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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 1175

February 19, 2007

Authored by Murphy, M.; Jaros and Huntley

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs

March 8, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

May 14, 2007

Committee Recommendation and Adoption of Report:

To Pass and Read Second Time

May 18, 2007

Calendar For The Day, Amended

Read Third Time as Amended

Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act
1.2 relating to state finance; modifying certain statutory provisions relating to
1.3 aircraft facilities; modifying aircraft facilities state financing to allow flexibility
1.4 in obtaining a new lessee for the facility; amending Minnesota Statutes 2006,
1.5 sections 116R.01, subdivision 6; 116R.02, subdivisions 1, 2, 4, 5; 116R.03;
1.6 116R.05, subdivision 2; 116R.11, subdivision 1; 116R.12, by adding a
1.7 subdivision; 272.01, subdivision 2; 290.06, subdivision 24; 297A.71, subdivision
1.8 10; 360.013, subdivision 39; 360.032, subdivision 1; 360.038, subdivision 4;
1.9 repealing Minnesota Statutes 2006, sections 116R.02, subdivisions 3, 6, 7,
1.10 9; 116R.16.

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

1.12 Section 1. Minnesota Statutes 2006, section 116R.01, subdivision 6, is amended to read:

1.13 Subd. 6. Project. "Project" means the facilities or any property described in section
1.14 116R.02, subdivision 5 or 6, as applicable.

1.15 Sec. 2. Minnesota Statutes 2006, section 116R.02, subdivision 1, is amended to read:

1.16 Subdivision 1. Sale authorization. The commissioner of finance, upon the request
1.17 of the governor, may issue and sell revenue bonds as provided under sections 116R.01 to
1.18 ~~116R.16~~ 116R.15 in one or more series or issues for the purposes provided in this section
1.19 in the aggregate principal amount of up to \$350,000,000, except for refunding bonds.
1.20 Proceeds of the bonds and investment income on the proceeds are appropriated in the
1.21 amounts and for the purposes specified in subdivisions 2; and 5, and ~~6~~ and section 116R.04.

1.22 Sec. 3. Minnesota Statutes 2006, section 116R.02, subdivision 2, is amended to read:

1.23 Subd. 2. Loan, lease, and revenue agreements. (a) The commissioner may loan
1.24 the proceeds of the bonds, make other loans or enter into lease agreements or other
1.25 revenue agreements for the ~~projects~~ project described in ~~subdivisions 5 and 6~~ subdivision

2.1 5. The commissioner may provide for servicing of the loans and agreements, the times  
 2.2 they are payable and the amounts of payments, the amount of the loans and agreements,  
 2.3 their security, and other terms, conditions, and provisions necessary or convenient in  
 2.4 connection with them and may enter into all necessary contracts and security instruments  
 2.5 in connection with them. The commissioner shall seek to obtain the best available terms  
 2.6 and security for the loans or agreements. The terms and security must be reasonably  
 2.7 determined by the commissioner to be adequate and of the kind and degree which would  
 2.8 be required by an investment banking or other financial institution. The facilities described  
 2.9 in ~~subdivisions 5 and 6~~ subdivision 5 must be pledged as collateral for the loans made and  
 2.10 bonds issued under sections 116R.01 to ~~116R.16~~ 116R.15.

2.11 (b) To reduce the risk that state general funds will be needed to pay debt service on  
 2.12 the state guaranteed bonds, the commissioner must require that the financing arrangements  
 2.13 include a coverage test satisfactory to the commissioner so that the sum of the value of the  
 2.14 assets and other security pledged to the payment of bonds or the rent due under any lease  
 2.15 of the project and taken into account by the commissioner is no less than 125 percent of  
 2.16 the difference between the outstanding state guaranteed bonds, and any cash collateral  
 2.17 held in a debt service reserve account and pledged to the payment of principal and interest  
 2.18 for the state guaranteed bonds and no other bonds. Assets and other security that may be  
 2.19 taken into account include (1) net unencumbered value of the project and any collateral  
 2.20 or third party guaranty, including a letter of credit, pledged or otherwise furnished by a  
 2.21 user of the project or by a benefited airline company as security for the payment of rent,  
 2.22 (2) bond proceeds, including earnings thereon, and (3) prepayments of rent, after making  
 2.23 such adjustments the commissioner determines to be appropriate to take into account  
 2.24 any outstanding bonds secured by a lien on the project or rent that is prior to the lien  
 2.25 securing the state guaranteed bonds, but excluding any cash collateral deducted from the  
 2.26 outstanding state guaranteed bonds in applying the coverage test. The commissioner may  
 2.27 adopt the method of valuing the assets and other security as the commissioner determines  
 2.28 to be appropriate, including valuation of the project at its original cost less depreciation.

