

CHAPTER 362—H.F.No. 2415

An act relating to housing; making technical and policy changes to the low-income housing tax credit program; modifying procedures for allocating bonding authority to cities for single-family housing; making technical corrections; amending Minnesota Statutes 1994, sections 462A.222, subdivisions 1, 1a, 3, and 4; 462A.223, subdivision 2; 462C.05, by adding a subdivision; 474A.061, subdivision 2b; 474A.131, subdivisions 1 and 1a; and 474A.14; Minnesota Statutes 1995 Supplement, sections 474A.061, subdivisions 2a and 2c; and 474A.091, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 474A.

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

Section 1. Minnesota Statutes 1994, section 462A.222, subdivision 1, is amended to read:

Subdivision 1. **CREDIT RESERVATIONS.** The agency shall reserve a portion of the annual state ceiling for low-income housing credits provided under section 42 of the Internal Revenue Code of 1986, as amended, to (1) cities with a population of at least 50,000 that have a housing and redevelopment authority; (2) cities located in three or more counties that have a housing and redevelopment authority; and (3) counties with a population of 100,000 or more that have a housing and redevelopment authority. A city or county is eligible to receive a reserved portion of the state ceiling under this subdivision if it submits a written request to the agency within 45 days after June 2, 1987, to act as a designated housing credit agency as provided in section 42 of the Internal Revenue Code of 1986, as amended. A city or county may designate its housing and redevelopment authority as the agency to receive reserved low-income housing credits on behalf of the city or county. The city of Minneapolis or the city of Saint Paul may designate the Minneapolis/Saint Paul housing finance board to receive reserved low-income housing credits on behalf of each city.

Sec. 2. Minnesota Statutes 1994, section 462A.222, subdivision 1a, is amended to read:

Subd. 1a. **DETERMINATION OF REGIONAL CREDIT POOLS.** The agency shall divide the annual per capita amount used in determining the state ceiling for low-income housing tax credits provided under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1989, into a metropolitan pool and a greater Minnesota pool. The metropolitan pool shall serve the metropolitan area as defined in section 473.121, subdivision 2. The greater Minnesota pool shall serve the remaining counties of the state. The percentage of the annual per capita amount allotted to each pool must be determined as follows:

(a) The percentage set-aside for projects involving a qualified nonprofit organization as provided in section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1989, must be deducted from the annual per capita amount used in determining the state ceiling.

(b) Of the remaining amount, the metropolitan pool must be allotted a percentage equal to the metropolitan counties' percentage of the total number of state recipients of: aid to families with dependent children, general assistance, Minnesota supplemental aid, and supplemental security income in the state, as reported annually by the department of

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human services. The greater Minnesota pool must be allotted the amount remaining after the metropolitan pool's percentage has been allotted.

The set-aside for qualified nonprofit organizations must be divided between the two regional pools in the same percentage as determined for the credit amounts above.

Sec. 3. Minnesota Statutes 1994, section 462A.222, subdivision 3, is amended to read:

Subd. 3. **ALLOCATION PROCEDURE.** (a) Projects will be awarded tax credits in three competitive rounds on an annual basis. The date for applications for each round must be determined by the agency. No allocating agency may award tax credits prior to the application dates established by the agency.

(b) Each allocating agency must meet the requirements of section 42(m) of the Internal Revenue Code of 1986, as amended through December 31, 1989, for the allocation of tax credits and the selection of projects.

(c) For projects that are eligible for an allocation of credits pursuant to section 42(h)(4) of the Internal Revenue Code of 1986, as amended, tax credits may only be allocated if the project satisfies the requirements of the allocating agency's qualified allocation plan. For projects that are eligible for an allocation of credits pursuant to section 42(h)(4) of the Internal Revenue Code of 1986, as amended, for which the agency is the issuer of the bonds for the project, or the issuer of the bonds for the project is located outside the jurisdiction of a city or county that has received reserved tax credits, the applicable allocation plan is the agency's qualified allocation plan.

