

1.1 A bill for an act

1.2 relating to economic development; creating the Minnesota Venture Network
1.3 Board to provide tax credits to stimulate venture capital investment in Minnesota;
1.4 creating the Minnesota capital fund to facilitate investments in venture funds;
1.5 creating the Minnesota venture network trust as a public trust to utilize net profits
1.6 of the Minnesota capital fund; providing a contingent tax credit for investment
1.7 commitment in the Minnesota capital fund; amending Minnesota Statutes 2008,
1.8 section 290.06, by adding a subdivision; proposing coding for new law in
1.9 Minnesota Statutes, chapter 297I; proposing coding for new law as Minnesota
1.10 Statutes, chapter 116W.

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

1.12 Section 1. [116W.01] CITATION.

1.13 This chapter may be cited as the "Minnesota Venture Network Act."

1.14 Sec. 2. [116W.02] DEFINITIONS.

1.15 Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

1.16 Subd. 2. **Board.** "Board" means the Minnesota Venture Network Board created
1.17 under section 116W.03.

1.18 Subd. 3. **Certificate.** "Certificate" means a contract between the board and an
1.19 investor making a commitment to invest in the Minnesota capital fund, setting forth the
1.20 amount, terms, and conditions pursuant to which a tax credit is available and issued to the
1.21 investor.

1.22 Subd. 4. **Minnesota capital fund.** "Minnesota capital fund" or "the fund" means a
1.23 private, for profit entity formed by the Minnesota Venture Network Board under section
1.24 116W.04.

1.25 Subd. 5. **Minnesota venture network trust.** "Minnesota venture network trust" or
1.26 "the trust" means a state beneficiary public trust formed under section 116W.05.

2.1 Subd. 6. **Person.** "Person" means any natural person, sole proprietorship,
2.2 corporation, S corporation, partnership, limited liability company, or trust. Person also
2.3 means any insurer as defined in section 60A.02, subdivision 4, that contributes designated
2.4 capital under section 116W.04.

2.5 Subd. 7. **Tax credit.** "Tax credit" means a contingent tax credit issued by the board
2.6 under section 116W.06 that is available as a credit against the tax imposed by chapters
2.7 290 and 297L.

2.8 Sec. 3. **[116W.03] MINNESOTA VENTURE NETWORK BOARD; MEMBERS;**
2.9 **POWERS.**

2.10 Subdivision 1. **Creation.** The Minnesota Venture Network Board is created and
2.11 governed by section 15.0575, except as provided in this chapter.

2.12 Subd. 2. **Members.** The board shall consist of five voting members and two
2.13 nonvoting advisory members. The chair of the board is one of the voting members.
2.14 The five voting members, including the chair, shall be appointed by the governor and
2.15 confirmed by the senate under section 15.066.

2.16 (a) The five voting members are appointed to five-year staggered terms that are
2.17 structured to allow the term of one member to expire each year. Vacancies are filled in the
2.18 same manner as the appointment of the original members. The governor shall appoint
2.19 voting members based on demonstrated expertise in one or more of the following areas:

2.20 (1) the risk and reward analysis of making and financing multimillion dollar asset
2.21 acquisitions and divestitures for their own account or on behalf of a private sector
2.22 employer;

2.23 (2) the supervision of others who make the types of decisions in clause (1);

2.24 (3) the supervision of fiduciary management of investment funds;

2.25 (4) the management of venture capital funds; or

2.26 (5) the management and administration of tax credit allocation programs.

2.27 (b) The two nonvoting advisory members are the commissioner of employment and
2.28 economic development and the commissioner of revenue.

2.29 Subd. 3. **Meetings.** Meetings are convened at the call of the chair as needed. Board
2.30 meetings are subject to chapter 13D.

2.31 Subd. 4. **Closed meetings; recording.** The board may, by a majority vote in a
2.32 public meeting, decide to hold a closed meeting for purposes of discussing data described
2.33 in subdivision 5 or security information, trade secret information, or labor relations
2.34 information, as defined in section 13.37, subdivision 1. The time and place of the closed
2.35 meeting must be announced at the public meeting. A written roll of members present

3.1 at the closed meeting must be made available to the public after the closed meeting.
3.2 The proceedings of a closed meeting must be tape recorded. The data on the tape are
3.3 nonpublic data or private data on individuals as defined in section 13.02, subdivision 9
3.4 or 12, whichever is applicable.

