to the percentage of the governmental volume cap originally allocated to each city;

(3) to each city to which bond issuance authority is specifically allocated under state law for qualified mortgage bonds, a sum equal to the full amount of the bond issuance authority, which amount is to be used solely for the issuance of "qualified mortgage bonds" or for obligations with a comparable definition as used in the federal volume limitation act prior to September 1, and thereafter may also be used for the issuance of either such mortgage bonds or obligations to finance multifamily housing projects;

(4) to a city or cities that received an allocation to issue qualified mortgage bonds during 1986 under Minnesota Statutes 1985 Supplement, section 462C.09, subdivision 2a, an amount or amounts for 1986 equal to such allocation, which amount may be used prior to September 1 for the issuance of "qualified mortgage bonds" or for obligations with a comparable definition in a federal volume limitation act, and thereafter may also be used for the issuance of obligations to finance multifamily housing projects; and

(5) to a city or cities determined in accordance with the procedure set forth in section 15, subdivision 2; an allocation to issue qualified mortgage bonds during 1987, in an amount determined in accordance with such procedure contained in section 15, subdivision 2, which amount may be used prior to September 1 for the issuance of "qualified mortgage bonds" or for obligations with a comparable definition in a federal volume limitation act, and thereafter may also be used for the issuance of obligations to finance multifamily housing projects.

For any entitlement issuer that received an allocation for a qualified multifamily housing project in 1986 and did not issue obligations for the project within the time period specified under section 21, subdivision 3, the amount allocated to the entitlement issuer under this subdivision for 1987 must be reduced by the amount of the unused allocation and the amount of any other allocation retained by that issuer after September 1, 1986, for which obligations have not been issued in 1986. The amount of any reduction in allocation must be added to the amounts available for pool allocation under section 19.

For purposes of this subdivision, "population" means the population determined under section 477A.011, subdivision 3.

**Changes or additions are indicated by underline, deletions by ~~strikeout~~.**

Subd. 2. **NOTICE OF OF ENTITLEMENT ALLOCATION.** As soon as possible in each calendar year, the department shall provide a notice of entitlement allocation to each entitlement issuer stating separately the amount that may be issued for "qualified mortgage bonds" or for obligations with a comparable definition, a federal volume limitation act and the amount that may be issued for any obligations.

Sec. 17. **[474A.09] ALLOCATION OF STATE ENTITLEMENTS UNDER FEDERAL VOLUME LIMITATION ACT.**

The amount allocated to the department of finance under section 16, subdivision 1, clause (1), may be allocated or reallocated by the commissioner of the department of finance internally among state issuers at any one time or from time to time during the calendar year, provided that 11.5 percent of the entitlement allocation is allocated to the iron range resources and rehabilitation commissioner. Upon the request of a statutory city located in the taconite tax relief area that received an entitlement allocation under Minnesota Statutes 1984, section 474.18, of $5,000,000 or more for calendar year 1985, the iron range resources and rehabilitation commissioner shall enter into an agreement with the city whereby the commissioner issues obligations on behalf of the city, in an amount requested by the city but not to exceed 17 percent of the amount allocated to the commissioner under this subdivision.

Sec. 18. **[474A.10] ENTITLEMENT ISSUERS UNDER THE FEDERAL VOLUME LIMITATION ACT.**

Subdivision 1. **NOTICE OF ISSUE.** Each entitlement issuer that issues obligations pursuant to an entitlement allocation received under section 16 shall provide a notice of issue to the department on forms provided by the department stating (1) the date of issuance of the obligations; (2) the title of the issue; (3) the principal amount of the obligations; (4) the type or types of the obligations that cause them to be subject to the annual volume cap; and (5) the dollar amount of the obligations subject to the governmental volume cap of a federal volume limitation act. For obligations that are issued as a part of a series of obligations, a notice must be provided for each series. Any issue of obligations for which a notice of issue is not provided to the department within five days after issuance is deemed not to have received an allocation under a federal volume limitation act. Within 30 days after receipt of the notice of issue, the department shall refund a portion of any deposit made pursuant to subdivision 3 equal to one percent of the principal amount of the allocation authority issued.

Subd. 2. **ENTITLEMENT TRANSFERS.** An entitlement issuer may enter into an agreement with another entitlement issuer whereby the recipient entitlement issuer issues obligations pursuant to issuance authority allocated to the original entitlement issuer.

Subd. 3. **RESERVATION OR CANCELLATION OF ENTITLEMENT ALLOCATIONS.** After September 1, 1986, an entitlement issuer may retain all or a portion of its entitlement allocation under a federal volume limitation act

only if the department has received by September 1 a letter stating the intent of the entitlement issuer to issue obligations under its entitlement allocation before the end of the calendar year or within the time permitted by a federal volume limitation act and an application deposit equal to one percent of the unused allocation for which it intends to issue obligations, provided that there shall be credited against the required deposit, any deposit made in accordance with section 12 for a corresponding allocation under existing federal tax law. Any unused portion of an allocation for which an application deposit and letter of intent have not been received by the department by September 1, 1986, is canceled and must be reallocated under section 19. Notwithstanding the provisions of this subdivision, the department of finance may retain $15,000,000 of its entitlement allocation for the issuance of obligations. If any time after August 31, 1986, the department of finance determines that part or all of the retained allocation will not be required for obligations issued by the state, the portion not required shall be canceled and shall be reallocated under section 19.

If an entitlement issuer returns for reallocation all or part of its allocation under this subdivision after August 31, but on or before October 31, the application deposit equal to one percent of the amount of issuance authority returned must be refunded to the issuer. If all or part of the entitlement allocation is returned for reallocation after October 31, but before December 1, the application deposit equal to one-third of one percent of the amount of issuance authority returned must be refunded. The amount of any refund is reduced by the amount of the deposit refunded under section 12.

Sec. 19. **[474A.11] ALLOCATION OF POOL AMOUNT UNDER THE FEDERAL VOLUME LIMITATION ACT.**

Subdivision 1. **POOL AMOUNT.** For calendar year 1986 and from January 1 to June 30 of calendar year 1987, the portion of the governmental volume cap determined under section 11, subdivision 2, clause (3), and any allocations canceled or returned for reallocation under section 18 or section 20, subdivision 9, shall be allocated to issuers, other than state issuers, under this section.

An entitlement issuer may apply for an allocation under this section only after August 20. If an entitlement issuer applies for an allocation prior to November 1, the entitlement issuer must have either adopted a final resolution authorizing the sale of obligations in an amount equal to any allocation received under section 16 or returned any remaining allocation for reallocation under this section. State entitlement issuers, other than the iron range resources and rehabilitation commissioner, may not apply for an allocation under this section except as provided in clause (d).

Notwithstanding the preceding paragraph, the following entitlement issuers may apply for an allocation under this section:

(a) Entitlement issuers that received an allocation only under section 16, subdivision 1, clause (4) or (5), may apply for an allocation at any time.

(b) A city of the first class may apply for an allocation for a manufacturing project at any time.

(c) Any entitlement issuer, other than state issuers, may apply for an allocation for a qualified multifamily housing project after September 1 if (1) it has adopted a preliminary resolution for specific projects for the amount of any of its retained entitlement allocation, and (2) the amount of allocation applied for does not exceed $10,000,000.

(d) State issuers may apply for and receive allocations under this section at any time in an aggregate amount not to exceed that portion of the state's entitlement allocation returned for reallocation under section 18.

Subd. 2. **APPLICATION.** An issuer may apply for an allocation pursuant to this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, and (2) if the application is submitted prior to September 1 of any calendar year, an application deposit in the amount of one percent of the requested allocation, or if the application is submitted after August 31, 1986, an application deposit in the amount of two percent of the requested allocation, provided that there shall be credited against the required deposit any deposit made with respect to the same project in accordance with section 13. An application deposit for a qualified multifamily housing project must include an additional application deposit in the amount of one percent of the requested allocation. An application pursuant to this section may be combined with an application under section 13.

Subd. 3. **ALLOCATION CRITERIA.** The department shall rank each application received under this section on the basis of the number of points awarded to it, with one point being awarded for each of the criteria listed in section 13, subdivision 3, that are satisfied, and one point being awarded for each of the following criteria:

(1) the project is a multifamily housing project; and

(2) the project is a multifamily housing project designed for rental primarily to handicapped persons or to elderly persons.

An application for an allocation relating to an issue of obligations the proceeds of which are to be used to refund outstanding obligations shall be assigned a ranking of no points.

Subd. 4. **ALLOCATION PROCEDURE.** (a) The department shall allocate available issuance authority on Monday of each week to applications received by Monday of the preceding week, in the following order of priority and available issuance authority may not be allocated to any other project prior to October 1, 1986:

(1) applications for manufacturing projects;

(2) applications for pollution control projects or waste management projects; and

(3) applications for commercial redevelopment projects or multifamily housing projects.

Within each category of applications available authority must be allocated on the basis of the numerical rank determined under this section. In the case of an application for an allocation relating to more than one project to be financed by one issue of obligations, the points assigned to the application shall be computed on the basis of the weighted average of points for the projects. The projects must all be of the same category of projects to be submitted as a multiproject application. If two or more applications have the same numerical rank, the ranking of the applications must be by lot unless otherwise agreed by the respective issuers. If an application is rejected, the department shall notify the applicant and shall return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted.

(b) From January 1 to September 30, no more than 20 percent of the total amount of issuance authority available for allocation during the calendar year pursuant to this section may be allocated to pollution control and waste management projects.

(c) From January 1 to September 30, no more than 35 percent of the total amount of issuance authority available for allocation during the calendar year pursuant to this section may be allocated to commercial redevelopment projects and multifamily housing projects. This amount is increased to 50 percent of the total available authority for the next month's allocation if the following two conditions occur: (1) on or after June 30 the total amount of issuance authority available under this section which has not been allocated or has been allocated to but was returned by an issuer exceeds 45 percent of the total amount of issuance authority available for allocation under this section for the calendar year; and (2) the entire amount of issuance authority available under this clause for commercial redevelopment and multifamily housing projects has been allocated.

From October 1 to December 31 of each year, the annual volume cap under a federal volume limitation act, which is not both previously allocated and subject to a preliminary resolution for a specific project, whether or not committed pursuant to a letter of intent, or which is not reserved for qualified mortgage bonds, is available for allocation or reallocation and shall be allocated among issuers. An entitlement issuer may reallocate after September 30 its retained allocation among projects identified in preliminary resolutions filed with the department prior to October 1.

After September 30, allocations shall be made under this subdivision to any project including, without limitation, projects for owner-occupied housing, notwithstanding the percentage limits and other restrictions contained in this subdivision. Applications must be ranked and allocations made first according to the order of priority and ranking of points under subdivision 3 and this subdivision. Any remaining amount must be allocated according to the ranking of

points under subdivision 3. If two or more applications receive an equal number of points, allocations among the applications must be made by lot unless otherwise agreed by the respective applicants.

Subd. 5. **CERTIFICATE OF ALLOCATION.** The granting of an allocation of issuance authority by the department pursuant to this section shall be evidenced by issuance of a certificate of allocation provided to the applicant in accordance with section 21.