(d) For applications submitted for the first round, an allocating agency may allocate tax credits only to the following types of projects:

(1) in the metropolitan area:

(i) new construction or substantial rehabilitation of projects in which, for the term of the extended use period, at least 75 percent of the total tax credit units are single-room occupancy, efficiency, or one bedroom units and which are affordable by households whose income does not exceed 30 percent of the median income;

(ii) new construction or substantial rehabilitation family housing projects that are not restricted to persons who are 55 years of age or older and in which, for the term of the extended use period, at least 75 percent of the tax credit units contain two or more bedrooms and at least one-third of the 75 percent contain three or more bedrooms; or

(iii) substantial rehabilitation projects in neighborhoods targeted by the city for revitalization;

(2) outside the metropolitan area, projects which meet a locally identified housing need and which are in short supply in the local housing market as evidenced by credible data submitted with the application;

(3) projects that are not restricted to persons of a particular age group and in which, for the term of the extended use period, a percentage of the units are set aside and rented to persons:

(i) with a serious and persistent mental illness as defined in section 245.462, subdivision 20, paragraph (c);

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(ii) with a developmental disability as defined in United States Code, title 42, section 6001, paragraph (5), as amended through December 31, 1990;

(iii) who have been assessed as drug dependent persons as defined in section 254A.02, subdivision 5, and are receiving or will receive care and treatment services provided by an approved treatment program as defined in section 254A.02, subdivision 2;

(iv) with a brain injury as defined in section 256B.093, subdivision 4, paragraph (a);
or

(v) with permanent physical disabilities that substantially limit one or more major life activities, if at least 50 percent of the units in the project are accessible as provided under Minnesota Rules, chapter 1340;

(4) projects which preserve existing subsidized housing which is subject to prepayment if the use of tax credits is necessary to prevent conversion to market rate use; or

(5) projects financed by the Farmers Home Administration, or its successor agency, which meet statewide distribution goals.

~~(d)~~ (e) Before the date for applications for the second round, the allocating agencies other than the agency shall return all uncommitted and unallocated tax credits to the pool from which they were allocated, along with copies of any allocation or commitment. In the second round, the agency shall allocate the remaining credits from the regional pools to projects from the respective regions.

~~(e)~~ (f) In the third round, all unallocated tax credits must be transferred to a unified pool for allocation by the agency on a statewide basis.

~~(f)~~ (g) Unused portions of the state ceiling for low-income housing tax credits reserved to cities and counties for allocation may be returned at any time to the agency for allocation.

(h) If an allocating agency determines, at any time after the initial commitment or allocation for a specific project, that a project is no longer eligible for all or a portion of the low-income housing tax credits committed or allocated to the project, the credits must be transferred to the agency to be reallocated pursuant to the procedures established in paragraphs (e) to (g); provided that if the tax credits for which the project is no longer eligible are from the current year's annual ceiling and the allocating agency maintains a waiting list, the allocating agency may continue to commit or allocate the credits until not later than October 1, at which time any uncommitted credits must be transferred to the agency.

Sec. 4. Minnesota Statutes 1994, section 462A.222, subdivision 4, is amended to read:

Subd. 4. **DISTRIBUTION PLAN.** (a) By October 1, 1990, the metropolitan council, in consultation with the agency and representatives of local government and housing and redevelopment authorities, shall develop and submit to the agency a plan for allocating tax credits in 1991 and thereafter in the metropolitan area, based on regional housing needs and priorities. The agency may amend the distribution plan after consultation with the metropolitan council, representatives of local governments, and housing and redevelopment authorities.

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(b) By October 1, 1990, the agency, in consultation with representatives of local government and housing and redevelopment authorities, shall develop a plan for allocating tax credits in 1991 and thereafter in greater Minnesota, based on regional housing needs and priorities. The agency may amend the distribution plan after consultation with representatives of local governments and housing and redevelopment authorities.

(c) In preparing the distribution plans, the metropolitan council and the agency shall estimate the number of households in the metropolitan area and in greater Minnesota, respectively, who are paying more than 50 percent of their income for rent and the cost of providing sufficient rental or other assistance so that no household pays more than 50 percent of its income for rent. In addition, the metropolitan council and the agency shall identify the nature and scope of existing programs which primarily serve families at 60 percent of the median income and individuals at 30 percent of the median income. In preparing the estimate, the metropolitan council and the agency shall rely on existing and available data and shall report the results to the legislature no later than January 31, 1991.

Sec. 5. Minnesota Statutes 1994, section 462A.223, subdivision 2, is amended to read:

Subd. 2. **DESIGNATED AGENCY.** The agency is designated as a housing credit agency to allocate the portion of the state ceiling for low-income housing tax credits (1) not reserved to cities and counties under section 462A.222; (2) not accepted for allocation by eligible cities and counties; (3) returned to the agency for allocation; and (4) not otherwise reserved to the agency for allocation under subdivision 1. Low-income housing tax credits shall be allocated by the agency as provided in section 462A.222. The agency shall make no allocation for projects located within the jurisdiction of the cities or counties that have received tax credits under section 462A.222, subdivision 1, except from the percentage set-aside for projects involving a qualified nonprofit organization as provided under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1989, until the amounts reserved to the cities and counties for allocation have been allocated or committed or returned to the agency for allocation. In order that all of a project's credits are allocated by a single allocating agency, the agency may reserve additional tax credits to a city or county that has received tax credits under section 462A.222, subdivision 1, for a project that has already received a commitment or allocation of tax credits from an eligible city or county, if all of the tax credits reserved to the eligible city or county have been committed or allocated.