2.29 Sec. 4. Minnesota Statutes 2006, section 116R.02, subdivision 4, is amended to read:

2.30 Subd. 4. **Security.** (a) If so provided in the commissioner's order or any indenture  
 2.31 authorizing the applicable series of bonds, up to \$125,000,000 principal amount of bonds  
 2.32 for the facility described in subdivision 5, ~~up to \$50,000,000 principal amount of bonds~~  
 2.33 ~~for the facility described in subdivision 6~~, and any bonds issued to refund these bonds may  
 2.34 be secured by either of the following methods:

3.1 (1) upon the occurrence of any deficiency in a debt service reserve fund for a series  
3.2 of bonds as provided in section 116R.13, subdivision 3, the commissioner shall issue and  
3.3 sell deficiency bonds in a principal amount not to exceed ~~(i) \$125,000,000~~ for facilities  
3.4 described in subdivision 5 ~~and (ii) \$50,000,000 for the facilities described in subdivision~~  
3.5 ~~6~~; or

3.6 (2) the bonds may be directly secured by a pledge of the full faith, credit, and taxing  
3.7 power of the state and issued as general obligation revenue bonds of the state in accordance  
3.8 with the Minnesota Constitution, article XI, sections 4 to 7. In no event may the security  
3.9 provided by this paragraph extend in whole or part to any series of bonds other than the  
3.10 initial series of bonds so secured and any series of bonds issued to refund these bonds.

3.11 Deficiency bonds and bonds issued under clause (2) must be issued in accordance  
3.12 with and subject to sections 16A.641, 16A.66, 16A.672, and 16A.675, except for section  
3.13 16A.641, subdivision 5, except as otherwise provided in Laws 1991, chapter 350, article  
3.14 1, and except that the bonds may be sold at public or private sale at a price or prices  
3.15 determined by the commissioner as provided in section 116R.13, subdivision 3.

3.16 (b) The commissioner may request St. Louis County to pay or secure payment of  
3.17 principal and interest due on up to \$12,600,000 principal amount of revenue bonds for the  
3.18 facility described in subdivision 5 ~~and principal and interest due on up to \$15,000,000~~  
3.19 ~~principal amount of revenue bonds for the facility described in subdivision 6~~. At the  
3.20 request of the commissioner, St. Louis County shall, by resolution of its county board,  
3.21 unconditionally and irrevocably pledge as a general obligation, its full faith, credit, and  
3.22 taxing power to pay or secure payment of principal and interest due on the principal  
3.23 amount or amounts requested by the commissioner. The general obligation and pledge of  
3.24 St. Louis County are not subject to and shall not be taken into account for purposes of any  
3.25 debt limitation. A levy of taxes for the St. Louis County general obligation is not subject  
3.26 to and shall not be taken into account for purposes of any levy limitations. The general  
3.27 obligation and the bonds secured by the general obligation may be issued without an  
3.28 election. Except for sections 475.61 and 475.64, chapter 475 does not apply to the general  
3.29 obligation or to the bonds secured by the general obligation.

3.30 (c) The commissioner may request the city of Duluth to pay or secure payment of  
3.31 principal and interest due on up to \$47,600,000 principal amount of revenue bonds for the  
3.32 facility described in subdivision 5. At the request of the commissioner, the city of Duluth  
3.33 shall pledge specified revenues of the city, as provided in Laws 1991, chapter 350, article  
3.34 1, section 24, to pay principal and interest due on the principal amount requested by  
3.35 the commissioner.

4.1 (d) Bonds and deficiency bonds issued under sections 116R.01 to ~~116R.16~~ 116R.15  
4.2 and any indenture entered into in connection with the issuance of the bonds are not subject  
4.3 to section 16B.06.