Subd. 6. **FINAL ALLOCATION.** If issuance remains or becomes available following the last Monday on which allocations are made during any calendar year, the department must allocate the remaining authority to the department of finance, and the department of finance shall allocate the remaining authority between the Minnesota housing finance agency and the higher education coordinating board. Amounts so allocated to the Minnesota housing finance agency must be used for the issuance of mortgage credit certificates, and amounts allocated to the higher education coordinating board must be used for the issuance of obligations under chapter 136A.

Sec. 20. **[474A.12] 501(c)(3) POOL; FEDERAL VOLUME LIMITATION ACT.**

Subdivision 1. **501(c)(3) POOL.** This section applies only to allocations made under a federal volume limitation act. The amount, if any, of the aggregate annual volume cap that must be set aside for qualified 501(c)(3) bonds in 1986 or in 1987 or pursuant to subdivision 9 shall be allocated under this section.

Subd. 2. **HIGHER EDUCATION FACILITIES AUTHORITY.** Of the portion of the annual volume cap allocated under this section, $20,000,000 for each calendar year is allocated to the higher education facilities authority for the issuance of obligations under sections 136A.25 through 136A.42. After September 1 of each year, the higher education facilities authority may retain any unused portion of its allocation only if the higher education facilities authority submits to the department on or before September 1 a letter which states (1) its intent to issue obligations pursuant to its allocation or a portion of it before the end of the calendar year or within the time period permitted under a federal volume limitation act, and (2) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of the unused allocation or the portion of it pursuant to which it intends to issue obligations. The authority may subsequently reallocate the retained allocation among the projects described in clause (2). On September 1 any unused portion of the amount allocated to the higher education facilities authority and not reserved by a letter of intent and an application deposit is canceled and subject to reallocation in accordance with subdivision 3. If the higher education facilities authority returns for reallocation all or any part of its allocation on or before October 31, that portion of the application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 3. **APPLICATION.** An issuer may apply for an allocation of bond issuance authority under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution of the issuer, and (2) an application deposit in the amount of one percent of the requested allocation. The higher education facilities authority may apply for an allocation under subdivision 4 or subdivision 6 only if it has adopted a final resolution authorizing the sale of obligations in an amount equal to the allocation received and not returned for reallocation under subdivision 2.

Subd. 4. **ALLOCATION.** As of the 10th and 25th day of each month prior to September 1, the department shall allocate issuance authority available under this section on the basis of applications then on hand, assigning allocations in the order in which the applications are received by the department. If two or more applications are filed with the department on the same day and if there is insufficient issuance authority for the applications, the allocation between or among the applications shall be by lot unless otherwise agreed by the respective applicants. Before September 1 the amount allocated to an issuer for a 501(c)(3) organization may not exceed $15,000,000 for the year. Two or more local issuers may combine their allocations in one or more single bond issues which exceed $15,000,000 so long as no more than $10,000,000 of the bond issue is for facilities located within the geographic boundaries of each issuer. The obligations may be issued jointly by a joint powers board or by one issuer on behalf of all the issuers to whom the allocation is made.

Subd. 5. **LETTER OF INTENT.** After September 1 of each calendar year, an issuer which has received an allocation pursuant to this section prior to September 1, may retain an unused portion of the allocation only if the issuer has submitted to the department on or before September 1 a letter stating its intent to issue obligations before the end of the calendar year or within the time period permitted by a federal volume limitation act. If the letter of intent is not submitted to the department, the one percent application deposit must be returned to the issuer and the allocation is canceled and available for reallocation pursuant to subdivision 6. If an issuer returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days. If it returns the allocation after October 31 but before December 1, that portion of the application deposit equal to one-third of one percent of the amount returned must be refunded within 30 days.

Subd. 6. **ALLOCATION AFTER SEPTEMBER 1.** On September 1 of each year the aggregate amount set aside for qualified 501(c)(3) bonds, less any amounts previously allocated or reallocated and either reserved by an issuer with a letter of intent or with respect to which a notice of issue has been filed shall be reallocated in accordance with this subdivision.

Bond issuance authority subject to reallocation under this subdivision on and after September 1 in any year must be allocated by the department in the order in which the applications were received by the department. If two or

more applications are filed with the department on the same day and if there is insufficient issuance authority for the applications, the allocation between or among such applications shall be by lot unless otherwise agreed by the respective applicants. As soon as practicable after September 1, the department shall publish in the State Register a notice of the aggregate amount available for reallocation pursuant to this subdivision. Within five days after September 10, October 10, November 10, December 10, and December 20, the department shall allocate available authority under this subdivision. If issuance remains or becomes available following the final December 20th allocation, the department must allocate the remaining authority to the department of finance, and the department of finance shall allocate the remaining authority to eligible projects under a federal volume limitation act.

Subd. 7. **NOTICE OF 501(c)(3) ALLOCATION.** The department shall issue a notice granting an allocation of issuance authority under this section. No allocation shall be made if the sum of the principal amount of proposed allocation and the aggregate principal amount of allocations previously made and not returned for reallocation exceeds the amount of issuance authority set aside, without the right to override by state legislation for qualified 501(c)(3) bonds under a federal volume limitation act. If an application is rejected, the department must notify the applicant and return the application deposit to the applicant within 30 days, unless the applicant requests in writing that the application be resubmitted.

Subd. 8. **NOTICE OF ISSUE.** Issuers that issue obligations under this section shall provide a notice of issue to the department on forms provided by the department stating (1) the date of issuance of the obligations; (2) the title of the issue; (3) the principal amount of the obligations; and (4) the dollar amount of the obligations subject to the annual volume cap of a federal volume limitation act. For obligations issued as a part of a series of obligations, a notice must be provided for each series. Any issue of obligations for which a notice of issue is not provided to the department within five days after issuance is deemed not to have received an allocation under a federal volume limitation act. Within 30 days after receipt of the notice of issue, the department shall refund a portion of any deposit made pursuant to subdivision 3 equal to one percent of the amount of allocation authority issued.

Subd. 9. **NO MANDATORY SET-ASIDE; 501(C)(3) POOL.** If a federal volume limitation act is enacted that does not require that issuance authority be set aside for qualified 501(c)(3) bonds, $70,000,000 of issuance authority is available for allocation under this section from January 1 through October 31 of 1986 and $35,000,000 of issuance authority is available for allocation under this section from January 1, 1987 through June 30, 1987. Notwithstanding the provisions of subdivision 6, if issuance authority is available for allocation pursuant to this subdivision, no allocation may be made pursuant to this section after October 31 for calendar year 1986 and the remaining amount of unallocated authority under this section that is or becomes available is canceled and must be reallocated pursuant to section 19.

Sec. 21. **[474A.13] CERTIFICATE OF ALLOCATION UNDER FEDERAL VOLUME LIMITATION ACT.**

Subdivision 1. **ISSUANCE OF CERTIFICATE OF ALLOCATION.** The department shall issue a certificate of allocation for any allocation granted under section 19, except as provided in subdivision 4.

Subd. 2. **ISSUANCE OF CERTIFICATE OF ALLOCATION; GENERAL OBLIGATIONS.** The department shall issue a certificate of allocation for any general obligation for which an allocation request is received upon forms provided by the department, except as provided in subdivision 4. Such forms shall contain:

(1) the name and address of the issuer;

(2) the address, telephone number, and name of an authorized representative of the issuer;

(3) the principal amount of general obligations proposed to be issued by the issuer;

(4) the title of the proposed issue;

(5) a statement of the issuer that the proposed issue of obligations is expected to be offered for sale on or before the expiration date of the certificate of allocation for which the request is being made;

(6) the amount of the allocation requested;

(7) the project or projects to be financed with the general obligations; and

(8) a certification that the general obligations do not constitute "industrial development bonds" as defined in section 103(b) of the Internal Revenue Code of 1954, as amended through December 31, 1985, which certification shall be accompanied by an opinion of bond counsel to such effect.

An entitlement city may apply for a certificate of allocation under this subdivision prior to October 1 only if it has adopted a final resolution authorizing the sale of obligations in an amount equal to any allocation received under section 16 or returned any remaining allocation for reallocation under section 19. No certificate of allocation shall be issued pursuant to this authorization in excess of $10,000,000. The aggregate amount of issuance authority that may be allocated to an issuer pursuant to this subdivision for the calendar year may not exceed $20,000,000. If submitted on or after September 1 for calendar year 1986, an allocation request shall be accompanied by a deposit in the amount of one percent of the amount of allocation requested. The department shall issue certificates of allocation on Monday of each week for applications received by Monday of the preceding week and shall make the allocations among the applications by lot.

Subd. 3. **NOTICE OF ISSUE.** A certificate of allocation expires and is deemed not to have been issued if the department has not received a notice of issue on a form provided by the department stating that the obligations for which the certificate of allocation was provided were issued, or in the case of a general obligation, a final resolution providing for sale was adopted, within the longest of the following periods:

(1) for a certificate of allocation issued on or prior to August 15, 1986, or anytime in 1987, within 30 days of the date of issuance of the certificate;

(2) for a certificate of allocation issued between August 16 and September 1, 1986, by September 16, 1986;

(3) for a certificate of allocation issued on or after September 1 and before the second to the last Monday of December 1986, within 15 days of the date of issuance of the certificate;

(4) for a certificate of allocation issued on or after the second to the last Monday of December 1986, by the end of that year or within the time permitted by a federal volume limitation act; and

(5) for a certificate of allocation issued to an entitlement issuer for a qualified multifamily housing project, within 30 days of issuance of the certificate of allocation.

Any of the periods specified in clauses (1), (2), or (3) may be extended for an additional period of the same number of days if an additional deposit in the amount of three percent of the amount of the certificate of allocation is provided before the end of the initial period. The period specified in clause (5) may be extended for an additional 30 days if an additional deposit in the amount of four percent of the amount of the certificate of allocation is provided before the end of the initial period.

The notice of issue must be executed by an officer of the issuer or by the bond counsel approving the issue and must state the principal amount of the obligations issued or to be issued and the difference, if any, between the amount issued or to be issued and the amount stated in the certificate of allocation. If the notice of issue is not provided to the department by the time required, the certificate of allocation expires, the issue is deemed not to have received an allocation for the purpose of complying with a federal volume limitation act, and the deposit required by section 19 or this section is forfeited by the issuer. If the notice is received by the department on or prior to the prescribed deadline, then within 30 days after receipt of this notice, the department shall refund a portion of any application deposit in proportion to the amount of allocation authority issued, reduced by any amount refunded under section 13.

Subd. 4. **LIMITATIONS ON THE ISSUANCE OF CERTIFICATES.** No certificate of allocation may be granted under a federal volume limitation act under any of the following circumstances:

(1) the amount of the allocation requested, when added to (i) the aggregate amount of certificates of allocation issued and not expired; (ii) amounts remaining available to be allocated pursuant to section 19; and (iii) entitlement authority allocated pursuant to section 16 and not returned pursuant to section 18, subdivision 3, for reallocation would cause the governmental volume cap to be exceeded. If two or more applications for a certificate of allocation are filed with the department on the same day and there is insufficient issuance authority for the applications, certificates shall be issued first for applications made pursuant to subdivision 2 and thereafter for applications made pursuant to subdivision 1; or

(2) the principal amount of the proposed allocation exceeds $25,000,000 unless the issuer is the Minnesota housing finance agency or the Minnesota higher education coordinating board, or unless the issue is a pooled or joint issue or any issue of a joint powers board, provided that for joint or pooled issues or issues of a joint powers board the aggregate amount of the issue cannot exceed $100,000,000.