3.5 Subd. 5. **Application and investigative data.** Financial data, statistics, and
3.6 information furnished to the board in connection with assistance or proposed assistance,
3.7 including credit reports, financial statements, statements of net worth, income tax returns,
3.8 either personal or corporate, and any other business and personal financial records are
3.9 private data with regard to data on individuals under section 13.02, subdivision 12, or as
3.10 nonpublic data with regard to data not on individuals under section 13.02, subdivision 9.

3.11 Subd. 6. **Conflict of interest.** A member of the board may not participate in
3.12 or vote on a decision of the board relating to an organization in which the director has
3.13 either a direct or indirect financial interest or a conflict of interest as described in section
3.14 10A.07. Board members shall not have an interest in a person to whom a tax credit is
3.15 allocated and issued by the board or an interest in a person that receives an investment
3.16 from any entity organized pursuant to this chapter or that receives an investment from
3.17 an investee of the entity.

3.18 Subd. 7. **Powers.** (a) Pursuant to section 116W.04, the board may issue certificates
3.19 and related tax credits to an investor making a capital commitment to the Minnesota
3.20 capital fund.

3.21 (b) The board shall, in cooperation with the Department of Revenue and pursuant to
3.22 section 116W.08, establish criteria and procedures for the allocation, transfer, and issuance
3.23 of tax credits by means of certificates issued by the board. The criteria must include the
3.24 contingencies that must be met for the tax credits evidenced by a certificate to be verified
3.25 by the board redeemable by an investor making a capital commitment to the Minnesota
3.26 capital fund or any subsequent transferee. The contingencies to redemption must be tied
3.27 to the scheduled rates of return and scheduled redemptions of interests committed to be
3.28 purchased by the investor in the Minnesota capital fund. The criteria and procedures
3.29 must also relate to the transfer of a certificate and related tax credit by the investor and
3.30 any subsequent transferee.

3.31 (c) The board shall organize the Minnesota capital fund pursuant to section 116W.04.

3.32 (d) The board may charge a placement fee to the Minnesota capital fund with respect
3.33 to the issuance of any certificate and related tax credits to an investor in the Minnesota
3.34 capital fund. The fee charged pays only for reasonable and necessary costs of the board
3.35 and must not exceed one-tenth of one percent of the capital committed by the investor to
3.36 the Minnesota capital fund.

4.1 (e) No investment by the Minnesota capital fund may be made without board
4.2 approval. The board shall not approve any investment unless it has received a positive
4.3 recommendation for the investment by the fund manager of the Minnesota capital fund.

4.4 (f) The board shall accept a certificate submitted to the board by a Minnesota capital
4.5 fund investor or any transferee and shall calculate the amount of the allowable tax credit
4.6 pursuant to the procedure in section 116W.06.

4.7 (g) The board shall not hire employees. The board shall contract with an entity
4.8 specified in section 116W.04, subdivision 3, paragraph (a), for staff support provided it
4.9 reimburses the entity from the board's earnings once received.

4.10 Subd. 8. **Audits.** The board is subject to the auditing requirements of sections
4.11 3.971 and 3.972.

4.12 Subd. 9. **Annual reports.** The board shall submit annual reports to the governor
4.13 and the legislature. Each annual report must include a copy of the audit of the Minnesota
4.14 capital fund, report on the progress of the Minnesota capital fund in implementing its
4.15 investment plan, and describe any verification or redemption of any certificate issued
4.16 pursuant to this chapter, but must not identify any specific taxpayer who has redeemed a
4.17 certificate.

4.18 Subd. 10. **Rulemaking authority.** The board shall adopt rules pursuant to chapter
4.19 14 necessary to administer the duties of the board.

4.20 Subd. 11. **Exemption from investment advisor registration.** Members, officers,
4.21 directors, managers, agents, and contractors of the board are exempt from investment
4.22 advisor registration requirements under chapter 80A.

4.23 Sec. 4. **[116W.04] MINNESOTA CAPITAL FUND.**

4.24 Subdivision 1. **Establishment of fund.** The Minnesota Venture Network Board
4.25 shall, in concert with the organizing entity pursuant to subdivision 4, organize the
4.26 Minnesota capital fund as a private, for profit entity, under other law. The fund must be
4.27 managed by a fund manager pursuant to subdivision 4.