4.4 Sec. 5. Minnesota Statutes 2006, section 116R.02, subdivision 5, is amended to read:

4.5 Subd. 5. **Use of proceeds; aircraft maintenance facility.** The proceeds of the  
4.6 bonds issued in a principal amount not to exceed \$250,000,000 may be used to finance  
4.7 the costs related to the planning, construction, improvement, or equipping of a heavy  
4.8 maintenance facility for aircraft and facilities subordinate and related to the facility to be  
4.9 located at the Duluth International Airport and any costs of issuance, reserves, credit  
4.10 enhancement, or an initial period of interest payments related to the bonds or the facility.  
4.11 The bond proceeds are appropriated to the commissioner for the purposes specified in this  
4.12 subdivision. ~~The facility may be owned by the Metropolitan Airports Commission and~~  
4.13 ~~leased for the benefit of one or more airline companies for use as a heavy maintenance~~  
4.14 ~~base.~~ With the approval of the commissioner, the owner of the facility may place a  
4.15 mortgage or security interest lien on the facility or any interest in or part of the facility.  
4.16 The mortgage is exempt from the mortgage registry tax imposed under chapter 287. In  
4.17 the event of a default under the loan, lease agreement, or other revenue agreement, the  
4.18 facility, or any part of the facility, may be leased or sold to another person for any lawful  
4.19 purpose, subject to the approval of the commissioner. The approval of the commissioner  
4.20 is not required if the bond trustee has taken control of the facility as a result of a default.

4.21 The ownership of the facility by the owner may create no liability of the owner for  
4.22 payment of the debt service on the bonds if so determined by the commissioner. The  
4.23 owner may require as a condition of entering into the lease of the facility that the lessee or  
4.24 other party pay all costs, expenses, or any other obligations of ownership of the facility.

4.25 No revenues derived from the lease of the project may be used other than for a  
4.26 purpose related to the project, including its operation, administration, maintenance,  
4.27 improvement, or financing.

4.28 Sec. 6. Minnesota Statutes 2006, section 116R.03, is amended to read:

4.29 **116R.03 GENERAL POWERS.**

4.30 For the purpose of exercising the specific powers authorized under sections 116R.01  
4.31 to ~~116R.16~~ 116R.15 and effectuating the other purposes of sections 116R.01 to ~~116R.16~~,  
4.32 116R.15, the commissioner may:

5.1 (1) acquire, hold, pledge, assign, lease, or dispose of real or personal property or  
 5.2 any interest in property, including a mortgage or security interest in a facility described in  
 5.3 section 116R.02, subdivision 5 ~~or 6~~;

5.4 (2) enter into agreements, contracts, or other transactions with any federal or state  
 5.5 agency, any person and any domestic or foreign partnership, corporation, association, or  
 5.6 organization, including contracts or agreements for administration and implementation of  
 5.7 all or part of sections 116R.01 to ~~116R.16~~ 116R.15;

5.8 (3) acquire real property, or an interest therein, by purchase or foreclosure, where  
 5.9 the acquisition is necessary or appropriate;

5.10 (4) enter into agreements with lenders, borrowers, or the issuers of securities for the  
 5.11 purpose of regulating the development and management of any facility financed in whole  
 5.12 or in part by the proceeds of bonds or loans;

5.13 (5) enter into agreements with other appropriate federal, state, or local governmental  
 5.14 units; ~~and~~

5.15 (6) contract with, use, or employ any federal, state, regional, or local public or  
 5.16 private agency or organization, legal counsel, financial advisors, investment bankers or  
 5.17 others, upon terms the commissioner considers necessary or desirable, to assist in the  
 5.18 exercise of any of the powers authorized under sections 116R.01 to ~~116R.16~~ 116R.15 and  
 5.19 to carry out the objectives of sections 116R.01 to ~~116R.16~~ 116R.15 and may pay for the  
 5.20 services from bond proceeds or otherwise available department money; and

5.21 (7) in the event of a default under the loan, lease agreement, or other revenue  
 5.22 agreement, the facility, or any part of the facility, may be leased or sold to another person  
 5.23 for any lawful purpose. The lease or sale is subject to the approval of the commissioner if  
 5.24 there are bonds outstanding for financing the facility. The approval of the commissioner is  
 5.25 not required if the bond trustee has taken control of the facility as a result of a default.