Subd. 5. **CERTIFICATES ARE NOT TRANSFERABLE.** Certificates of allocation are not transferable. An issuer that receives an allocation of issuance authority pursuant to sections 9 to 29 to finance a project within the boundaries of the issuer may allow another issuer to issue obligations pursuant to the issuance authority only if the boundaries of the other issuer are coterminous with the boundaries of the issuer that received the authority.

Sec. 22. **[474A.14] NOTICE OF AVAILABLE AUTHORITY.**

The department shall publish in the State Register at least twice monthly, a notice of the amount of issuance authority, if any, available for allocation pursuant to sections 13, 19, and 20.

Sec. 23. **[474A.15] STATE HELD HARMLESS.**

The state is not liable in any manner to any issuer, holder of obligations, or other person for carrying out the duties imposed on it under sections 9 to 29.

Sec. 24. **[474A.16] EXCLUSIVE METHOD OF ALLOCATION.**

Sections 9 to 29 shall be the exclusive method for allocating authority to issue obligations for the purposes of complying with the volume limitation of a federal volume limitation act and existing federal tax law. An issuer of obligations may elect to obtain an allocation of authority under either existing federal tax law, a federal volume limitation act, or both.

Sec. 25. **[474A.17] ADMINISTRATIVE PROCEDURE ACT NOT APPLICABLE.**

Minnesota Statutes, chapter 14, shall not apply to actions taken by any state agency, entity, or the governor under sections 9 to 29.

Sec. 26. **[474A.18] PROSPECTIVE OVERRIDE OF FEDERAL VOLUME LIMITATION ACT.**

Sections 9 to 29 prospectively override and replace the method of allocating the authority to issue obligations among uses and among issuers as provided in a federal volume limitation act to the extent allowed by a federal volume limitation act.

Sec. 27. **[474A.19] GOVERNOR'S ACTION.**

If at any time before June 30, 1987, a federal volume limitation act is enacted into law in a form different from that existing as of December 31, 1985, which eliminates or adds any requirement that a specific type of obligation is subject to a volume limitation that is inconsistent with the allocation mechanism provided for in sections 9 to 29, or provides for other restrictions on the allocation of issuance authority that are inconsistent with the allocation mechanism provided for in sections 9 to 29, the governor may, consistent with a federal volume limitation act as enacted, by executive order or proclamation, establish such revisions to the allocation system as may be necessary and appropriate and which the governor, in consultation with the legislative advisory commission and the attorney general, determines are most consistent with the purposes of and the allocation mechanism provided for in sections 9 to 29. An executive order or proclamation made by the governor under this section shall not withdraw or impair any allocation made if obligations have been issued under such allocations unless the obligations are not or will not be subject to the volume cap of a federal volume limitation act and written notice is provided to the issuer.

Any executive order made by the governor under this section must, to the extent possible, comply with the following requirements:

(a) If 501(c)(3) bonds are excluded from the volume cap in a federal volume limitation act, any allocation made under section 20 must be canceled, the provisions of section 20 will no longer be in force and effect, any unrefunded deposit made with the department under section 20 shall be refunded to the issuer within 30 days of the cancellation and any excess issuance authority previously set aside under section 20 for 501(c)(3) bonds shall, to the extent the exclusion of the 501(c)(3) bonds increases the amount of the governmental volume cap, be added on a pro rata basis to the amount of the governmental volume cap allocated to (1) state issuers under section 16, subdivision 1, clause (1); (2) entitlement cities under section 16, subdivision 1, clause (2); and (3) to the pool under section 11, subdivision 2, clause (3).

(b) If obligations for multifamily housing projects, or certain kinds thereof, are excluded from the volume cap in a federal volume limitation act, allocations granted for the projects are canceled and the commissioner shall refund any deposits for the projects within 30 days of cancellation. No adjustment shall be made in the allocation of the governmental volume cap except as provided under section 11, subdivision 3.

Sec. 28. **[474A.20] STATE CERTIFICATION.**

The commissioner of the department is designated as the state official to provide any pre-issuance or post-issuance certification required by a federal volume limitation act.

Sec. 29. **[474A.21] APPROPRIATION; RECEIPTS.**

Any fees collected by the department under sections 9 to 29 must be deposited in the general fund. The amount necessary to refund application deposits is appropriated to the department from the general fund for that purpose.

Sec. 30. Minnesota Statutes 1984, section 475.77, is amended to read:

475.77 **OBLIGATIONS SUBJECT TO FEDERAL VOLUME LIMITATION ACT.**

Sections ~~474.16 to 474.23~~ 9 to 29 apply to any issuance of obligations which are subject to limitation under a federal volume limitation act as defined in section ~~474.16~~ 10, subdivision ~~5~~ 9, or existing federal tax law as defined in section 10, subdivision 8.

Sec. 31. **REPEALER.**

Minnesota Statutes 1984, sections 462C.09, subdivision 4; 474.16, subdivisions 1, 2, and 5; 474.21; and 474.25; and Minnesota Statutes 1985 Supplement, sections 116J.58, subdivision 4; 462C.09, subdivisions 1, 2a, 3, 5, and 6; 474.16, subdivisions 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15; 474.17; 474.19; 474.20; 474.23; and 474.26 are repealed. Nothing in this section is intended to affect the validity of any allocation granted pursuant to the repealed sections prior to the effective date of this article, including any allocation carried forward for use in a later calendar year. Nothing in this section is intended to affect the validity of any allocation granted pursuant to the repealed sections prior to the effective date of this article, including any allocation carried forward for use in a later calendar year. If prior to the date of enactment of this article, a notice of allocation is received pursuant to Minnesota Statutes 1985 Supplement, section 474.19, and if obligations pursuant to that allocation are not issued on or before the date of enactment of this article, the issuer may elect within 30 days after enactment of this article to either resubmit its application pursuant to the provisions of this article and receive a credit for the deposit already made or request a refund of the deposit. If a refund of the deposit is requested, the department must refund the deposit within 15 days.

Sec. 32. **EFFECTIVE DATE; SUNSET.**

This article is effective the day following final enactment. Sections 10, subdivisions 3, 9, 10, 11, 16, 22, and 25; 11, subdivisions 2 and 3; 15, subdivision 7; 16 to 21; and 26 to 28 are repealed effective July 1, 1987.

## ARTICLE 2

Section 1. Minnesota Statutes 1984, section 124.214, is amended by adding a subdivision to read:

Subd. 3. If a return of excess tax increment is made to a school district pursuant to section 273.75, subdivision 2 or upon decertification of a tax increment district, the school district's aid entitlements and levy limitations must be adjusted for the fiscal year in which the excess tax increment is paid under the provisions of this subdivision.

(a) An amount must be subtracted from the school district's aid for the current fiscal year equal to the product of:

(1) the amount of the payment of excess tax increment to the school district, times

(2) the ratio of:

(A) the sum of the amounts of the school district's certified levy for the fiscal year in which the excess tax increment is paid according to the following:

(i) sections 124A.03, subdivision 1, 124A.06, subdivision 3a, and 124A.08, subdivision 3a, if the school district is entitled to basic foundation aid according to section 124A.02;

(ii) section 124A.10, subdivision 3a, and section 124A.20, subdivision 2, if the school district is entitled to third-tier aid according to section 124A.10, subdivision 4;

(iii) sections 124A.12, subdivision 3a, and 124A.14, subdivision 5a, if the school district is eligible for fourth-tier aid according to section 124A.12, subdivision 4;

(iv) section 124A.03, subdivision 4, if the school district is entitled to summer school aid according to section 124.201; and

(v) section 275.125, subdivisions 5 and 5c, if the school district is entitled to transportation aid according to section 124.225, subdivision 8a;

(B) to the total amount of the school district's certified levy for the fiscal year pursuant to sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, 124A.20, subdivision 2, and 275.125, plus or minus auditor's adjustments.

(b) An amount must be subtracted from the school district's levy limitation for the next levy certified equal to the difference between:

(1) the amount of the distribution of excess increment, and

(2) the amount subtracted from aid pursuant to clause (a) of this subdivision.

If the aid and levy reductions required by this subdivision cannot be made to the aid for the fiscal year specified or to the levy specified, the reductions must be made from aid for subsequent fiscal years, and from subsequent levies. The school district shall use the payment of excess tax increment to replace the aid and levy revenue reduced under this subdivision.

This subdivision applies only to the total amount of excess increments received by a school district for a calendar year that exceeds $25,000.

Sec. 2. Minnesota Statutes 1984, section 273.1314, is amended by adding a subdivision to read:

Subd. 8a. **ADDITIONAL ENTERPRISE ZONE ALLOCATIONS.** (a) In addition to tax reductions authorized in subdivision 8, the commissioner may allocate $600,000 for tax reductions pursuant to subdivision 9 to enterprise zones designated under section 273.1312, subdivision 4, paragraph (c), clause (1) or (3). Of this amount, a minimum of $200,000 must be allocated to an area added to an enterprise zone pursuant to section 3. Allocations made pursuant to this subdivision may not be used to reduce a tax liability, or increase a tax refund, prior to July 1, 1987. Limits on the maximum allocation to a zone imposed by subdivision 8 do not apply to allocations made under this subdivision.

(b) A city encompassing an enterprise zone, or portion of an enterprise zone, qualifies for an additional allocation under this subdivision if the following requirements are met:

(1) the city encompassing an enterprise zone, or portion of an enterprise zone, has signed contracts with qualifying businesses that commit the city's total initial allocation received pursuant to subdivision 8.

(2) the city encompassing an enterprise zone, or portion of an enterprise zone, submits an application to the commissioner requesting an additional allocation for tax reductions authorized by subdivision 9. The application must identify a specific business expansion project which would not take place but for the availability of enterprise zone tax incentives.

(c) The commissioner shall use the following criteria when determining which qualifying cities shall receive an additional allocation under this subdivision and the amount of the additional allocation the city is to receive:

(1) additional allocations to qualifying cities under this subdivision shall be made within 60 days of receipt of an application.

(2) applications from cities with the highest level of economic distress, as determined using criteria listed in section 273.1312, subdivision 4, paragraph (c), clauses (A) to (E), shall receive priority for an additional allocation under this subdivision.

(3) if the commissioner determines that two cities submitting applications within one week of each other have equal levels of economic distress, the application from the city with the business prospect which will have the greatest positive economic impact shall receive priority for an additional allocation. Criteria used by the commissioner to determine the potential economic impact a business would have shall include the number of jobs created and retained, the amount of private investment which will be made by the business, and the extent to which the business would help alleviate the economic distress in the immediate community.

(4) the commissioner shall determine the amount of any additional allocation a city may receive. The commissioner shall base the amount of additional allocations on the commissioner's determination of the amount of tax incentives which are necessary to ensure the business prospect will expand in the city. No single allocation under this subdivision may exceed $100,000. No city may receive more than $250,000 under this subdivision.