4.28 Subd. 2. **Fund objectives.** The following are the objectives for the Minnesota
4.29 capital fund and are based on the date when the fund is established:

4.30 (1) within five years, commit to invest in ten venture capital funds;

4.31 (2) within five years, commit to invest in ten angel groups;

4.32 (3) within ten years, have 20 venture capital funds active in the state;

4.33 (4) within ten years, have 20 angel groups active in the state;

5.1 (5) within 15 years, have \$2 of investment and co-investment in Minnesota
5.2 companies by investee venture capital funds and their syndicates for every \$1 invested
5.3 by the Minnesota capital fund;

5.4 (6) within 15 years, have \$3 of investment and co-investment in Minnesota
5.5 companies by investee angel groups and their co-investors for every \$1 invested by the
5.6 Minnesota capital fund's angel fund network;

5.7 (7) within 20 years, have an enhanced and sustainable venture capital community
5.8 with a history of successfully financing venture capital opportunities throughout
5.9 Minnesota across multiple markets; and

5.10 (8) within 20 years, have an enhanced and sustainable angel group network and
5.11 statewide pool with a history of successfully financing risk capital opportunities, including
5.12 seed capital, throughout Minnesota across multiple markets.

5.13 Subd. 3. **Fund investments; requirements.** (a) The fund shall be authorized to
5.14 make investments in private venture capital partnerships or entities in a manner that will
5.15 encourage the availability of a wide variety of venture capital in the state, strengthen the
5.16 economy of the state, help businesses in Minnesota gain access to sources of capital, help
5.17 build a significant, permanent source of capital available to serve the needs of Minnesota
5.18 businesses, and accomplish all these benefits in a way that minimizes the redemption
5.19 of tax credits.

5.20 (b) The fund shall principally make investments in venture capital funds managed
5.21 by investment managers who have made a commitment to seek equity investments in
5.22 businesses located within the state of Minnesota and that have committed to maintain an
5.23 active market presence within the state of Minnesota. The investments by the fund shall
5.24 be focused principally on partnership interests in private venture capital funds and not
5.25 in direct investments in individual businesses. The fund shall invest in venture capital
5.26 funds with experienced managers or management teams with demonstrated expertise and
5.27 a successful history in the investment of venture capital funds. The fund may invest in
5.28 newly created venture capital funds as long as the managers or management teams of the
5.29 funds have the experience, expertise, and a successful history in the investment of venture
5.30 capital funds described in this paragraph.

5.31 (c) Notwithstanding the provisions in this subdivision, the fund shall capitalize or
5.32 support the capitalization of an angel fund network program that invests in:

5.33 (1) angel funds that are located in the state of Minnesota and that focus their
5.34 investments primarily on portfolio companies that are located within the state of
5.35 Minnesota; and

5.36 (2) direct investments in these Minnesota-based portfolio companies.

6.1 Subd. 4. **Powers and duties.** In addition to the powers pursuant to the statutes under
6.2 which the fund is organized, the fund shall have the following powers and duties:

6.3 (1) the fund shall contract with an operating entity for the raising, investing, and
6.4 management of capital by the Minnesota capital fund in accordance with investment
6.5 requirements of subdivision 3. The operating entity shall be a Minnesota nonprofit
6.6 organization to which investment assets with a book value in excess of \$5,000,000 were
6.7 transferred pursuant to the authority under section 116O.05, subdivision 4, prior to January
6.8 1, 2000, or an entity formed by such a corporation, or the direct successor in interest to
6.9 such a corporation;

6.10 (2) the operating entity shall engage or employ, as a fund manager, a person with
6.11 substantial and successful experience in the design, allocation, implementation, and
6.12 management of state-sponsored seed and venture capital investment programs and in
6.13 capital formation. The Minnesota capital fund shall compensate this person for these
6.14 services;

6.15 (3) the fund may open and manage bank and short-term investment accounts as
6.16 deemed necessary by the fund's manager;

6.17 (4) the fund may expend money to secure investment ratings for investments in
6.18 the fund; and

6.19 (5) the fund shall deposit net profits from the fund in the Minnesota venture network
6.20 trust.

6.21 Subd. 5. **Audit.** The fund shall contract with a certified public accounting firm
6.22 to do a financial and compliance audit of the fund annually using generally accepted
6.23 accounting standards, reporting investment portfolio performance in the aggregate and
6.24 not by individual security or investment fund. A copy of this audit must be submitted to
6.25 the chairs of the senate Finance and Economic Development and Housing Committees,
6.26 and the house of representatives Appropriations and Economic Development Committees.
6.27 The fund is subject to the auditing requirements under sections 3.971 and 3.972.

6.28 Subd. 6. **Exemption from investment advisor registration.** Members, officers,
6.29 directors, managers, agents, and contractors of the fund shall be exempt from investment
6.30 advisor registration requirements under chapter 80A.