5.26 Sec. 7. Minnesota Statutes 2006, section 116R.05, subdivision 2, is amended to read:

5.27 Subd. 2. **Sources of payment.** Except as otherwise provided for bonds issued  
 5.28 under section 116R.02, subdivision 4, paragraph (a), the bonds and interest payable  
 5.29 thereon are payable solely from the following sources and are irrevocably appropriated  
 5.30 for that purpose, but only to the extent provided in the order or indenture authorizing or  
 5.31 securing the bonds:

5.32 (1) revenues of any nature derived from the ownership, lease, operation, sale,  
 5.33 foreclosure, or refinancing of a project described in section 116R.02, subdivision 5 ~~or 6~~;

5.34 (2) repayments of any loans made under sections 116R.01 to ~~116R.16~~ 116R.15;

5.35 (3) proceeds of any bonds or deficiency bonds;

- 6.1 (4) amounts in any account or accounts authorized by section 116R.11 or 116R.12;
- 6.2 (5) amounts paid by St. Louis County under its obligations referred to in section
- 6.3 116R.02, subdivision 4, and amounts paid under Laws 1991, chapter 350, article 1, section
- 6.4 24 or 25, for the payment of bonds or interest thereon;
- 6.5 (6) amounts payable under any insurance policy, guaranty, letter of credit, or other
- 6.6 instrument securing the bonds;
- 6.7 (7) any other revenues which the commissioner may pledge but excluding state
- 6.8 appropriations unless the appropriation was specifically designated for that purpose; and
- 6.9 (8) investment income on any of the sources specified in clauses (1) to (7).

6.10 Sec. 8. Minnesota Statutes 2006, section 116R.11, subdivision 1, is amended to read:

6.11 Subdivision 1. **Funds.** The commissioner or any trustee appointed by the

6.12 commissioner under sections 116R.01 to ~~116R.16~~ 116R.15 shall establish and maintain an

6.13 aircraft facilities fund for ~~each of the projects~~ the project described in section 116R.02,

6.14 ~~subdivisions 5 and 6~~ subdivision 5. Except for amounts required by the commissioner to

6.15 be deposited in a debt service account, proceeds of each issue of bonds authorized under

6.16 section 116R.02, subdivision 1, must be deposited in a separate account, debt service

6.17 reserve, or other account designated by the commissioner. Money in the account is

6.18 appropriated to the commissioner. The commissioner or the owner of ~~each~~ the project

6.19 described in section 116R.02, ~~subdivisions 5 and 6~~ subdivision 5, may withdraw proceeds

6.20 of bonds for application to the appropriated purposes in the manner provided by order

6.21 of the commissioner or in any indenture authorized by order of the commissioner. The

6.22 commissioner may establish whatever accounts might be necessary to carry out sections

6.23 116R.01 to ~~116R.16~~ 116R.15. All deposits into and disbursements from accounts for the

6.24 purposes and from the sources of revenue authorized by sections 116R.01 to ~~116R.16~~

6.25 116R.15 and provided in an order of the commissioner or an indenture or other agreement

6.26 authorized by the commissioner are appropriated for that purpose.

6.27 Sec. 9. Minnesota Statutes 2006, section 116R.12, is amended by adding a subdivision

6.28 to read:

6.29 Subd. 4. **Approval.** The approval of the commissioner is not required if the bond

6.30 trustee has taken control of the facility as a result of a default.

6.31 Sec. 10. Minnesota Statutes 2006, section 272.01, subdivision 2, is amended to read:

6.32 Subd. 2. **Exempt property used by private entity for profit.** (a) When any real or

6.33 personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is

7.1 leased, loaned, or otherwise made available and used by a private individual, association,  
7.2 or corporation in connection with a business conducted for profit, there shall be imposed a  
7.3 tax, for the privilege of so using or possessing such real or personal property, in the same  
7.4 amount and to the same extent as though the lessee or user was the owner of such property.