Sec. 3. Minnesota Statutes 1985 Supplement, section 273.1314, subdivision 16a, is amended to read:

Subd. 16a. **ZONE BOUNDARY REALIGNMENT.** The commissioner may approve specific applications by a municipality to amend the boundaries of a zone or of an area or areas designated pursuant to subdivision 9, paragraph (e) at any time. Boundaries of a zone may not be amended to create noncontiguous subdivisions. If the commissioner approves the amended boundaries, the change is effective on the date of approval. Notwithstanding the area limitation under section 273.1312, subdivision 4, paragraph (b), the commissioner may approve a specific application to amend the boundaries of an enterprise zone which is located within five municipalities and was designated in 1984, to increase its area to not more than 800 acres, and may approve an additional specific application to amend the boundaries of that enterprise zone to include a sixth municipality.

Sec. 4. Minnesota Statutes 1984, section 273.73, subdivision 10, is amended to read:

Subd. 10. **REDEVELOPMENT DISTRICT.** (a) "Redevelopment district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that one of the following conditions, reasonably distributed throughout the district, exists:

(1) 70 percent of the parcels in the district are occupied by buildings, streets, utilities or other improvements and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance; or

(2) 70 percent of the parcels in the district are occupied by buildings, streets, utilities or other improvements and 20 percent of the buildings are structurally substandard and an additional 30 percent of the buildings are found

to require substantial renovation or clearance in order to remove such existing conditions as: inadequate street layout, incompatible uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, obsolete buildings not suitable for improvement or conversion, or other identified hazards to the health, safety and general well being of the community; or

(3) Less than 70 percent of the parcels in the district are occupied by buildings, streets, utilities or other improvements, but due to unusual terrain or soil deficiencies requiring substantial filling, grading or other physical preparation for use at least 80 percent of the total acreage of such land has a fair market value upon inclusion in the redevelopment district which, when added to the estimated cost of preparing that land for development, excluding costs directly related to roads as defined in section 160.01 and local improvements as described in section 429.021, subdivision 1, clauses 1 to 7, 11 and 12, and section 430.01, if any, exceeds its anticipated fair market value after completion of said preparation; provided that no parcel shall be included within a redevelopment district pursuant to this paragraph (3) unless the authority has concluded an agreement or agreements for the development of at least 50 percent of the acreage having the unusual soil or terrain deficiencies, which agreement provides recourse for the authority should the development not be completed; or

(4) The property consists of underutilized air rights existing over a public street, highway or right-of-way; or

(5) The property consists of vacant, unused, underused, inappropriately used or infrequently used railyards, rail storage facilities or excessive or vacated railroad rights-of-way; or

(6) The district consists of an existing or proposed industrial park no greater in size than 250 acres, which contains a sewage lagoon contaminated with polychlorinated biphenyls.

(b) For purposes of this subdivision, "structurally substandard" shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance. "Parcel" shall mean a tract or plat of land established prior to the certification of the district as a single unit for purposes of assessment.

Sec. 5. Minnesota Statutes 1984, section 273.75, subdivision 2, is amended to read:

Subd. 2. **EXCESS TAX INCREMENTS.** In any year in which the tax increment exceeds the amount necessary to pay the costs authorized by the tax increment financing plan, including the amount necessary to cancel any tax levy as provided in section 475.61, subdivision 3, the authority shall use the excess amount to do any of the following, in the order determined by the authority: (a)

prepay any outstanding bonds, (b) discharge the pledge of tax increment therefor, (c) pay into an escrow account dedicated to the payment of such bond, or (d) return the excess amount to the municipality, county and school district in which the tax increment financing district is located in direct proportion to their respective mill rates. The county auditor must report to the commissioner of education the amount of any excess tax increment distributed to a school district within 30 days of the distribution.

Sec. 6. Minnesota Statutes 1985 Supplement, section 273.75, subdivision 4, is amended to read:

Subd. 4. **LIMITATION ON USE OF TAX INCREMENT.** All revenues derived from tax increment shall be used in accordance with the tax increment financing plan. The revenues shall be used solely for the following purposes: (a) to pay the principal of and interest on bonds issued to finance a project; (b) by a rural development financing authority for the purposes stated in section 362A.01, subdivision 2, by a port authority or municipality exercising the powers of a port authority to finance or otherwise pay the cost of redevelopment pursuant to chapter 458, by a housing and redevelopment authority to finance or otherwise pay public redevelopment costs pursuant to chapter 462, by a municipality to finance or otherwise pay the capital and administration costs of a development district pursuant to chapter 472A, by a municipality or redevelopment agency to finance or otherwise pay premiums for insurance or other security guaranteeing the payment when due of principal of and interest on the bonds pursuant to chapters 462C, 474, or both chapters, or to accumulate and maintain a reserve securing the payment when due of the principal of and interest on the bonds pursuant to chapters 462C, 474, or both chapters, which revenues in the reserve shall not exceed, subsequent to the fifth anniversary of the date of issue of the first bond issue secured by the reserve, an amount equal to 20 percent of the aggregate principal amount of the outstanding and nondefeased bonds secured by the reserve. Revenues derived from tax increment may be used to finance the costs of an interest reduction program operated pursuant to section 462.445, subdivisions 10 to 13, or pursuant to other law granting interest reduction authority and power by reference to those subdivisions only under the following conditions: (a) tax increments may not be collected for a program for a period in excess of 12 years after the date of the first interest rate reduction payment for the program, (b) tax increments may not be used for an interest reduction program, if the proceeds of bonds issued pursuant to section 273.77 after December 31, 1985, have been or will be used to provide financial assistance to the specific project which would receive the benefit of the interest reduction program, and (c) ~~not more than 50 percent of the estimated~~ tax ~~increment~~ increments ~~derived from a project~~ may not be used to finance an interest reduction program for owner-occupied single-family dwellings ~~unless a project is located either in an area which would qualify as a redevelopment district or within a city designated as an enterprise zone pursuant to section 273.1312, subdivision 4, clause (c)(3)~~. These revenues shall not be used to circumvent existing levy limit law. No revenues derived from tax increment shall be used for the con-

struction or renovation of a municipally owned building used primarily and regularly for conducting the business of the municipality; this provision shall not prohibit the use of revenues derived from tax increments for the construction or renovation of a parking structure, a commons area used as a public park or a facility used for social, recreational or conference purposes and not primarily for conducting the business of the municipality.

Sec. 7. **[340A.318] CREDIT EXTENSIONS RESTRICTED.**

Subdivision 1. **RESTRICTION.** Except as provided in this section, no retail licensee may accept or receive credit, other than merchandising credit in the ordinary course of business for a period not to exceed 30 days, from a distiller, manufacturer, or wholesaler of distilled spirits or wine, or agent or employee thereof. No distiller, manufacturer or wholesaler may extend the prohibited credit to a retail licensee. No retail licensee delinquent beyond the 30 day period shall solicit, accept or receive credit or purchase or acquire distilled spirits or wine directly or indirectly, and no distiller, manufacturer or wholesaler shall knowingly grant or extend credit nor sell, furnish or supply distilled spirits or wine to a retail licensee who has been posted delinquent under subdivision 3. No right of action shall exist for the collection of any claim based upon credit extended contrary to the provisions of this section.

Subd. 2. **REPORTING.** Every distiller, manufacturer or wholesaler selling to retailers shall submit to the commissioner in triplicate not later than Thursday of each calendar week a verified list of the names and addresses of each retail licensee purchasing distilled spirits or wine from that distiller, manufacturer or wholesaler who, on the first day of that calendar week, was delinquent beyond the 30 day period, or a verified statement that no delinquencies exist which are required to be reported. If a retail licensee previously reported as delinquent cures the delinquency by payment, the name and address of that licensee shall be submitted in triplicate to the commissioner not later than the close of the second full business day following the day the delinquency was cured.

Subd. 3. **POSTING; NOTICE.** Verified list or statements required by subdivision 2 shall be posted by the commissioner in offices of the department in places available for public inspection and mailed to each licensed wholesaler not later than the day following receipt. Documents so posted and mailed shall constitute notice to every distiller, manufacturer or wholesaler of the information posted. Actual notice, however received, also constitutes notice.

Subd. 4. **MISCELLANEOUS PROVISIONS.** The 30 day merchandising period allowed by this section shall commence with the day immediately following the date of invoice and shall include all successive days, including Sundays and holidays, to and including the 30th successive day. In addition to other legal methods, payment by check during the period for which merchandising credit may be extended shall be considered payment. All checks received in payment for distilled spirits or wine shall be deposited promptly for collection.

A postdated check or a check dishonored on presentation for payment does not constitute payment. A retail licensee shall not be deemed delinquent for any alleged sale in any instance where there exists a bona fide dispute between the licensee and the distiller, manufacturer or wholesaler as to the amount owing as a result of the alleged sale. A delinquent retail licensee who engages in the retail liquor business at two or more locations shall be deemed to be delinquent with respect to each location.

Subd. 5. **LICENSE SUSPENSION OR REVOCATION.** The license of any retail licensee, distiller, manufacturer or wholesaler violating any provision of this section shall be subject to suspension or revocation in the manner provided by this chapter.

Sec. 8. Minnesota Statutes 1984, section 412.301, is amended to read:

412.301 **FINANCING PURCHASE OF CERTAIN EQUIPMENT.**

The council may issue certificates of indebtedness ~~within existing~~ or capital notes subject to the city debt limits ~~for the purpose of purchasing fire or police~~ to purchase public safety equipment ~~or,~~ ambulance equipment ~~or street,~~ road construction or maintenance equipment, and other capital equipment having an expected useful life at least as long as the terms of the certificates or notes. Such certificates or notes shall be payable in not more than five years and shall be issued on such terms and in such manner as the council may determine. If the amount of the certificates or notes to be issued to finance any such purchase exceeds one percent of the assessed valuation of the city, ~~excluding money and credits,~~ they shall not be issued for at least ten days after publication in the official newspaper of a council resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular municipal election is filed with the clerk, such certificates or notes shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made for the payment of the principal and interest on such certificates or notes, in accordance with section 475.61, as in the case of bonds.

Sec. 9. Minnesota Statutes 1985 Supplement, section 462.445, subdivision 13, is amended to read:

Subd. 13. **INTEREST REDUCTION PROGRAM.** The authority to authorize payment of interest reduction assistance pursuant to subdivisions 10, 11 and 12 shall expire on January 1, ~~1987~~ 1989. Interest reduction assistance payments authorized prior to January 1, ~~1987~~ 1989 may be paid after January 1, ~~1987~~ 1989.