6.31 Subd. 7. **Termination of Minnesota capital fund.** Thirty-five years after the
6.32 organization of the Minnesota capital fund, the Minnesota Venture Network Board shall,
6.33 after the redemption and retirement of all certificates, cause the fund to be liquidated. After
6.34 all liabilities are discharged, and any other ownership interests are satisfied, the Minnesota
6.35 capital fund shall pay all remaining funds to the Minnesota venture network trust fund.
6.36 The Minnesota capital fund shall file a final report with the legislature in accordance with

7.1 section 3.195. In addition to the requirements stated in section 3.195, the report shall state
7.2 the number of jobs created in the state through the investment program of the fund.

7.3 **Sec. 5. [116W.05] MINNESOTA VENTURE NETWORK TRUST.**

7.4 Subdivision 1. **Creation of trust.** The Minnesota venture network trust is created
7.5 as a state beneficiary public trust for the purpose of supporting the mission and work of
7.6 the Minnesota capital fund. The members of the board will serve as trustees of the trust.
7.7 Consistent with this chapter, the board has the powers of trustees under sections 501B.79
7.8 to 501B.82, and other law as necessary to administer and distribute funds in the trust.

7.9 Subd. 2. **Trust fund.** The assets of the Minnesota venture network trust consists
7.10 of amounts deposited in the trust under section 116W.04, subdivision 4, clause (5), and
7.11 earnings thereon. The board may distribute funds in the trust as stated in subdivision 3.

7.12 Subd. 3. **Use of trust funds.** Trust funds must be used for the following purposes:

7.13 (1) to support the mission and work of the fund and the trust;

7.14 (2) to be used at the board's discretion in lieu of the sale or redemption of tax credits;

7.15 (3) to develop and support ancillary programs complementary to the work of the
7.16 fund; or

7.17 (4) upon termination of the Minnesota capital fund, the trustees must pay any
7.18 remaining assets of the fund to the commissioner of revenue, who must deposit them in
7.19 the state treasury and credit them to the general fund.

7.20 **Sec. 6. [116W.06] CERTIFICATES AND TAX CREDITS.**

7.21 Subdivision 1. **Issuance of certificate and related tax credits.** (a) The board
7.22 may issue certificates and related tax credits to an investor who commits to make an
7.23 investment in the Minnesota capital fund and whose investment commitment is accepted
7.24 by the board. A certificate shall have a specific maturity date or dates designated by the
7.25 board and shall be redeemable only in accordance with the contingencies reflected on the
7.26 certificate or incorporated therein by reference. A certificate shall indicate the amount of
7.27 the tax credit designated by the board, and a certificate and the related tax credit shall be
7.28 freely transferable by the investor and by subsequent transferees.

7.29 (b) The amount of tax credits that may be redeemed shall be limited to an amount
7.30 equivalent to any difference between the scheduled aggregate rate of return to the investor
7.31 from the Minnesota capital fund at rates of return authorized by the board and the
7.32 aggregate actual return received by the investor from the Minnesota capital fund of capital
7.33 and return on the capital. The rates shall be determined pursuant to a formula stipulated

8.1 in the certificate or incorporated by reference. The certificate shall state the calculation
8.2 formula for determining the amount of tax credits that may be redeemed.

8.3 Subd. 2. **Amount of tax credits allowed.** (a) The amount of tax credits issued by
8.4 the board shall not exceed \$50,000,000 in any fiscal year, beginning in fiscal year 2012,
8.5 and the cumulative amount shall not exceed an aggregate total of \$500,000,000 during
8.6 the existence of the Minnesota capital fund. The aggregate total shall not include any
8.7 certificates and related tax credits that have expired. The aggregate total shall include
8.8 certificates and related tax credits that have been redeemed.

8.9 (b) In determining the maximum annual and aggregate totals, the board shall use the
8.10 cumulative amount of scheduled aggregate returns on certificates issued by the board to
8.11 each investor in the Minnesota capital fund. Certificates and related tax credits that have
8.12 expired shall not be included in the totals. Certificates and related tax credits that have
8.13 been redeemed shall be included only to the extent of verified tax credits actually allowed.

8.14 Subd. 3. **Redemption of tax credits; in lieu of payments; carryover provision.**

8.15 (a) Within 15 days after certification by the Minnesota capital fund to the board that the
8.16 contingencies for redemption of tax credits evidenced by a certificate have been satisfied,
8.17 the board shall issue to the holder of such certificate a verification setting forth:

8.18 (1) the amount of verified tax credits evidenced by such certificate, as well as the
8.19 manner by which the maximum amount may be increased or decreased; and

8.20 (2) the tax year in which the verified tax credits may first be claimed and redeemed.