Sec. 6. Minnesota Statutes 1994, section 462C.05, is amended by adding a subdivision to read:

Subd. 6a. **QUALIFIED ALLOCATION PLAN REQUIREMENT.** Multifamily housing developments described in subdivision 1 for which an application is submitted for low-income housing tax credits provided under section 42 of the Internal Revenue Code of 1986, as amended, must also satisfy the qualified allocation plan applicable to the area in which the project is located.

Sec. 7. **[474A.025] DEADLINE DATES AND TIMES.**

All applications, notices, and other materials required to be filed or submitted to the department pursuant to this chapter must be received by the department no later than 4:30 p.m. on the deadline day or date. When an application, notice, or other required material is required to be filed or submitted to the department on or before a prescribed day or date

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and the prescribed day or date falls on a Saturday, Sunday, or legal holiday, it is timely filed or submitted if it is received by the department by 4:30 p.m. on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

Sec. 8. Minnesota Statutes 1995 Supplement, section 474A.061, subdivision 2a, is amended to read:

Subd. 2a. **HOUSING POOL ALLOCATION.** (a) On the first business day that falls on a Monday of the calendar year and the first Monday in February, the commissioner shall allocate available bonding authority in the housing pool to applications received by the Monday of the previous week for residential rental projects that are not restricted to persons who are 55 years of age or older and that meet the eligibility criteria under section 474A.047. If an issuer that receives an allocation under this paragraph does not issue obligations equal to all or a portion of the allocation received within 120 days of the allocation or returns the allocation to the commissioner, the amount of the allocation is canceled and returned for reallocation through the housing pool.

(b) After February 1, and through February 15, the Minnesota housing finance agency may accept applications from cities for single-family housing programs which meet program requirements as follows:

(1) the housing program must meet a locally identified housing need and be economically viable;

(2) the adjusted income of home buyers may not exceed the greater of the agency's income limits or 80 percent of the area median income as published by the Department of Housing and Urban Development;

(3) house price limits may not exceed:

(i) the greater of agency house price limits or the federal price limits for housing up to a maximum of \$95,000; or

(ii) for a new construction affordability initiative, the greater of 115 percent of agency house price limits or 90 percent of the median purchase price in the city for which the bonds are to be sold up to a maximum of \$95,000.

Data establishing the median purchase price in the city must be included in the application by a city requesting house price limits higher than the housing finance agency's house price limits; and

(4) an application deposit equal to one percent of the requested allocation must be submitted with the city's signed allocation agreement before the agency forwards the list specifying the amounts allocated to the commissioner under paragraph (c). The agency shall submit the city's application and application deposit to the commissioner when requesting an allocation from the housing pool.

Applications by a consortium shall include the name of each member of the consortium and the amount of allocation requested by each member.

The Minnesota housing finance agency may accept applications from June 15 through June 30 from cities for single-family housing programs which meet program requirements specified under clauses (1) to (4) if bonding authority is available in the housing pool. The agency must allot available bonding authority. For purposes of paragraphs

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(a) to (d) (g), "city" means a county or a consortium of local government units that agree through a joint powers agreement to apply together for single-family housing programs, and has the meaning given it in section 462C.02, subdivision 6. "Agency" means the Minnesota housing finance agency.

(c) The total amount of allocation for mortgage bonds for one city is limited to the lesser of: (i) the amount requested, or (ii) the product of the total amount available for mortgage bonds from the housing pool, multiplied by the ratio of each applicant's population as determined by the most recent estimate of the city's population released by the state demographer's office to the total of all the applicants' population, except that each applicant shall be allocated a minimum of \$100,000 regardless of the amount requested or the amount determined under the formula in clause (ii). If a city applying for an allocation is located within a county that has also applied for an allocation, the city's population will be deducted from the county's population in calculating the amount of allocations under this paragraph.

Upon determining the amount of each applicant's allocation, the agency shall forward a list specifying the amounts allotted to each application and application deposit checks to the commissioner.