Sec. 10. Minnesota Statutes 1984, section 462A.03, subdivision 13, is amended to read:

Subd. 13. "Eligible mortgagor" means a nonprofit or cooperative housing

corporation, limited profit entity or a builder as defined by the agency in its rules, which sponsors or constructs residential housing as defined in subdivision 7, or a natural person of low or moderate income, except that the return to a limited dividend entity shall not exceed ten percent of the capital contribution of the investors or such lesser percentage as the agency shall establish in its rules; provided that residual receipts funds of a limited dividend entity may be used for agency-approved, housing-related investments owned by the limited dividend entity without regard to the limitation on returns. Owners of existing residential housing occupied by renters shall be eligible for rehabilitation loans, only if, as a condition to the issuance of the loan, the owner agrees to conditions established by the agency in its rules relating to rental or other matters that will insure that the housing will be occupied by persons and families of low or moderate income. The agency shall require by rules that the owner give preference to those persons of low or moderate income who occupied the residential housing at the time of application for the loan.

Sec. 11. Minnesota Statutes 1984, section 462C.02, subdivision 6, is amended to read:

Subd. 6. "City" means any statutory or home rule charter city, a county housing and redevelopment authority created by special law or authorized by its county to exercise its powers pursuant to section 462.426, or any public body which (a) is the housing and redevelopment authority in and for a statutory or home rule charter city, or the port authority of a statutory or home rule charter city, and (b) is authorized by ordinance to exercise, on behalf of a statutory or home rule charter city, the powers conferred by sections 462C.01 to ~~462C.08~~ 462C.10.

Sec. 12. Minnesota Statutes 1984, section 462C.06, is amended to read:

462C.06 **COUNTY HOUSING AND REDEVELOPMENT AUTHORITY ACTING ON BEHALF OF CITY.**

A housing and redevelopment authority in and for a county may exercise the powers conferred by sections 462C.01 to ~~462C.07~~ 462C.10 either (1) on its own behalf or (2) on behalf of a city (other than a county housing and redevelopment authority), if the city authorizes the housing and redevelopment authority in and for the county in which the city is located to exercise such powers and the county has authorized its housing and redevelopment authority to exercise its powers pursuant to section 462.426 or the county housing and redevelopment authority has been created by special law; provided, however, that any program undertaken pursuant to this section ~~shall be included in the limitations provided in section 462C.07, subdivision 2, and also shall be~~ is subject to the limitations of sections 462C.03 and 462C.04 in the case of a single family housing program, and subject to the limitations of section 462C.05 in the case of a multifamily housing development program.

Sec. 13. Minnesota Statutes 1984, section 462C.07, subdivision 1, is amended to read:

Subdivision 1. To finance programs or developments described in any plan the city may, upon approval of the program as provided in section 462C.04, subdivision 2, issue and sell revenue bonds or obligations which shall be payable exclusively from the revenues of the programs or developments. In the purchase or making of single family housing loans and the purchase or making of multifamily housing loans and the issuance of revenue bonds or other obligations the city may exercise within its corporate limits, any of the powers the Minnesota housing finance agency may exercise under chapter 462A, without limitation under the provisions of chapter 475. The proceeds of revenue bonds issued to make or purchase single family housing loans that are jointly issued by two or more cities pursuant to section 471.59 may be used to make or purchase single family housing loans secured by homes in any of the cities.

Sec. 14. **[471.572] INFRASTRUCTURE REPLACEMENT RESERVE FUND.**

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

"Reserve fund" means the infrastructure replacement reserve fund.

"City" means a statutory or home rule charter city.

Subd. 2. **TAX LEVY.** The governing body of a city may establish, by a two-thirds vote of all its members, by ordinance or resolution a reserve fund and may annually levy a property tax for the support of the fund. The proceeds of taxes levied for its support must be paid into the reserve fund. Any other revenue from a source not required by law to be paid into another fund for purposes other than those provided for the use of the reserve fund may be paid into the fund. A tax levied by the city in accordance with this section is a special levy within the meaning of section 275.50, subdivision 5. Before a tax is levied under this section, the city must publish in the official newspaper of the city an initial resolution authorizing the tax levy. If within ten days after the publication a petition is filed with the city clerk requesting an election on the tax levy signed by a number of qualified voters greater than ten percent of the number who voted in the city at the last general election, the tax may not be levied until the levy has been approved by a majority of the votes cast on it at a regular or special election.

Subd. 3. **PURPOSES.** The reserve fund may be used only for the replacement of streets, bridges, curbs, gutters and storm sewers.

Subd. 4. **USE OF FUND FOR A SPECIFIC PURPOSE.** If the city has established a reserve fund, it may submit to the voters at a regular or special election the question of whether use of the fund should be restricted to a specific improvement or type of capital improvement. If a majority of the votes cast on the question are in favor of the limitation on the use of the reserve fund, it may be used only for the purpose approved by the voters.

Subd. 5. **HEARING; NOTICE.** A reserve fund may not be established until after a public hearing is held on the question. Notice of the time, place, and

purpose of the hearing must be published for two successive weeks in the official newspaper of the city. The second publication must be not later than seven days before the date of the hearing.

Subd. 6. **TERMINATION OF FUND.** The city may terminate a reserve fund at any time in the same manner as the fund was established. Upon termination of the fund any balance is irrevocably appropriated to the debt service fund of the city to be used solely to reduce tax levies for or bonded indebtedness of the city or, if the city has no bonded indebtedness, for capital improvements authorized by this section.

Sec. 15. Minnesota Statutes 1984, section 471.59, subdivision 11, is amended to read:

Subd. 11. **JOINT POWERS BOARD.** Two or more governmental units, through action of their governing bodies, by adoption of a joint powers agreement that complies with the provisions of subdivisions 1 through 5, may establish a joint board to issue bonds or obligations pursuant to any law by which any of the governmental units establishing the joint board may independently issue bonds or obligations and may use the proceeds of the bonds or obligations to carry out the purposes of the law under which the bonds or obligations are issued. A joint board created pursuant to this section may issue obligations and other forms of indebtedness only pursuant to express authority granted by the action of the governing bodies of the governmental units which established the joint board. The joint board established pursuant to this subdivision shall be composed solely of members of the governing bodies of the governmental unit which established the joint board, and the joint board may not pledge the full faith and credit or taxing power of any of the governmental units which established the joint board. The obligations or other forms of indebtedness shall be obligations of the joint board issued on behalf of the governmental units creating the joint board. The obligations or other forms of indebtedness shall be issued in the same manner and subject to the same conditions and limitations which would apply if the obligations were issued or indebtedness incurred by one of the governmental units which established the joint board provided that any reference to a governmental unit in the statute, law, or charter provision authorizing the issuance of the bonds or the incurring of the indebtedness shall be considered a reference to the joint board.

Sec. 16. Minnesota Statutes 1984, section 474.01, subdivision 6, is amended to read:

Subd. 6. In order to further these purposes and policies the department of energy and economic development ~~authority~~ shall investigate, shall assist and advise municipalities, and shall report to the governor and the legislature concerning the operation of sections 474.01 to 474.13 and the projects undertaken hereunder, and shall have all of the powers and duties in connection therewith which are granted to him by chapter 362 with respect to other aspects of business development and research.

Sec. 17. Minnesota Statutes 1984, section 474.01, subdivision 7b, is amended to read:

Subd. 7b. Prior to submitting an application to the department of energy and economic development ~~authority~~ requesting approval of a project pursuant to subdivision 7a, the governing body or a committee of the governing body of the municipality or redevelopment agency shall conduct a public hearing on the proposal to undertake and finance the project. Notice of the time and place of hearing, and stating the general nature of the project and an estimate of the principal amount of bonds or other obligations to be issued to finance the project, shall be published at least once not less than ~~15~~ 14 days nor more than 30 days prior to the date fixed for the hearing, in the official newspaper and a newspaper of general circulation of the municipality or redevelopment agency. The notice shall state that a draft copy of the proposed application to the department of energy and economic development ~~authority~~, together with all attachments and exhibits thereto, shall be available for public inspection following the publication of the notice and shall specify the place and times where and when it will be so available. At the time and place fixed for the public hearing, the governing body of the municipality or the redevelopment agency shall give all parties who appear at the hearing an opportunity to express their views with respect to the proposal to undertake and finance the project. Following the completion of the public hearing, the governing body of the municipality or redevelopment agency shall adopt a resolution determining whether or not to proceed with the project and its financing and may thereafter apply to the department of energy and economic development ~~authority~~ for approval of the project.

Sec. 18. Minnesota Statutes 1984, section 475.55, subdivision 1, is amended to read:

Subdivision 1. **INTEREST; FORM.** (1) Interest on obligations shall not exceed the greatest of (a) the rate determined pursuant to subdivision 4 for the month in which the resolution authorizing the obligations was adopted, or (b) the rate determined pursuant to subdivision 4 for the month in which the obligations are sold, or (c) the rate of ten percent per annum. All obligations shall be securities as provided in the Uniform Commercial Code, chapter 336, article 8, may be issued as certificated securities or as uncertificated securities, and if issued as certificated securities may be issued in bearer form or in registered form, as defined in section 336.8-102. The validity of an obligation shall not be impaired by the fact that one or more officers authorized to execute it by the governing body of the municipality shall have ceased to be in office before delivery to the purchaser or shall not have been in office on the formal issue date of the obligation. Every obligation, as to certificated securities, or transaction statement, as to uncertificated securities, shall be signed manually by one officer of the municipality or by a person authorized to act on behalf of a bank or trust company, located in or outside of the state, which has been designated by the governing body of the municipality to act as authenticating agent. Other signatures and the seal of the issuer may be printed, lithographed, stamped or engraved

thereon and on any interest coupons to be attached thereto. The seal need not be used. A municipality may do all acts and things which are permitted or required of issuers of securities under the Uniform Commercial Code, chapter 336, article 8, and may designate a corporate registrar to perform on behalf of the municipality the duties of a registrar as set forth in those sections. Any registrar shall be an incorporated bank or trust company, located in or outside of the state, authorized by the laws of the United States or of the state in which it is located to perform the duties. If obligations are issued as uncertificated securities, and a law requires or permits the obligations to contain a statement or recital, whether on their face or otherwise, it shall be sufficient compliance with the law that the statement or recital is contained in the transaction statement or in an ordinance, resolution, or other instrument which is made a part of the obligation by reference in the transaction statement as provided in section 336.8-202.

(2) Notwithstanding paragraph (1), interest on obligations issued after April 1, 1986 and before July 1, 1987 is not subject to any limitation on rate or amount. For purposes of this paragraph, obligations issued after April 1, 1986 and before July 1, 1987 include reissuing, reselling, remarketing, refunding, refinancing or tendering, whether pursuant to section 475.54, subdivision 5a, or otherwise, of obligations after July 1, 1987 if the original obligations were issued before July 1, 1987 and after April 1, 1986.

Sec. 19. Minnesota Statutes 1984, section 475.55, is amended by adding a subdivision to read:

Subd. 7. **ASSUMED MAXIMUM INTEREST RATE FOR OTHER LAWS.** If an obligation is not subject to a maximum interest rate pursuant to subdivision 1, paragraph (1) and another law provides for a calculation of a debt service levy, determination of a rate of interest on a special assessment, or other factor based on an assumption that a maximum interest rate applies to the obligation, the governing body of the municipality may estimate or determine an assumed maximum interest rate for purposes of that law. If the municipality does not determine, specify or estimate the maximum interest rate for such purpose, then the maximum interest rate for purposes of the other law is the maximum interest rate that would apply if subdivision 1, paragraph (2) were not in effect. This subdivision does not limit the interest rate that may be paid on obligations under subdivision 1.