8.21 (b) A holder of a certificate with a verified tax credit is allowed a credit against the
8.22 tax imposed by chapters 290 and 297I. A verified tax credit may be redeemed by claiming
8.23 the amount of the verified tax credit in lieu of making estimated or regular tax payments.
8.24 If the credit provided under this subdivision exceeds the tax liability of the holder for the
8.25 taxable year, the excess amount of the credit may be carried over to each of the seven
8.26 taxable years succeeding the taxable year. The entire amount of the excess unused credit
8.27 shall be carried to the earliest taxable year to which the amount may be carried and then to
8.28 each successive year to which the credit may be carried. No credit may be carried to a
8.29 taxable year more than seven years after the taxable year in which the credit was earned.

8.30 (c) In the case of verified tax credits held by a pass-through entity, an individual
8.31 partner, shareholder, or member of the pass-through entity may claim or redeem the tax
8.32 credit of a partnership, S corporation, limited liability, estate, or trust. The amount claimed
8.33 or redeemed by the individual shall be based upon the pro rata share of the individual's
8.34 earnings attributable to the pass-through entity.

8.35 Subd. 4. **Registration and verification system.** The board shall, in conjunction
8.36 with the Department of Revenue, develop a system for:

9.1 (1) registration of the issuance and transfer of any certificate and related tax credit
9.2 issued pursuant to this section;

9.3 (2) verification of tax credits pursuant to this section; and

9.4 (3) registration of the issuance and transfer of any verification of tax credits issued
9.5 by the board pursuant to this section.

9.6 Subd. 5. **Certificate or tax credit not a security.** A certificate or tax credit issued
9.7 or transferred pursuant to this chapter shall not be a security as defined under section
9.8 336.8-102 of the Uniform Commercial Code.

9.9 Subd. 6. **Use as collateral.** A certificate or tax credit issued or transferred pursuant
9.10 to this section may be used as collateral, and a security interest in the certificate or tax
9.11 credit may be granted and perfected in the manner provided in Article 9 of the Uniform
9.12 Commercial Code, under sections 336.9-101 to 336.9-709.

9.13 Sec. 7. **[116W.07] POWERS AND EFFECTIVENESS.**

9.14 Sections 116W.01 to 116W.06 shall not be construed as a restriction or limitation
9.15 upon any power that the board might otherwise have under any other law of this state and
9.16 the provisions of the Minnesota Venture Network Act are cumulative to those powers.
9.17 The Minnesota Venture Network Act shall be construed to provide a complete, additional,
9.18 and alternative method for performing the duties authorized and shall be regarded as
9.19 supplemental and additional to the powers conferred by any other law. The following must
9.20 not compromise, diminish, invalidate, or affect the provisions of any contract entered into
9.21 by the board, or the Minnesota capital fund:

9.22 (1) the level, timing, or degree of success of the Minnesota capital fund or the
9.23 investment funds in which the Minnesota capital fund invests; or

9.24 (2) the extent to which the investment funds are invested in Minnesota venture
9.25 capital projects or are successful in accomplishing any economic development objectives.

9.26 Sec. 8. **[116W.08] PERMISSIBLE INVESTMENTS.**

9.27 Investments by investors in the Minnesota capital fund are permissible investments
9.28 for state-chartered banks, credit unions, and domestic insurance companies under
9.29 applicable state laws.

9.30 Sec. 9. **[116W.09] ENFORCEMENT.**

9.31 The attorney general may enforce the provisions of this chapter and conduct any
9.32 investigations necessary for such enforcement.

S.F. No. 2049, as introduced - 86th Legislative Session (2009-2010) [09-3605]

10.1 Sec. 10. Minnesota Statutes 2008, section 290.06, is amended by adding a subdivision
10.2 to read:

10.3 Subd. 36. **Minnesota capital fund credit.** A person, as defined under section
10.4 116W.02, subdivision 6, who invests in the Minnesota capital fund is allowed a credit as
10.5 determined under section 116W.06 against the tax imposed under this chapter.

10.6 Sec. 11. **[297I.23] MINNESOTA CAPITAL FUND CREDIT.**

10.7 A person, as defined under section 116W.02, subdivision 6, who invests in the
10.8 Minnesota capital fund is allowed a credit as determined under section 116W.06 against
10.9 the tax imposed under this chapter.

10.10 Sec. 12. **EFFECTIVE DATE.**

10.11 Sections 1 to 5 and 7 to 9 are effective the day following final enactment. Sections
10.12 6, 10, and 11 are effective July 1, 2011.