7.5 (b) The tax imposed by this subdivision shall not apply to:

7.6 (1) property leased or used as a concession in or relative to the use in whole  
7.7 or part of a public park, market, fairgrounds, port authority, economic development  
7.8 authority established under chapter 469, municipal auditorium, municipal parking facility,  
7.9 municipal museum, or municipal stadium;

7.10 (2) property of an airport owned by a city, town, county, or group thereof which is:

7.11 (i) leased to or used by any person or entity including a fixed base operator; and

7.12 (ii) used as a hangar for the storage or repair of aircraft or to provide aviation goods,  
7.13 services, or facilities to the airport or general public;

7.14 the exception from taxation provided in this clause does not apply to:

7.15 (i) property located at an airport owned or operated by the Metropolitan Airports  
7.16 Commission or by a city of over 50,000 population according to the most recent federal  
7.17 census or such a city's airport authority; or

7.18 (ii) hangars leased by a private individual, association, or corporation in connection  
7.19 with a business conducted for profit other than an aviation-related business; ~~or~~

7.20 ~~(iii) facilities leased by a private individual, association, or corporation in connection~~  
7.21 ~~with a business for profit, that consists of a major jet engine repair facility financed, in~~  
7.22 ~~whole or part, with the proceeds of state bonds and located in a tax increment financing~~  
7.23 ~~district;~~

7.24 (3) property constituting or used as a public pedestrian ramp or concourse in  
7.25 connection with a public airport;

7.26 (4) property constituting or used as a passenger check-in area or ticket sale counter,  
7.27 boarding area, or luggage claim area in connection with a public airport but not the  
7.28 airports owned or operated by the Metropolitan Airports Commission or cities of over  
7.29 50,000 population or an airport authority therein. Real estate owned by a municipality  
7.30 in connection with the operation of a public airport and leased or used for agricultural  
7.31 purposes is not exempt;

7.32 (5) property leased, loaned, or otherwise made available to a private individual,  
7.33 corporation, or association under a cooperative farming agreement made pursuant to  
7.34 section 97A.135; or

7.35 (6) property leased, loaned, or otherwise made available to a private individual,  
7.36 corporation, or association under section 272.68, subdivision 4.

8.1 (c) Taxes imposed by this subdivision are payable as in the case of personal property  
8.2 taxes and shall be assessed to the lessees or users of real or personal property in the same  
8.3 manner as taxes assessed to owners of real or personal property, except that such taxes  
8.4 shall not become a lien against the property. When due, the taxes shall constitute a debt  
8.5 due from the lessee or user to the state, township, city, county, and school district for  
8.6 which the taxes were assessed and shall be collected in the same manner as personal  
8.7 property taxes. If property subject to the tax imposed by this subdivision is leased or used  
8.8 jointly by two or more persons, each lessee or user shall be jointly and severally liable for  
8.9 payment of the tax.

8.10 (d) The tax on real property of the state or any of its political subdivisions that is  
8.11 leased by a private individual, association, or corporation and becomes taxable under  
8.12 this subdivision or other provision of law must be assessed and collected as a personal  
8.13 property assessment. The taxes do not become a lien against the real property.

8.14 Sec. 11. Minnesota Statutes 2006, section 290.06, subdivision 24, is amended to read:

8.15 Subd. 24. **Credit for job creation.** (a) A corporation that leases and operates  
8.16 a heavy maintenance base for aircraft that is owned by the state of Minnesota or one  
8.17 of its political subdivisions, ~~or an engine repair facility described in section 116R.02,~~  
8.18 ~~subdivision 6, or both,~~ may take a credit against the tax due under this chapter.

8.19 (b) For the first taxable year when the facility has been in operation for at least three  
8.20 consecutive months, the credit is equal to \$5,000 multiplied by the number of persons  
8.21 employed by the corporation on a full-time basis at the facility on the last day of the taxable  
8.22 year, not to exceed the number of persons employed by the corporation on a full-time basis  
8.23 at the facility on the date 90 days before the last day of the taxable year. For each of the  
8.24 succeeding four taxable years, the credit is equal to \$5,000 multiplied by the number of  
8.25 persons employed by the corporation on a full-time basis at the facility on the last day of  
8.26 the taxable year, not to exceed the number of persons employed by the corporation on a  
8.27 full-time basis at the facility on the date 90 days before the last day of the taxable year.