Sec. 20. Minnesota Statutes 1985 Supplement, section 475.56, is amended to read:

475.56 **INTEREST RATE.**

(a) Any municipality issuing obligations under any law may issue obligations bearing interest at a single rate or at rates varying from year to year which may be lower or higher in later years than in earlier years. Such higher rate for any period prior to maturity may be represented in part by separate coupons designated as additional coupons, extra coupons, or B coupons, but the highest

aggregate rate of interest contracted to be so paid for any period shall not exceed the maximum rate authorized by law. Such higher rate may also be represented in part by the issuance of additional obligations of the same series, over and above but not exceeding two percent of the amount otherwise authorized to be issued, and the amount of such additional obligations shall not be included in the amount required by section 475.59 to be stated in any bond resolution, notice, or ballot, or in the sale price required by section 475.60 or any other law to be paid; but if the principal amount of the entire series exceeds its cash sale price, such excess shall not, when added to the total amount of interest payable on all obligations of the series to their stated maturity dates, cause the average annual rate of such interest to exceed the maximum rate authorized by law. This section does not authorize a provision in any such obligations for the payment of a higher rate of interest after maturity than before.

(b) Any obligation of an issue of obligations otherwise subject to section 475.55, subdivision 1, may bear interest at a rate varying periodically at the time or times and on the terms, including convertibility to a fixed rate of interest, determined by the governing body of the municipality, but the rate of interest for any period shall not exceed the maximum rate of interest for the obligations determined in accordance with section 475.55, subdivision 1. For purposes of section 475.61, subdivisions 1 and 3, the interest payable on variable rate obligations for their term shall be determined as if their rate of interest is the maximum rate permitted for the obligations under section 475.55, subdivision 1, or the lesser maximum rate of interest payable on the obligations in accordance with their terms, but if the interest rate is subsequently converted to a fixed rate the levy may be modified to provide at least five percent in excess of amounts necessary to pay principal of and interest at the fixed rate on the obligations when due. For purposes of computing debt service or interest pursuant to section 475.67, subdivision 12, interest throughout the term of bonds issued pursuant to this subdivision is deemed to accrue at the rate of interest first borne by the bonds. The provisions of this paragraph do not apply to obligations issued by a statutory or home rule charter city with a population of less than 10,000, as defined in section 477A.011, subdivision 3, or to obligations that are not rated A or better, or an equivalent subsequently established rating, by Standard and Poor's Corporation, Moody's Investors Service or other similar nationally-recognized rating agency, except that any statutory or home rule charter city, regardless of population or bond rating, may issue variable rate obligations as a participant in a bond pooling program established by the league of Minnesota cities that meets this bond rating requirement.

Sec. 21. Minnesota Statutes 1985 Supplement, section 475.60, subdivision 2, is amended to read:

Subd. 2. **REQUIREMENTS WAIVED.** The requirements as to public sale shall not apply to:

(1) obligations issued under the provisions of a home rule charter or of a law specifically authorizing a different method of sale, or authorizing them to be

issued in such manner or on such terms and conditions as the governing body may determine;

(2) obligations sold by an issuer in an amount not exceeding the total sum of $300,000 in any three-month period;

(3) obligations issued by a governing body other than a school board in anticipation of the collection of taxes or other revenues appropriated for expenditure in a single year, if sold in accordance with the most favorable of two or more proposals solicited privately;

(4) obligations sold to any board, department, or agency of the United States of America or of the state of Minnesota, in accordance with rules or regulations promulgated by such board, department, or agency; ~~and~~

(5) obligations issued to fund pension and retirement fund liabilities under section 475.52, subdivision 6, obligations issued with tender options under section 475.54, subdivision 5a, crossover refunding obligations referred to in section 475.67, subdivision 13, and any issue of obligations comprised in whole or in part of obligations bearing interest at a rate or rates which vary periodically referred to in section 475.56; and

(b) obligations qualifying under section 475.55, subdivision 1, paragraph (2), if the governing body of the municipality determines that interest on the obligations will be includable in gross income for purposes of federal income taxation.

Sec. 22. **[475.561] TAXABLE STATUS; SPECIAL PROVISIONS.**

Subdivision 1. **INCREASE OR DECREASE IN INTEREST.** (a) Obligations may be issued which provide, if interest on the obligations is determined under the terms of the obligations to be subject to federal income taxation, for an increase in the rate of interest payable on the obligations, from the date of issuance or another date, to a rate provided under the terms of the obligations.

(b) If the municipality issues obligations it intends to be exempt from federal income taxation but bond counsel cannot provide an opinion that the interest on the obligations will be exempt from federal income taxation under pending legislation or regulations existing or proposed with retroactive effect or otherwise, the municipality may provide for the obligations to bear interest at a rate that will decrease, if the obligations are subsequently determined to be exempt from federal income taxation, to a rate and from a date to be determined under the provisions of the obligations.

(c) For purposes of section 475.61, subdivisions 1 and 3, the increase or decrease in interest rate permitted by this subdivision need not be taken into account until the increase or decrease occurs. Upon occurrence of the increase or decrease, the levy must be modified to provide at least five percent in excess of the amount necessary to pay principal and interest at the new rate of interest on the obligations.

Subd. 2. **ARBITRAGE REBATE.** A municipality may, from the proceeds of bonds, investment earnings, or any other available moneys of the municipality, pay to the United States or an officer, department, agency or instrumentality of the United States a rebate of excess earnings payment required by federal law to maintain the interest as tax exempt. A covenant to make a payment or payments pursuant to this subdivision is not an obligation of the municipality as defined in section 475.51, subdivision 3.

Subd. 3. **PREPAYMENT OR PURCHASE OF BONDS.** A municipality that issues obligations it intends to be exempt from federal income taxation may agree to prepay or purchase the obligations (a) at the time and in the amount it determines necessary or desirable to maintain the obligations as exempt from federal income taxation or (b) upon a determination that the obligations are taxable. A municipality may make arrangements to have money available with which to purchase or prepay the obligations as the municipality determines necessary or desirable. If arrangements are made with a financial institution pursuant to section 475.54, subdivision 5a or this subdivision and if the municipality owes the financial institution money under the arrangement, the agreement to pay the financial institution is not an obligation of the municipality as defined in section 475.51, subdivision 3, unless and until the amount to be paid or reimbursed is determined and becomes due and payable, whereupon, the obligation is, as provided by the agreement, a general or special obligation of the municipality, and may also be paid from the proceeds of refunding bonds issued pursuant to this chapter. The agreement may not be or become a general obligation of the municipality unless the underlying, originally issued obligation was a general obligation of the municipality. For purposes of section 475.61, subdivisions 1 and 3, money necessary to make the purchase or prepayment are not amounts needed to meet when due principal and interest payments on the obligations.

Subd. 4. **RATIFICATION.** This section is, in part, remedial in nature. Obligations issued prior to the effective date of this section are not invalid or unenforceable for providing terms, consequences or remedies that are authorized by this section.

Sec. 23. **CITY OF MINNEAPOLIS; PROPERTY TAX FORGIVENESS.**

Notwithstanding any other law to the contrary, the governing bodies of the city of Minneapolis, Hennepin county, Special School District No. 1, and any special taxing district may by resolution or ordinance forgive any or all of the liability for the tax imposed by section 272.01, subdivision 2, relating to property leased by the Minneapolis community development agency.

Sec. 24. **REPEALER.**

Laws 1963, chapter 728 is repealed.

Sec. 25. **EFFECTIVE DATE.**

Sections 18, 19, 21, 22 and 23 are effective the day following final enactment.

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## ARTICLE 3

Section 1. Minnesota Statutes 1984, section 115.07, subdivision 1, is amended to read:

Subdivision 1. **OBTAIN PERMIT.** It shall be unlawful for any person to construct, install or operate a disposal system, or any part thereof, until plans therefor shall have been submitted to the agency unless the agency shall have waived the submission thereof to it and a written permit therefor shall have been granted by the agency.

For disposal systems operated on streams with extreme seasonal flows, the agency must allow seasonal permit limits based on a fixed or variable effluent limit when the municipality operating the disposal system requests them and is in compliance with agency water quality standards.

Sec. 2. **[115.54] TECHNICAL ADVISORY COMMITTEE.**

The agency shall adopt and revise rules governing waste water treatment control under chapters 115 or 116 only with the advice of a technical advisory committee of nine members. One member of the committee shall be selected by each of the following: the state consulting engineers council, the University of Minnesota division of environmental engineering, the state association of general contractors, the state wastewater treatment plant operators association, the metropolitan waste control commission created by section 473.503, the association of metropolitan municipalities, the state association of small cities, and two members from the league of Minnesota cities. The technical advisory committee may review and advise the agency on any rule or technical requirements governing the wastewater treatment grant or loan program and may review the work of other professional persons working on a wastewater treatment project and make recommendations to those persons, the agency, and the concerned municipality, in order for the agency to ensure that water quality treatment standards will be met. The committee shall meet at least once a year, or at the call of the chair, and shall elect its chairperson. The agency must provide staff support for the committee, prepare committee minutes and provide information to the committee it may request. A quorum is a simple majority and official action must be by a majority vote of the quorum.

Sec. 3. Minnesota Statutes 1984, section 115A.14, subdivision 4, is amended to read:

Subd. 4. **POWERS AND DUTIES.** The commission shall review the biennial report of the board, the agency municipal project list and municipal needs list reports, and the budget for the agency division of water quality. The commission shall oversee the activities of the board under sections 115A.01 to 115A.72 and the activities of the agency under sections 115A.42 to 115A.46 ~~and~~, 115A.49 to 115A.54, and 116.16 to 116.18 and direct such changes or additions in the work plan of the board and agency as it deems fit. The commission may conduct public hearings and otherwise secure data and expressions of opinion. The commission shall make such recommendations as it deems proper to assist the legislature in formulating legislation. Any data or information compiled by the commission shall be made available to any standing or interim committee of the legislature upon request of the chairperson of the respective committee.

Sec. 4. **[116.163] AGENCY FUNDING APPLICATION REVIEW.**

Subdivision 1. **CONSTRUCTION GRANT AND LOAN APPLICATIONS.** The agency shall, pursuant to agency rules and within 90 days of receipt of a completed application for a wastewater treatment facility construction grant or loan, grant or deny the application and notify the municipality of the agency's decision. The time for consideration of the application by the agency may be extended up to 180 days if the municipality and the agency agree it is necessary.

Subd. 2. **LIMITATION ON MUNICIPAL PLANNING TIME.** A municipality shall complete all planning work required by the agency for award of a grant or loan, and be ready to advertise for bids for construction, within two years of receipt of grant or loan funds under subdivision 1. The planning time may be extended automatically by the amount of time the agency exceeds its 90-day review under subdivision 1.

Subd. 3. **BID REVIEW.** After a municipality has accepted bids for construction of a wastewater treatment project, the agency must review the bids within 30 days of receipt.

Sec. 5. **[116.165] INSPECTION RESPONSIBILITY.**

When a wastewater treatment plant is constructed with federal funds and a federal agency conducts inspections of the plant, the owner of the plant or the owner's designee must conduct inspections and forward all inspection documents required by the agency to the agency for its review.

