

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 261

(SENATE AUTHORS: REST, Klein and Weber)

DATE	D-PG	OFFICIAL STATUS
01/12/2023	176	Introduction and first reading Referred to Taxes
01/19/2023	234	Comm report: To pass
	292	Second reading

1.1 A bill for an act

1.2 relating to taxation; tax increment financing; clarifying various pooling provisions;

1.3 clarifying administrative expense limitations; expanding the application of

1.4 violations and remedies; amending Minnesota Statutes 2022, sections 469.174,

1.5 subdivision 14, by adding a subdivision; 469.175, subdivision 6; 469.176,

1.6 subdivisions 3, 4; 469.1763, subdivisions 2, 3, 4, 6; 469.1771, subdivisions 2, 2a,

1.7 3.

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

1.9 Section 1. Minnesota Statutes 2022, section 469.174, subdivision 14, is amended to read:

1.10 Subd. 14. **Administrative expenses.** (a) "Administrative expenses" or "administrative

1.11 costs" means all documented expenditures of an authority other than or municipality,

1.12 including but not limited to:

1.13 (1) amounts paid for services provided by bond counsel, fiscal consultants, and economic

1.14 development consultants;

1.15 (2) allocated expenses and staff time of the authority or municipality for administering

1.16 a project, including but not limited to preparing the tax increment financing plan, negotiating

1.17 and preparing agreements, accounting for segregated funds of the district, preparing and

1.18 submitting required reporting for the district, and reviewing and monitoring compliance

1.19 with sections 469.174 to 469.1794;

1.20 (3) amounts paid to publish annual disclosures and provide notices under section 469.175;

1.21 (4) amounts to provide for the usual and customary maintenance and operation of

1.22 properties purchased with tax increments, including necessary reserves for repairs and the

1.23 cost of any insurance;

2.1 (5) amounts allocated or paid to prepare a development action response plan for a soils
 2.2 condition district or hazardous substance subdistrict; and

2.3 (6) amounts used to pay bonds, interfund loans, or other financial obligations to the
 2.4 extent those obligations were used to finance costs described in clauses (1) to (5).

2.5 (b) Administrative expenses and administrative costs do not include:

2.6 (1) amounts paid for the purchase of land and buildings;

2.7 (2) amounts paid to contractors or others providing materials and services, ~~including~~
 2.8 ~~architectural and engineering services,~~ directly connected with the physical development
 2.9 of the real property in the project, including architectural and engineering services and
 2.10 materials and services for demolition, soil correction, and the construction or installation
 2.11 of public improvements;

2.12 (3) relocation benefits paid to or services provided for persons residing or businesses
 2.13 located in the project;

2.14 ~~(4) amounts used to pay principal or interest on, fund a reserve for, or sell at a discount~~
 2.15 ~~bonds issued pursuant to section 469.178; or~~

2.16 ~~(5)~~ (4) amounts paid for property taxes or payments in lieu of taxes; and

2.17 (5) amounts used to pay principal or interest on, fund a reserve for, or sell at a discount
 2.18 bonds issued pursuant to section 469.178 or other financial obligations to the extent those
 2.19 obligations were used to finance costs described in clauses (1) to (3) (4).

2.20 ~~For districts for which the requests for certifications were made before August 1, 1979,~~
 2.21 ~~or after June 30, 1982, "administrative expenses" includes amounts paid for services provided~~
 2.22 ~~by bond counsel, fiscal consultants, and planning or economic development consultants.~~

2.23 This definition does not apply to administrative expenses or administrative costs referenced
 2.24 under section 469.176, subdivision 4h.

2.25 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 2.26 applies to all districts, regardless of when the request for certification was made.

2.27 Sec. 2. Minnesota Statutes 2022, section 469.174, is amended by adding a subdivision to
 2.28 read:

2.29 Subd. 30. **Pay-as-you-go contract and note.** "Pay-as-you-go contract and note" means
 2.30 a written note or contractual obligation under which all of the following apply:

3.1 (1) the note or contractual obligation evidences an authority's commitment to reimburse
 3.2 a developer, property owner, or note holder for the payment of costs of activities, including
 3.3 any interest on unreimbursed costs;

3.4 (2) the reimbursement is made from tax increment revenues identified in the note or
 3.5 contractual obligation as received by a municipality or authority as taxes are paid; and

3.6 (3) the risk that available tax increments may be insufficient to fully reimburse the costs
 3.7 is borne by the developer, property owner, or note holder.