8.28 (c) For the first taxable year in which the credit is allowed for the facility, the credit  
8.29 must not exceed 80 percent of the wages paid to or incurred for persons employed by the  
8.30 taxpayer at the facility during the taxable year. For the succeeding four taxable years, the  
8.31 credit must not exceed 20 percent of the wages paid to or incurred for persons employed  
8.32 by the taxpayer at the facility during the taxable year. For purposes of this section,  
8.33 "wages" has the meaning given under section 3121(b) of the Internal Revenue Code,  
8.34 except the limitation to the contribution and benefit base does not apply.

9.1 (d) If the credit provided under this subdivision exceeds the tax liability of the  
9.2 corporation for the taxable year, the excess amount of the credit may be carried over to  
9.3 each of the 20 taxable years succeeding the taxable year. The entire amount of the credit  
9.4 must be carried to the earliest taxable year to which the amount may be carried. The  
9.5 unused portion of the credit must be carried to the following taxable year. No credit  
9.6 may be carried to a taxable year more than 20 years after the taxable year in which the  
9.7 credit was earned.

9.8 (e) If an unused portion of the credit remains at the end of the carryover period under  
9.9 paragraph (d), the commissioner shall refund the unused portion to the taxpayer. The  
9.10 provisions of this paragraph do not apply if the corporation that earned the credit under this  
9.11 subdivision or a successor in interest to the corporation filed for bankruptcy protection.

9.12 Sec. 12. Minnesota Statutes 2006, section 297A.71, subdivision 10, is amended to read:

9.13 Subd. 10. **Aircraft heavy maintenance facility.** Materials, equipment, and supplies  
9.14 used or consumed in constructing a heavy maintenance facility for aircraft that is to be  
9.15 owned by the state of Minnesota or one of its political subdivisions and leased by an airline  
9.16 company, ~~or an aircraft engine repair facility described in section 116R.02, subdivision~~  
9.17 ~~6, are~~ is exempt. Except for equipment owned or leased by a contractor, all machinery,  
9.18 equipment, and tools necessary to the construction and equipping of that facility in order  
9.19 to provide those services are also exempt.

9.20 Sec. 13. Minnesota Statutes 2006, section 360.013, subdivision 39, is amended to read:

9.21 Subd. 39. **Airport.** "Airport" means any area of land or water, except a restricted  
9.22 landing area, which is designed for the landing and takeoff of aircraft, whether or not  
9.23 facilities are provided for the shelter, surfacing, or repair of aircraft, or for receiving or  
9.24 discharging passengers or cargo, and all appurtenant areas used or suitable for airport  
9.25 buildings or other airport facilities, ~~including facilities described in section 116R.02,~~  
9.26 ~~subdivision 6,~~ and all appurtenant rights-of-way, whether heretofore or hereafter  
9.27 established. The operation and maintenance of airports is an essential public service.

9.28 Sec. 14. Minnesota Statutes 2006, section 360.032, subdivision 1, is amended to read:

9.29 Subdivision 1. **Acquisition.** Every municipality is hereby authorized, through its  
9.30 governing body, to acquire property, real or personal, for the purpose of establishing,  
9.31 constructing, and enlarging airports and other air navigation facilities and to acquire,  
9.32 establish, construct, enlarge, improve, maintain, equip, operate, and regulate such airports  
9.33 and other air navigation facilities and structures and other property incidental to their