Sec. 6. **[116.167] REVOLVING LOAN ACCOUNT.**

Subdivision 1. **APPLICATION.** This section is effective only if the federal government requires revolving loan accounts to be established under the authority of the federal Water Pollution Control Act.

Subd. 2. **STATE WATER POLLUTION CONTROL REVOLVING LOAN ACCOUNT.** The commissioner of finance shall maintain in the state bond fund a separate bookkeeping account which shall be designated as the state water

pollution control revolving loan account to receive any federal money authorized for loans under the federal Water Pollution Control Act, and other money appropriated by law, for the purpose of providing financial assistance to municipalities for wastewater treatment.

Subd. 3. **LOANS.** A loan made to a municipality under this section shall be made only after resolutions have been adopted by the agency and the governing body of the municipality obligating the municipality to repay the loan to the state treasurer in annual installments, including both principal and interest. Each installment shall be in an amount sufficient to pay the principal amount within 20 years or a shorter time interval if the amount of the annual payment will not justify the administrative expenses of processing the payment, and shall be paid from user charges, taxes, special assessments, or other funds available to the municipality. Interest on loans made to municipalities shall be established at a rate the commissioner of revenue reasonably determines sufficient to pay interest rates on state bonds issued under section 116.17, subdivision 2. Loan repayments must be deposited in the revolving loan account created by this section. Each participating municipality shall provide the agency with a financial health report compiled by the state auditor and the agency shall review the report before approving a loan. Municipalities receiving a loan under this section may still be eligible for a wastewater treatment grant from the agency.

Subd. 4. **RULES APPLICATION.** The disbursement of loans under this section must comply with rules adopted by the agency for loans for wastewater treatment facilities under chapter 116.

Sec. 7. **EFFECTIVE DATE.**

Article 3 is effective July 1, 1986.

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## ARTICLE 4

Section 1. **[297A.258] PRIVATE SUPPLIERS OF PUBLIC SERVICES.**

A private vendor that has entered into a service contract with a municipality under sections 3 and 4 is a political subdivision for purposes of determining the tax imposed under this chapter. This section applies only to the extent that the vendor is acting for the purposes of constructing, maintaining, or operating related facilities pursuant to the service contract.

The commissioner may provide for the issuance of a limited exemption certificate to a private vendor for purposes of administering this section. The commissioner may further require a vendor to obtain a certificate in order to qualify as a political subdivision under this section.

For purposes of this section, "private vendor," "service contract," and "related facilities" have the meanings given in sections 3 and 4.

Sec. 2. **[471A.01] PUBLIC PURPOSE FINDINGS.**

The legislature finds that the privatization of facilities for the prevention, control, and abatement of water pollution, and the furnishing of potable water provides municipalities an opportunity under appropriate circumstances to provide those capital intensive public services in a manner that will speed construction and is less costly and more efficient than the furnishing of those services through facilities exclusively owned and operated by municipalities. The legislature further finds that other law may create unnecessary and costly obstacles to the privatization of those capital intensive public services and that a comprehensive act is required to permit municipalities to enter into appropriate contractual arrangements with private parties to facilitate the privatization of those capital intensive public services.

Sec. 3. **[471A.02] DEFINITIONS.**

Subdivision 1. **APPLICABILITY.** The definitions in this section apply to sections 2 to 13.

Subd. 2. **ADMINISTRATOR.** "Administrator" means the pollution control agency or any other agency, instrumentality, or political subdivision of the state responsible for administering the loan or grant program described in section 8.

Subd. 3. **CAPITAL COST COMPONENT.** "Capital cost component" means that part of the service fee that the municipality determines is intended to reimburse the private vendor for the capital cost, including debt service expense, of the related facilities.

Subd. 4. **CAPITAL COST COMPONENT GRANT.** "Capital cost component grant" means any grant made to the municipality by the pollution control agency over a term of at least ten years to pay or reimburse the municipality for the payment of all or part of the capital cost component of the service fee.

Subd. 5. **CAPITAL COST COMPONENT LOAN.** "Capital cost component loan" means any loan made to the municipality by the pollution control agency over a term of at least ten years to pay or reimburse the municipality for the payment of all or part of the capital cost component of the service fee.

Subd. 6. **CAPITAL INTENSIVE PUBLIC SERVICES.** "Capital intensive public services" means the prevention, control, and abatement of water pollution through wastewater treatment facilities as defined by section 115.71, subdivision 8, and the furnishing of potable water. Capital intensive public services may be limited to the acquisition, construction, and ownership by the private vendor of related facilities, but does not include the furnishing of heating or cooling energy.

Subd. 7. **CONTROLLING INTEREST.** "Controlling interest" means either

(1) the power, by ownership interest, contract, or otherwise, to direct the management of the private vendor or to designate or elect at least a majority of the private vendor's governing body or board, or (2) having more than a 50 percent ownership interest in the private vendor.

Subd. 8. **MUNICIPALITY.** "Municipality" means a home rule charter or statutory city, county, sanitary district, or other governmental subdivision or public corporation, including the metropolitan council and the metropolitan waste control commission.

Subd. 9. **PERMITTED OBLIGATION.** "Permitted obligation" means the obligation of the municipality under the service contract to pay a service fee or perform any other obligation under the service contract except an obligation to pay, in a future fiscal year of the municipality from a revenue source other than funds on hand, a stated amount of money for money borrowed or for related facilities purchased by the municipality under the service contract.

Subd. 10. **PRIVATE VENDOR.** "Private vendor" means one or more persons who are not a municipality and in which no governmental entity or group of governmental entities has a controlling interest.

Subd. 11. **RELATED FACILITIES.** "Related facilities" means all real and personal property used by the private vendor in furnishing capital intensive public services, excluding any product of the related facilities, such as drinking water, furnished under the service contract.

Subd. 12. **SERVICE CONTRACT.** "Service contract" means any agreement or agreements between a municipality and a private vendor under which:

(1) the private vendor agrees to furnish to the municipality or any other user capital intensive public services in accordance with performance standards set forth in the agreement or agreements and the municipality agrees to pay or cause to be paid to the private vendor a service fee for the services, and

(2) other covenants incident to clause (1) are made.

Subd. 13. **SERVICE FEE.** "Service fee" means the payments the municipality is required under the service contract to make, or cause to be made, to the private vendor, including payments made by third parties to the private vendor for products or services and credited against payments the municipality would otherwise have to make, or cause to be made, under the service contract.

Subd. 14. **USEFUL LIFE OF THE RELATED FACILITIES.** "Useful life of the related facilities" means the economic useful life of the related facilities as determined by the municipality.

Subd. 15. **UNRESTRICTED FUNDS.** "Unrestricted funds" means any funds other than funds granted to the state or administrator by the federal government or any agency of the federal government and unavailable under federal law for the purposes set forth in section 8.

Subd. 16. **USER.** "User" means the municipality and all other persons which use the capital intensive public services furnished by the private vendor.

Sec. 4. **[471A.03] BASIC AUTHORIZATION AND RELATED POWERS.**

Subdivision 1. **BASIC AUTHORIZATION.** A municipality may contract with a private vendor to furnish in accordance with a service contract any capital intensive public services the municipality is authorized by law to furnish, and for that purpose a municipality may exercise any and all of the powers provided in this section.

Subd. 2. **SERVICE CONTRACT.** Subject to the provisions of section 10, a municipality may enter into a service contract for a term of not more than 30 years. However, the service contract may permit the municipality to either extend or renew the term of the service contract so long as the municipality is not bound under the service contract for an extended or renewal period of more than 30 years. Under the service contract the municipality may, under terms and conditions agreed to by the municipality and the private vendor:

(1) obligate itself to pay or cause to be paid a service fee for the availability and use of the capital intensive public services to be furnished under the service contract;

(2) enter into other agreements relating to the service to be provided and which the municipality considers appropriate that are not otherwise contrary to law; and

(3) either pledge its full faith and credit or obligate a specific source of payment for the payment of the service fee and the performance of other obligations under the service contract and the payment of damages for failure to perform the obligations.

The obligation of the municipality to pay the service fee and perform any other permitted obligations under the service contract are not considered a debt within the meaning of any statutory or charter limitation, and no election is required as a precondition to the municipality entering into any permitted obligation or undertaking a project under a service contract.

Subd. 3. **PROCUREMENT PROCEDURES.** The municipality may agree under the service contract that the private vendor will acquire and construct any and all related facilities without compliance with any competitive bidding requirements, provided (1) the municipality, or municipalities if the related facilities furnish capital intensive public services to more than one municipality, has in the aggregate either no or no more than a 50 percent ownership interest in the related facilities, and (2) the municipality enters into the service contract only after requesting from two or more private vendors proposals for the furnishing of the capital intensive public services, under terms and conditions the municipality determines to be fair and reasonable. After making the request and receiving any proposals in response to the request, the municipality may negotiate the service contract with any private vendor that meets the requirements specified in the request for proposals.

Subd. 4. **SOURCES OF PAYMENT; COLLECTION PROCEDURE.** (a) For the payment of a service fee or other monetary obligation under an existing service contract or in anticipation of need under a future service contract, the municipality may:

(1) levy property taxes, impose rates and charges, levy special assessments, and exercise any other revenue producing authority granted to it and apply public funds for the payment of the service fee and any other monetary obligations under the service contract in the same manner, and subject to the same conditions and limitations, except as provided in section 5, that would apply if the related facilities were acquired, constructed, owned, and operated exclusively by the municipality; and

(2) establish by ordinance, revise when considered advisable, and collect just and reasonable rates and charges for the capital intensive public services provided under the service contract. The ordinance may obligate the owners, lessees, or occupants of property, or any or all of them, to pay charges for the capital intensive public services available for their properties and may obligate the user of a related facility to pay a reasonable charge for the use of the related facility. Rates and charges may take into account the character, kind, and quality of the capital intensive public service and all other factors that enter into the cost of the capital intensive public service, including but not limited to the service fee payable with respect to it, depreciation, and payment of principal and interest on money borrowed for the acquisition or betterment of related facilities.

(b) The rates and charges may be billed and collected in a manner the municipality shall determine consistent with this paragraph and other applicable law. On or before October 15 in each year, the municipality shall certify to the county auditor all unpaid outstanding charges for services provided under the service contract and a statement of the description of the lands against which the charges arose. It is the duty of the county auditor, upon order of the governing body of the municipality, to extend the rates and charges with interest as provided for by ordinance upon the tax rolls of the county for the taxes of the year in which the rate or charge is filed. For each year ending October 15 the rates and charges with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the state. The rates and charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state. All rates and charges shall be uniform in their application to use and service of the same character or quantity.

