

May 7, 2025

Dear Chairs Howard and Port and Housing Conference Committee Members,

Thank you for the opportunity to provide comments on the housing omnibus budget and policy bills. This letter provides feedback on our continued concerns related to a Rental Assistance Demonstration program provision included in the House position, originating from HF 2309. We appreciate the ongoing conversations on this issue but continue to caution against the enactment of this provision given the significant uncertainty in its implementation. Rather than take on the risk of derailing the disbursement of Publicly Owned Housing Program (“POHP”) appropriations, we would advise the legislature focus on other opportunities for state funds to assist the remaining PHAs this legislation seeks to assist.

We recognize the need to ensure public housing authorities (“PHAs”) can access needed resources for ongoing operating and maintenance needs and are pleased with the progress we made last spring in better clarifying these pathways in our April 10, 2024 letter on this matter.

General principles why changes to Minnesota Statutes are the wrong venue to address the remaining issues PHAs face on this issue:

The key barriers that remain unresolved following many hours of work last session are still not suited for a state legislative solution because the barriers stem from higher order legal authority. As we have previously communicated, these factors leave legislation updating Minnesota Statutes an unhelpful venue to attempt to find a solution. As we understand it the remaining barriers on this matter are a combination of:

- The requirement in the Minnesota Constitution that GO bond proceeds may only be used by state agencies or political subdivisions of the state. Given the subordinate position of Minnesota laws to the constitution, attempts to artificially construct new political subdivisions of the state by statute face considerable uncertainty.
- United States Housing and Urban Development requirements related to the need for a PHA to “sell” an asset before accessing the higher rents available under the Section 18 Demolition & Disposition program. MMB and Minnesota Housing staff remain committed to additional engagement on this issue at the PHAs’ request but the underlying program requirements were created by the federal government through HUD and are unlikely to be modified by Minnesota law.
- Federal tax regulations of tax-exempt bonds, which require that following the sale of a bond-financed property that the sale proceeds be returned to pay off state debt and not retained for other use by the recipient. HUD’s Section 18 rules would mandate a different treatment of those sale proceeds. Again, this is a federal issue outside the authority of Minnesota law.

Key HUD Section 18 sales barrier remains unaddressed in the bill as again introduced:

Our current understanding is that for PHAs the remaining barrier is access to HUD's Section 18 Demolition & Disposition program. Under this program HUD requires that the PHA "sell" an asset to access the higher rents available under the program. Without additional solutions from HUD, the current Section 18 program requirements appear incompatible with state GO bonds. As noted above, federal tax regulations following the sale of a bond-financed property that the sale proceeds be returned to pay off state debt and not retained for other use by the recipient. The bill language included in the House position does not address this barrier and it is unlikely that updates to Minnesota laws are a productive venue for its resolution.

Continued concerns on uncertainty:

Our feedback on this proposal from the 2024 session remains consistent, especially regarding the uncertainty this bill would introduce if enacted and the lack of resolution it offers to PHAs based on the mutual understanding MMB, Minnesota Housing and the PHAs reached last year. Because Minnesota's constitution requires all projects funded by state general obligation ("GO") bonds to be publicly owned by a state agency or political subdivision of the state, it is not clear that the State would be able to fund the types of "public corporations" created under the proposed legislation with state GO bond funds or approve transfers of ownership of state GO bond financed property to these public corporations. Each "public corporation" established under the bill would need to be reviewed individually to determine whether that particular "public corporation" can be considered a political subdivision of the state. It is not certain this case-by-case review would result in a positive determination, based on conversations with the state's bond counsel. In the event negative determinations are disputed it will have the potential to slow the distribution of desperately needed resources.

We look forward to continued work with you and PHAs on this issue.

Sincerely,

A handwritten signature in black ink that reads "Erin M. Campbell". The signature is written in a cursive, flowing style.

Erin Campbell
Commissioner