

Date: March 23, 2026

To: Chair Igo, Chair Howard and Housing Finance and Policy Committee Members

From: Anne Mavity, Minnesota Housing Partnership

Andrea Brennan, Greater Minnesota Housing Fund & MN Housing Stability Coalition

Ellen Sahli, Family Housing Fund & MN Housing Stability Coalition

Cathy Capone Bennett, Twin Cities Housing Alliance

Re: HF. 4234, Request for Action to Conform Minnesota Law regarding Allocation of Federal Tax-Exempt Private Activity Bonds with Recent Changes in Federal Law Pertaining to Low-Income Housing Tax Credits

Background

In July of 2025, Congress passed H.R 1 which amended IRC Section 42 to include several significant changes to provisions that govern the Low-Income Housing Tax Credit (LIHTC) Program. The two most prominent changes are: a 12% increase in the per capita allocation multiplier that establishes the amount of 9% LIHTC that is allocated annually to each State; and a change to requirements linked to the allocation of 4% LIHTC which lowers the amount of tax-exempt Private Activity Bonds (PABs) that must be used to finance an affordable rental project in order to qualify for the tax credits from 50% of aggregate basis to 25% of aggregate basis.

Nationally, bipartisan estimates of the impact of these two changes could result in the production of an additional 1.2 million homes over the next decade. Over the first 40 years of the LIHTC program, almost 4 million units of affordable housing have been produced or preserved using the LIHTC program.

The changes in federal law regarding the use of PABs with 4% LIHTC establish a new minimum amount of PABs that must be used but does nothing to cap the amount of bonds that may be allocated. This means it is left to the States to determine how they will implement any changes to state laws and procedures if they wish to realize an increase in the number of affordable housing projects that can be financed with PABs and 4% LIHTC.

The amount of PABs allocated to each state is based on the population of each state. In 2026, the amount is \$135 per person. PABs are also referred to as “volume cap” bonds because the amount of bonds available to each state is capped by this formula. While the amount of PABs is capped, the amount of LIHTCs that can be allocated is limited by the 25% aggregate basis test. If PABs are used more efficiently to support a greater number of affordable housing projects by allocating fewer PABs to each project, more LIHTCs can be generated to raise additional private investment.

Nationally, 23 States have already updated their policies to reflect the federal changes, and another 10 States are working on changes to their policies.

Activity to Date in Minnesota

Policy regarding PABs in Minnesota is governed by Minn.Stat.Ch. 474A ("474A"), which lays out the procedures by which PABs are allocated within the state. Four entities – Minnesota Housing Finance Agency, City of Minneapolis, City of Saint Paul and Dakota County – are designated to receive direct allocations of PABs which they can then allocate to affordable housing projects based on procedures that they adopt. The remainder of the PABs are awarded to projects through procedures prescribed in 474A and administered by MMB.

474A was last amended in 2018 and, at the time of this amendment, the statute set an upper cap on the dollar amount of PABs that can be awarded to any one project at 55% of the aggregate basis of the project. This cap was established at a level to allow a small amount of fluctuation above the then-required 50% level, but is intended to limit the amount of PABs being allocated to any one project so that, overall, more projects can receive allocations. This cap was implemented following a major increase in the use of PABs by housing developments, which consistently results in over-subscription for PABs. There is currently a waiting list of 14 projects totaling \$263,185,550 in PAB requests in the queue at MMB. In 2025, 15 projects received allocations of PABs through the MMB process totaling about \$340 million.

On December 16, 2025, MMB issued updated guidance regarding PABs that informs potential applicants of the change in federal law allowing the lower 25% allocation of PABs as the minimum to qualify for 4% tax credits. MMB also amended its application form (Form H) to collect more information about the intended use of PABs for permanent financing. In the memo, MMB says it "would encourage projects to only request the PAB authority needed to successfully move their project to completion", thus potentially allowing projects to voluntarily reduce the amount of bonds they request and potentially allow more projects to receive allocations.

Affordable housing projects that receive allocations of PABs must also seek an allocation of 4% LIHTC from one of the four designated allocating agencies. Policies and procedures for the allocation of 4% LIHTC are spelled out in each agency's Qualified Allocation Plan (QAP), and Minnesota Housing and the three local agencies have already amended their QAPs to recognize and allow for the smaller 25% amount of PABs.

Engagement with Affordable Housing Developers

The organizations authoring this memo, representing a broad range of for-profit and non-profit affordable housing developers, have been in conversations with those developers since the passage of the federal law change to discuss what additional changes Minnesota should make to take full advantage of the access to PABs for additional affordable housing

projects. Based on those conversations, we are confident that there is broad consensus on the following points:

- Section 474A should be amended to place a more restrictive cap on the maximum amount of PABs that can be allocated to any affordable housing project.
- This change should be made during the 2026 session, but implementation of the change should be delayed until January 1, 2027. This timing will notify the industry that the change is coming, but also allow some time to adjust the financing structure for projects that are already being underwritten before the change is in effect.

Those points of consensus are reflected in HF 4234. We request your support in passing this bill to increase our collective ability to produce more affordable homes for Minnesotans.