10.1 operation, either within or without the territorial limits of such municipality and within  
10.2 or without this state; to make, prior to any such acquisition, investigations, surveys, and  
10.3 plans; to construct, install, and maintain airport facilities for the servicing ~~and repair~~ of  
10.4 aircraft ~~and facilities authorized under section 116R.02, subdivision 6~~, and for the comfort  
10.5 and accommodation of air travelers; and to purchase and sell equipment and supplies as  
10.6 an incident to the operation of its airport properties. It may not acquire, or take over any  
10.7 airport or other air navigation facility owned or controlled by any other municipality of  
10.8 the state without the consent of such municipality. It may use for airport purposes any  
10.9 available property that is now or may at any time hereafter be owned or controlled by it.  
10.10 Such air navigation facilities as are established on airports shall be supplementary to and  
10.11 coordinated in design and operation with those established and operated by the federal and  
10.12 state governments. It may assist other municipalities in the construction of approach roads  
10.13 leading to any airport or restricted landing area owned or controlled by it. ~~In financing the~~  
10.14 ~~facilities authorized under section 116R.02, subdivision 6, it may borrow from the state~~  
10.15 ~~or otherwise arrange for financing of the facilities and for that purpose may exercise any~~  
10.16 ~~powers vested in a municipality under sections 469.152 to 469.165.~~

10.17 Sec. 15. Minnesota Statutes 2006, section 360.038, subdivision 4, is amended to read:

10.18 Subd. 4. **Leased property.** To lease for a term not exceeding 30 years such airports;  
10.19 or other air navigation facilities ~~or facilities authorized under section 116R.02, subdivision~~  
10.20 ~~6~~; or real property acquired or set apart for airport purposes, to private parties, any  
10.21 municipal or state government or the national government, or any department of either  
10.22 thereof, for operation; to lease or assign for a term not exceeding 99 years to private  
10.23 parties, any municipal or state government, or the national government, or any department  
10.24 of either thereof, for operation or use consistent with the purposes of sections 360.011 to  
10.25 360.076, space, area, improvements, or equipment on such airports; notwithstanding any  
10.26 other provisions in this subdivision, to lease ground area for a term not exceeding 99 years  
10.27 to private persons for the construction of structures which in its opinion are essential and  
10.28 necessary to serve aircraft, persons, and things engaged in or incidental to aeronautics,  
10.29 including but not limited to shops, hangars, offices, restaurants, hotels, motels, factories,  
10.30 storage space, and any and all other structures necessary or essential to and consistent with  
10.31 the purposes of sections 360.011 to 360.076, to sell any part of such airports, other air  
10.32 navigation facilities, or real property to any municipal or state government, or to the  
10.33 United States or any department or instrumentality thereof, for aeronautical purposes  
10.34 incidental thereto, and to confer the privileges of concessions of supplying upon its

11.1 airports goods, commodities, things, services, and facilities; provided that in each case in  
11.2 so doing the public is not deprived of its rightful, equal, and uniform use thereof.

11.3       Sec. 16. **REVISOR'S INSTRUCTION.**

11.4             The revisor of statutes shall change "116R.01 to 116R.16" to "116R.01 to 116R.15"  
11.5 wherever it appears in Minnesota Statutes.

11.6       Sec. 17. **REPEALER.**

11.7             Minnesota Statutes 2006, sections 116R.02, subdivisions 3, 6, 7, and 9; and 116R.16,  
11.8 are repealed.

**116R.02 BOND ISSUE; SALE AUTHORIZATION.**

Subd. 3. **Review procedure; data practices.** (a) Before issuing the bonds for a project, approving financial assistance, or entering into loan, lease, or other revenue agreements for the project described in subdivisions 5 and 6, the commissioner of finance shall review the financial condition of the proposed lessee or lessees of the project or projects, and any related person. The commissioner shall exercise due diligence in the review. The commissioner shall engage an independent, nationally recognized consultant having special expertise with the airline industry and its financing to prepare a written report on the financial condition of the lessee or lessees and any related person. A lessee and any related person shall provide all information required for the commissioner's review and the consultant's report, including information substantially equivalent to that required by an investment bank or other financial institution considering a project for debt financing.

(b) Except as otherwise provided in this subdivision, business plans, financial statements, customer lists, and market and feasibility studies required under sections 116R.01 to 116R.16 or submitted in connection with the provision of financial assistance or any agreement authorized under Laws 1991, chapter 350, are nonpublic data, as defined in section 13.02, subdivision 9. The commissioner or the commissioner of employment and economic development may make the data accessible to any person, agency, or public entity if the commissioner or the commissioner of employment and economic development determines that access is required under state or federal securities law or is necessary for the person, agency, or public entity to perform due diligence in connection with the provision of financial assistance to the projects described in subdivisions 5 and 6. The data may also be made available as requested by the Legislative Commission on Planning and Fiscal Policy.