3.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.9 Sec. 3. Minnesota Statutes 2022, section 469.175, subdivision 6, is amended to read:

3.10 Subd. 6. **Annual financial reporting.** (a) The state auditor shall develop a uniform
 3.11 system of accounting and financial reporting for tax increment financing districts. The
 3.12 system of accounting and financial reporting shall, as nearly as possible:

3.13 (1) provide for full disclosure of the sources and uses of tax increments of the district;

3.14 (2) permit comparison and reconciliation with the affected local government's accounts
 3.15 and financial reports;

3.16 (3) permit auditing of the funds expended on behalf of a district, including a single
 3.17 district that is part of a multidistrict project or that is funded in part or whole through the
 3.18 use of a development account funded with tax increments from other districts or with other
 3.19 public money;

3.20 (4) be consistent with generally accepted accounting principles.

3.21 (b) The authority must annually submit to the state auditor a financial report in compliance
 3.22 with paragraph (a). Copies of the report must also be provided to the county auditor and to
 3.23 the governing body of the municipality, if the authority is not the municipality. To the extent
 3.24 necessary to permit compliance with the requirement of financial reporting, the county and
 3.25 any other appropriate local government unit or private entity must provide the necessary
 3.26 records or information to the authority or the state auditor as provided by the system of
 3.27 accounting and financial reporting developed pursuant to paragraph (a). The authority must
 3.28 submit the annual report for a year on or before August 1 of the next year.

3.29 (c) The annual financial report must also include the following items:

3.30 (1) the original net tax capacity of the district and any subdistrict under section 469.177,
 3.31 subdivision 1;

- 4.1 (2) the net tax capacity for the reporting period of the district and any subdistrict;
- 4.2 (3) the captured net tax capacity of the district;
- 4.3 (4) any fiscal disparity deduction from the captured net tax capacity under section
- 4.4 469.177, subdivision 3;
- 4.5 (5) the captured net tax capacity retained for tax increment financing under section
- 4.6 469.177, subdivision 2, paragraph (b), clause (1);
- 4.7 (6) any captured net tax capacity distributed among affected taxing districts under section
- 4.8 469.177, subdivision 2, paragraph (b), clause (2);
- 4.9 (7) the type of district;
- 4.10 (8) the date the municipality approved the tax increment financing plan and the date of
- 4.11 approval of any modification of the tax increment financing plan, the approval of which
- 4.12 requires notice, discussion, a public hearing, and findings under subdivision 4, paragraph
- 4.13 (a);
- 4.14 (9) the date the authority first requested certification of the original net tax capacity of
- 4.15 the district and the date of the request for certification regarding any parcel added to the
- 4.16 district;
- 4.17 (10) the date the county auditor first certified the original net tax capacity of the district
- 4.18 and the date of certification of the original net tax capacity of any parcel added to the district;
- 4.19 (11) the ~~month~~ and year in which the authority has received or anticipates it will receive
- 4.20 the first increment from the district;
- 4.21 (12) the date the district must be decertified;
- 4.22 (13) for the reporting period and prior years of the district, the actual amount received
- 4.23 from, at least, the following categories:
- 4.24 (i) tax increments paid by the captured net tax capacity retained for tax increment
- 4.25 financing under section 469.177, subdivision 2, paragraph (b), clause (1), but excluding any
- 4.26 excess taxes;
- 4.27 (ii) tax increments that are interest or other investment earnings on or from tax increments;
- 4.28 (iii) tax increments that are proceeds from the sale or lease of property, tangible or
- 4.29 intangible, purchased by the authority with tax increments;
- 4.30 (iv) tax increments that are repayments of loans or other advances made by the authority
- 4.31 with tax increments;