(d) The agency may issue bonds on behalf of participating cities. The agency shall request an allocation from the commissioner for all applicants who choose to have the agency issue bonds on their behalf and the commissioner shall allocate the requested amount to the agency. The agency may request an allocation at any time after the first Monday in February and through the last Monday in July, but may request an allocation no later than the last Monday in July. The commissioner shall return any application deposit to a city that paid an application deposit under paragraph (a) (b), clause (4), but was not part of the agreement list forwarded to the commissioner under this paragraph (c).

(e) A city may choose to issue bonds on its own behalf or through a joint powers agreement or may use bonding authority for mortgage credit certificates and may request an allocation from the commissioner. If the total amount requested by all applicants exceeds the amount available in the pool, the city may not receive a greater allocation than the amount it would have received under the agreement list forwarded by the Minnesota housing finance agency to the commissioner. No city may request or receive an allocation from the commissioner until the list under paragraph (c) has been forwarded to the commissioner. A city must request an allocation from the commissioner no later than 14 days before the unified pool is created pursuant to section 474A.091, subdivision 1. On and after the first Monday in February and through the last Monday in July, no city may receive an allocation from the housing pool which has not first applied to the Minnesota housing finance agency. The commissioner shall allocate the requested amount to the city or cities subject to the limitations under this paragraph.

If a city issues mortgage bonds from an allocation received under this paragraph (d), the issuer must provide for the recycling of funds into new loans. If the issuer is not able to provide for recycling, the issuer must notify the commissioner in writing of the reason that recycling was not possible and the reason the issuer elected not to have the Minnesota housing finance agency issue the bonds. "Recycling" means the use of money generated from the repayment and prepayment of loans for further eligible loans or for the redemption of bonds and the issuance of current refunding bonds.

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(f) No entitlement city or county or city in an entitlement county may apply for or be allocated authority to issue bonds or use mortgage credit certificates from the housing pool.

(g) A city that does not use at least 50 percent of their allotment by the date applications are due for the first allocation that is made from the housing pool for single-family housing programs in the immediately succeeding calendar year may not apply to the housing pool for a single-family mortgage bond or mortgage credit certificate program allocation or receive an allotment from the housing pool in the succeeding two calendar years. Each local government unit in a consortium must meet the requirements of this paragraph.

Sec. 9. Minnesota Statutes 1994, section 474A.061, subdivision 2b, is amended to read:

Subd. 2b. **SMALL ISSUE POOL ALLOCATION.** ~~From the beginning of the calendar year~~ On the first Monday in January that is a business day through the last Monday in July, the commissioner shall allocate available bonding authority from the small issue pool on Monday of each week to applications received on or before the Monday of the preceding week. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 474A.045. Proposed projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed projects that receive less than 50 points are eligible to receive a proportionally reduced share of the proposed authority, based upon the number of points received.

If there are two or more applications for manufacturing projects from the small issue pool and there is insufficient bonding authority to provide allocations for all projects in any one week, the available bonding authority shall be awarded based on the number of points awarded a project under section 474A.045, with those projects receiving the greatest number of points receiving allocation first. If two or more applications receive an equal number of points, available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Sec. 10. Minnesota Statutes 1995 Supplement, section 474A.061, subdivision 2c, is amended to read:

Subd. 2c. **PUBLIC FACILITIES POOL ALLOCATION.** From the beginning of the calendar year and continuing for a period of 120 days, the commissioner shall reserve \$5,000,000 of the available bonding authority from the public facilities pool for applications for public facilities projects to be financed by the Western Lake Superior Sanitary District. From the beginning of the calendar year On the first Monday in January that is a business day through the last Monday in July, the commissioner shall allocate available bonding authority from the public facilities pool on Monday of each week to applications for eligible public facilities projects received on or before the Monday of the preceding week. If there are two or more applications for public facilities projects from the pool and there is insufficient available bonding authority to provide allocations for all projects in any one week, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Sec. 11. Minnesota Statutes 1995 Supplement, section 474A.091, subdivision 3, is amended to read:

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Subd. 3. **ALLOCATION PROCEDURE.** (a) The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in August through and on the last Monday in November. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. If a Monday falls on a holiday, the allocation will be made or the applications must be received by the next business day after the holiday.