(c) Before the commissioner issues bonds for a project, approves financial assistance, or enters into loan, lease, or other revenue agreements for the project, the commissioner shall submit a report on the proposed transaction to the governor. The report must describe: all proposed state, metropolitan, and local government financial commitments; the financial assistance proposed to be provided; the proposed loan, lease, and revenue agreements; any other arrangements related to state and local debt, taxes, financing, and debt service; and the estimates of economic activity, air traffic, and other factors that have been used in assessing the prospective financial condition of the lessee or lessees and any related person. The report must contain the following findings:

(1) that the commissioners of employment and economic development and finance and, for purposes of a project described in subdivision 5, the Metropolitan Airports Commission have reviewed the current and prospective financial condition of each proposed lessee of the project or projects and any related person; and

(2) that, on the basis of their review, the commissioners and, for purposes of the project described in subdivision 5, the commission have determined that the revenues estimated to be available to the lessee or lessees for payments under the loan, lease, or other revenue agreements are at least sufficient during each year of the term of the proposed bonds to pay when due all financial obligations of the lessee or lessees under the terms of the proposed loan, lease, or other revenue agreements. Copies of the report must be filed at the legislature as provided in section 3.195 when the report is submitted to the governor.

Subd. 6. **Use of proceeds; aircraft engine repair facility.** The proceeds of the bonds issued in a principal amount not to exceed \$100,000,000 may be used to finance the costs related to the planning, construction, improvement, or equipping of an aircraft engine repair facility and facilities subordinate and related to the facility to be located at the Chisholm-Hibbing Municipal Airport in the city of Hibbing and any costs of issuance, reserves, credit enhancement, or an initial period of interest payments related to the bonds or the facility. The bond proceeds are appropriated to the commissioner for the purposes specified in this subdivision. The facility may be owned by the owner of the Chisholm-Hibbing Municipal Airport, but may be leased, with or without a purchase option, to any person for the primary purpose of repairing aircraft engines or components. With the approval of the commissioner, the owner of the facility may place a mortgage or security interest lien on the facility. The mortgage is exempt from the mortgage registry tax imposed under chapter 287. In the event of a default under the loan, lease agreement, or other revenue agreement, the facility may be leased or sold to another person for any lawful purpose, subject to the approval of the commissioner. The approval of the commissioner is not required if the bond trustee has taken control of the facility as a result of a default.

Subd. 7. **Agreement of lessee.** (a) Before issuing the bonds for the facilities, approving financial assistance, or entering into loan, lease, or other revenue agreements for the projects described in subdivisions 5 and 6, the commissioner shall determine that the lessee and, if

APPENDIX

Repealed Minnesota Statutes: H1175-2

necessary, other corporations affiliated with by common ownership with the lessee have agreed to requirements satisfactory to the commissioner respecting aircraft noise abatement.

(b) The leases for each of the facilities described in subdivisions 5 and 6 must contain covenants and agreements by the airline corporation and any successor in interest providing for the retention and location of existing employees, operations, and facilities, including headquarters, of the airline corporation in the state until the principal and interest on the last series of deficiency bonds and general obligation revenue bonds issued under subdivision 4, paragraph (a), clause (2), are paid.

Subd. 9. **Project cost report.** Before the commissioner of finance issues bonds, approves financial assistance, or enters into loan, lease, or other revenue agreements for the projects described in subdivisions 5 and 6, the commissioner of employment and economic development shall report to the governor on total public costs related to the construction of the projects. The report must include: an estimate of the total state, metropolitan, and local tax costs for the project; and an estimate of the total state, metropolitan, and local capital costs, and method of financing, of any airport and off-airport improvements related to the construction of the facilities but not included in the cost of the facilities, including any runway or taxiway improvements and road, highway, sewer, or other public facility or utility improvement costs. Copies of the report must be filed at the legislature as provided in section 3.195 when the report is submitted to the governor.

**116R.16 CORPORATE HEADQUARTERS.**

A lease agreement may be entered under sections 116R.01 to 116R.15 only if the affected parties provide an enforceable pledge that their corporate headquarters will remain in Minnesota for the duration of the agreement.