(c) An ordinance establishing rates and charges shall also establish a procedure by which a person obligated to pay the rates and charges may, each year at a public hearing held before August 1 of each year, protest the payment of the rates and charges on the grounds that services to be provided under the service

contract are not available to the person. The services shall be deemed available for the property of the person if the vendor agrees, and the related facilities have the capacity, to provide the services to the person as soon as the municipality or any other entity provides the property of the person with access to the services. Notice of the hearing shall be published at least 30 days prior to the hearing in an official newspaper in general circulation in the municipality. A person protesting the assessment of rates and charges under this paragraph shall file the objection in writing with the municipality at least five days prior to the hearing. Within ten days after the hearing, the municipality shall determine whether the rates and charges were properly assessed. A person protesting the assessment of rates and charges may appeal the assessment, and a private vendor may appeal a reduction in rates and charges for any person, to the district court in the same manner as appeal of other civil cases. Rates and charges erroneously collected shall be refunded with the same rate of interest as taxes refunded with interest under the general laws of this state.

(d) A public hearing on the proposed ordinance shall be held prior to the meeting at which it is to be considered by the governing body of the municipality and after notice of the hearing has been published in the official newspaper of the municipality not less than ten days prior to the hearing. The notice shall state the subject matter and the general purpose of the proposed ordinance.

Subd. 5. **SALE OR LEASE OF EXISTING FACILITIES.** For purposes of carrying out the service contract, the municipality may, in compliance with subdivision 3, sell or lease to the private vendor or any other municipality on terms and conditions as the municipality considers appropriate any existing related facilities, including land, owned by the municipality.

Subd. 6. **REMEDIES.** The municipality may provide that title to the facilities shall vest in or revert to the municipality if the private vendor defaults under any specified provisions in the service contract. The municipality may acquire or reacquire any facilities and terminate the service contract in accordance with its terms notwithstanding that the service contract may constitute an equitable mortgage. No lease of facilities by the municipality to the private vendor is subject to the provisions of section 504.02, unless expressly so provided in the service contract.

Subd. 7. **INTEREST IN THE RELATED FACILITIES.** The municipality may retain or acquire, on terms and conditions it considers appropriate, a present or future interest in all or part of the related facilities and grant a mortgage or security interest in its interest in the related facilities.

Subd. 8. **INTEREST IN THE PRIVATE VENDOR.** The municipality may, on terms and conditions it considers appropriate, acquire an interest in the private vendor as a joint venturer, including a share in the revenues derived from the related facilities, and grant a security interest in its interest in the private vendor and such revenues. However, no municipality or group of municipalities may have a controlling interest in the private vendor.

Subd. 9. **USE OF BOND PROCEEDS.** The municipality may issue bonds and other obligations and apply their proceeds toward the payment of the costs of the related facilities in the same manner and subject to the same conditions and limitations that would apply if the related facilities were acquired, constructed, owned, and operated exclusively by the municipality and for these purposes, related facilities shall be considered to be a project within the meaning of section 474.02, subdivision 1a.

Subd. 10. **REQUIRED PUBLIC USE.** The municipality may agree, subject to any applicable state statutory requirements as to designated use of the related facilities, that the sole and exclusive right to provide the capital intensive public services within its jurisdiction be assumed by the private vendor under the service contract and may require that any and all members of the public within its jurisdiction use the services provided under the service contract in the same manner and subject to the same limitations and conditions that would apply if the related facilities were acquired, constructed, owned, and operated exclusively by the municipality.

Subd. 11. **CONDEMNATION POWERS.** The municipality may exercise the right of eminent domain in the manner provided by chapter 117, for the purpose of acquiring for itself or the private vendor any and all related facilities. If the related facilities are acquired for the private vendor, the service contract shall be for a term of at least five years.

Subd. 12. **CONTRACTOR'S BOND AND MECHANICS' LIENS.** The municipality may waive or require the furnishing of a contractor's payment and performance bond of the kind described in section 574.26 in connection with the installation and construction of any related facilities. If the bond is required, the provisions of chapter 514 relating to liens for labor and materials are not applicable with respect to work done or labor or materials supplied for the related facilities. If the bond is waived, the provisions of chapter 514 apply with respect to work done or labor or materials supplied for the related facilities.

Sec. 5. **[471A.04] LEVY LIMITS.**

For purposes of applying sections 275.50 to 275.56, any property taxes levied for the payment of the service fee shall be treated as a special levy under the provisions of section 275.50, to the same extent and subject to the same limitations that would apply if the capital cost component of the service fee represented principal and interest payments on bonded indebtedness of the municipality within the meaning of section 275.50, subdivision 5, clause (e), and if the balance of the service fee represented operation and maintenance expenses for related facilities owned and operated exclusively by the municipality. The provisions of section 275.11 and any levy limits imposed by home rule charter do not apply to taxes levied to pay the service fee.

Sec. 6. **[471A.05] EXEMPTION FROM PROPERTY TAXES.**

If the service contract provides that property taxes imposed with respect to the related facilities are to be included in the service fee as pass-through costs, the municipality may apply to the commissioner of revenue for an exemption

from property taxation of the related facilities. The property is exempt from ad valorem taxation, if the commissioner of revenue determines that the related facilities serve the general public and that similar municipally-owned facilities are exempt from ad valorem property taxation. The commissioner of revenue must notify the assessor that the property is exempt from taxation. The exemption is only effective during the term of the service contract from and after the date of filing the certificate in the case of property taxes. The exemption is not effective with respect to any property taxes levied or imposed but not collected prior to the date of approval of the exemption by the commissioner of revenue.

Sec. 7. **[471A.06] JOINT POWERS AGREEMENT.**

Two or more municipalities may enter into joint powers agreements they consider appropriate under the provisions of section 471.59 for purposes of exercising the powers granted in sections 2 to 13.

Sec. 8. **[471A.07] STATE GRANTS AND LOANS.**

On or before January 1, 1987, the pollution control agency shall submit to the legislature proposed legislation and draft implementing regulations providing for (1) the use by the administrator of unrestricted funds to provide grants and loans for related facilities that constitute wastewater treatment facilities as defined by section 115.71, subdivision 8, and (2) the use of such funding as a means of speeding construction of wastewater treatment facilities and better targeting scarce unrestricted funds to help finance wastewater treatment facilities (including reimbursement of municipalities for a portion of the capital cost component in service contracts under capital cost component loans and capital cost component grants).

Sec. 9. **[471A.08] HEARING.**

Subdivision 1. **PUBLIC HEARING REQUIRED.** Except as provided in subdivision 2, a municipality shall, before entering into a service contract under sections 2 to 13, conduct a public hearing on the proposal to provide specified capital intensive public services under sections 2 to 13. The hearing may be conducted either before or after the date on which any request for proposals is made under section 4, subdivision 3, clause (2). A notice of the hearing shall be published in the local official newspaper of the municipality no less than 15 and no more than 45 days prior to the date set for hearing and shall describe the general nature of the proposal. Any written information developed for the proposal prior to the hearing shall be available to the public for inspection prior to the hearing. The hearing on the proposal shall be sufficient even though the site of the related facilities, the name of the private vendor, and the specific structure of the contractual arrangements with the private vendor are not known at the time of the hearing.

Subd. 2. **EXISTING CONTRACTS.** A municipality that entered into a service contract prior to the effective date of sections 2 to 13 may exercise any of the powers authorized by those sections without complying with subdivision 1.

Sec. 10. **[471A.09] INVESTMENT OF FUNDS.**

Any sums paid to the private vendor under the service contract are not considered public funds and may be invested in any securities in which the private vendor is authorized by law to invest.

Sec. 11. **[471A.10] PUBLIC EMPLOYEE LAWS; SALE OR LEASE OF EXISTING FACILITY.**

(a) Unless expressly provided therein, and except as provided in this section, no state law, charter provision, or ordinance of a municipality relating to public employees shall apply to a person solely by reason of that person's employment by a private vendor in connection with services rendered under a service contract.

(b) A private vendor purchasing or leasing existing related facilities from a municipality shall recognize all exclusive bargaining representatives and existing labor agreements and those agreements shall remain in force until they expire by their terms. Persons who are not employed by a municipality in a related facility at the time of a lease or purchase of the facility by the private vendor are not "public employees" within the meaning of the public employees retirement act, chapter 353. Persons employed by a municipality in a related facility at the time of a lease or purchase of the facility by a private vendor shall continue to be considered to be "public employees" within the meaning of the public employees retirement act, chapter 353, but may elect to terminate their participation in the public employees retirement association as provided in this section. Each such employee may exercise the election annually on the anniversary of the person's initial employment by the municipality. An employee electing to terminate participation in the association is entitled to benefits that the employee would be entitled to if terminating public employment and may participate in a retirement program established by the private vendor.

Sec. 12. **[471A.11] REGULATION OF RATES AND CHARGES AND PUBLIC UTILITY LAWS.**

A municipality may regulate by ordinance, contract, or otherwise the rates and charges imposed by the private vendor with respect to any capital intensive public services provided to the public under the service contract. Whether or not the imposition of such rates and charges is so regulated, no capital intensive public services provided under the service contract are subject to regulation under the provisions of chapter 216B, unless the municipality elects to subject the services to regulation under that chapter. An election for regulation may be affected by resolution of the governing body of the municipality requesting regulation and filing the resolution with the state public utilities commission.

Sec. 13. **[471A.12] POWERS; ADDITIONAL AND SUPPLEMENTAL.**

The powers conferred by sections 2 to 13 shall be liberally construed in order to accomplish their purposes and shall be in addition and supplemental to

the powers conferred by any other law or charter. If any other law or charter is inconsistent with sections 2 to 13, these sections are controlling as to service contracts entered into under sections 2 to 13. However, nothing in sections 2 to 13 limits or qualifies (1) any other law that a municipality must comply with to obtain any permit in connection with related facilities, (2) any performance standard or effluent limitations applicable to related facilities, or (3) the provisions of any law relating to conflict of interest.

Sec. 14. Minnesota Statutes 1984, section 474.02, is amended by adding a subdivision to read:

Subd. 1h. The term "project" shall also include related facilities as defined by section 3, subdivision 11.

Sec. 15. **EFFECTIVE DATE.**

Article 4 is effective the day following final enactment.

Approved March 25, 1986

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## CHAPTER 466—H.F.No. 2294

*An act relating to St. Louis county; education and labor; removing persons from civil service in independent school district No. 709, Duluth; providing for grants for hot lunches in rural schools; amending Laws 1967, chapter 252, section 2, as amended; proposing coding for new law in Minnesota Statutes, chapter 383C; repealing Minnesota Statutes 1984, section 383C.391.*

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

Section 1. Laws 1967, chapter 252, section 2, as amended by Laws 1971, chapter 683, section 1, Laws 1983, chapter 161, section 1, Laws 1984, chapter 608, section 5, and Laws 1985, chapter 176, section 1, is amended to read:

Sec. 2. **INDEPENDENT SCHOOL DISTRICT NO. 709; EMPLOYEES; EXCEPTIONS.** The term "employees," as used in this act, shall not include members of the school board, superintendent of schools, assistant superintendents of schools, teachers, other employees of the school district whose positions require them to be certified pursuant to rules and regulations adopted by the state board of education, directors, administrative assistants, clerical or similar workers, food service workers, educational assistants except for classification and reclassification of positions, deputy clerk and purchasing agent, supervisors, advisors, coordinators, physicians, attorney, nurses, and temporary employees.

Sec. 2. **[383C.392] GRANTS FOR HOT LUNCHES IN CERTAIN RURAL SCHOOLS.**