(b) On or before September 1, allocations shall be awarded from the unified pool in the following order of priority:

- (1) applications for enterprise zone facility bonds;
- (2) applications for small issue bonds;
- (3) applications for ~~mortgage~~ residential rental project bonds;
- (4) applications for public facility projects funded by public facility bonds;
- (5) applications for redevelopment bonds;
- (6) applications for ~~residential rental project mortgage~~ bonds; and
- (7) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in August. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 474A.045. Proposed manufacturing projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed manufacturing projects that receive less than 50 points under section 474A.045 are only eligible to receive a proportionally reduced share of the proposed authority, based upon the number of points received. If there are two or more applications for manufacturing projects from the unified pool and there is insufficient bonding authority to provide allocations for all manufacturing projects in any one allocation period, the available bonding authority shall be awarded based on the number of points awarded a project under section 474A.045 with those projects receiving the greatest number of points receiving allocation first. If two or more applications receive an equal amount of points, available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

(c)(1) On the first Monday in August, \$5,000,000 of bonding authority is reserved within the unified pool for agricultural development bond loan projects of the Minnesota rural finance authority and \$20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the small issue pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the small issue pool for that year, whichever is less, is reserved within the unified pool for small issue bonds. On the first Monday in September through the last Monday in November, \$2,500,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the public facilities pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the public facilities pool for that year, whichever is less, is reserved within the unified pool for public facility bonds. If sufficient bonding authority is not available to reserve the required amounts for manufacturing projects and agricultural development bond loan projects, the remaining available bonding authority must

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be distributed between the two reservations on a pro rata basis, based upon the amounts each would have received if sufficient authority was available.

(2) The total amount of allocations for mortgage bonds from the housing pool and the unified pool may not exceed:

- (i) \$10,000,000 for any one city; or
- (ii) \$20,000,000 for any number of cities in any one county.

An allocation for mortgage bonds may be used for mortgage credit certificates.

(d) After September 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, public facility bonds to finance publicly owned facility projects, residential rental project bonds, and enterprise zone facility bonds.

(4) If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner 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. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Sec. 12. Minnesota Statutes 1994, section 474A.131, subdivision 1, is amended to read:

Subdivision 1. **NOTICE OF ISSUE.** Each issuer that issues bonds with an allocation received under this chapter shall provide a notice of issue to the department on forms provided by the department stating:

- (1) the date of issuance of the bonds;
- (2) the title of the issue;
- (3) the principal amount of the bonds;
- (4) the type of qualified bonds under federal tax law; and
- (5) the dollar amount of the bonds issued that were subject to the annual volume cap.

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 or before the last Monday in December, whichever occurs first, is deemed not to have received an allocation under this law or under federal tax law. Within 30 days after receipt of a notice of issue the department shall refund a portion of the application deposit equal to one percent of the amount of the bonding authority actually issued if a one percent application deposit was made, or equal to two percent of the amount of the bonding authority actually issued if a two percent application deposit was made.

Sec. 13. Minnesota Statutes 1994, section 474A.131, subdivision 1a, is amended to read:

Subd. 1a. **CERTIFICATE OF NOTICE.** If an allocation received under this chapter is used for mortgage credit certificates, a certificate notice must be submitted to the

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department on forms provided by the department stating the date of the filing of the election not to issue bonds as provided under section 25, paragraph (c), of the Internal Revenue Code and the amount of allocation authority to be used under the program.

A mortgage credit certificate program for which a certificate notice is not provided to the department within five days of the date of the filing of the election not to issue bonds or before the last Monday in December, whichever occurs first, is considered not to have received an allocation under this law or under federal tax law. Within 30 days after receipt of a certificate notice the department shall refund a portion of the application deposit equal to one percent of the amount of the bonding authority to be used for the mortgage credit certificate program.

Sec. 14. Minnesota Statutes 1994, section 474A.14, is amended to read:

474A.14 NOTICE OF AVAILABLE AUTHORITY.

The department shall publish in the State Register a notice of the amount of bonding authority in the housing, small issue, and public facilities pools as soon after January 1 as possible. The department shall publish in the State Register a notice of the amount of bonding authority available for allocation in the unified pool as soon after September August 1 as possible.

Sec. 15. EXCEPTION TO SINGLE-FAMILY MORTGAGE BOND ALLOCATION USAGE TEST.

Notwithstanding Minnesota Statutes, section 474A.061, subdivision 2a, paragraph (g), a city that received an allotment of bonding authority from the housing pool in 1995 and had not used at least 50 percent of its allotment by January 31, 1996, may apply to the housing pool for a single-family mortgage bond or mortgage credit certificate program allocation or receive an allotment from the housing pool in 1997. This section applies to each local government unit in a consortium which received an allotment in 1995 from the housing pool.

Sec. 16. EFFECTIVE DATE.

Sections 1 to 6 are effective the day following final enactment.

Presented to the governor March 19, 1996

Signed by the governor March 21, 1996, 2:18 p.m.

CHAPTER 363—H.F.No. 2340

An act relating to health professions; providing for the registration of speech-language pathologists and audiologists by the department of health; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 148; repealing Minnesota Rules, parts 4750.0010;

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