- 5.1 (v) bond proceeds; and
- 5.2 (vi) the agricultural homestead market value credit paid to the authority under section
5.3 273.1384;
- 5.4 (14) for the reporting period and for the prior years of the district, the actual amount
5.5 expended for, at least, the following categories:
- 5.6 (i) acquisition of land and buildings through condemnation or purchase;
- 5.7 (ii) site improvements or preparation costs;
- 5.8 (iii) installation of public utilities, parking facilities, streets, roads, sidewalks, or other
5.9 similar public improvements;
- 5.10 (iv) administrative costs, including the allocated cost of the authority; and
- 5.11 (v) for housing districts, construction of affordable housing;
- 5.12 (15) the amount of any payments for activities and improvements located outside of the
5.13 district that are paid for or financed with tax increments;
- 5.14 (16) the amount of payments of principal and interest that are made during the reporting
5.15 period on any nondefeased:
- 5.16 (i) general obligation tax increment financing bonds; and
- 5.17 (ii) other tax increment financing bonds, including pay-as-you-go contracts and notes;
- 5.18 (17) the principal amount, at the end of the reporting period, of any nondefeased:
- 5.19 (i) general obligation tax increment financing bonds; and
- 5.20 (ii) other tax increment financing bonds, including pay-as-you-go contracts and notes;
- 5.21 (18) the amount of principal and interest payments that are due for the current calendar
5.22 year on any nondefeased:
- 5.23 (i) general obligation tax increment financing bonds; and
- 5.24 (ii) other tax increment financing bonds, including pay-as-you-go contracts and notes;
- 5.25 (19) if the fiscal disparities contribution under chapter 276A or 473F for the district is
5.26 computed under section 469.177, subdivision 3, paragraph (a), the amount of total increased
5.27 property taxes to be paid from outside the tax increment financing district; and
- 5.28 (20) any additional information the state auditor may require.

6.1 (d) The reporting requirements imposed by this subdivision apply to districts certified
6.2 before, on, and after August 1, 1979.

6.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.4 Sec. 4. Minnesota Statutes 2022, section 469.176, subdivision 3, is amended to read:

6.5 Subd. 3. **Limitation on administrative expenses.** (a) For districts for which certification
6.6 was requested before August 1, 2001, no tax increment shall be used to pay any
6.7 administrative expenses for a project which exceed ten percent of the total estimated tax
6.8 increment expenditures authorized by the tax increment financing plan or ten percent of the
6.9 total tax increment expenditures for the project net of any amounts returned to the county
6.10 auditor as excess increment; as returned increment under section 469.1763, subdivision 4,
6.11 paragraph (g); or as remedies under section 469.1771, subdivision 2, whichever is less.

6.12 (b) For districts for which certification was requested after July 31, 2001, no tax increment
6.13 may be used to pay any administrative expenses for a project which exceed ten percent of
6.14 total estimated tax increment expenditures authorized by the tax increment financing plan
6.15 or ten percent of the total tax increments, as defined in section 469.174, subdivision 25,
6.16 clause (1), from received for the district net of any amounts returned to the county auditor
6.17 as excess increment; as returned increment under section 469.1763, subdivision 4, paragraph
6.18 (g); or as remedies under section 469.1771, subdivision 2, whichever is less.

6.19 (c) Increments used to pay the county's administrative expenses under subdivision 4h
6.20 are not subject to the percentage limits in this subdivision.

6.21 (d) Increments defined under section 469.174, subdivision 25, clause (2), used for
6.22 administrative expenses described under section 469.174, subdivision 14, paragraph (a),
6.23 clause (4), are not subject to the percentage limits in this subdivision.

6.24 **EFFECTIVE DATE.** This section is effective the day following final enactment and
6.25 applies to all districts, regardless of when the request for certification was made.

6.26 Sec. 5. Minnesota Statutes 2022, section 469.176, subdivision 4, is amended to read:

6.27 Subd. 4. **Limitation on use of tax increment; general rule.** All revenues derived from
6.28 tax increment shall be used in accordance with the tax increment financing plan. The revenues
6.29 shall be used solely for the following purposes: (1) to pay the principal of and interest on
6.30 bonds issued to finance a project; (2) by a rural development financing authority for the
6.31 purposes stated in section 469.142₂; by a port authority or municipality exercising the powers
6.32 of a port authority to finance or otherwise pay the cost of redevelopment pursuant to sections

7.1 469.048 to 469.068₂; by an economic development authority to finance or otherwise pay
 7.2 the cost of redevelopment pursuant to sections 469.090 to 469.108₂; by a housing and
 7.3 redevelopment authority or economic development authority to finance or otherwise pay
 7.4 public redevelopment costs pursuant to sections 469.001 to 469.047₂; by a municipality or
 7.5 economic development authority to finance or otherwise pay the capital and administration
 7.6 costs of a development district pursuant to sections 469.124 to 469.133₂; by a municipality
 7.7 or authority to finance or otherwise pay the costs of developing and implementing a
 7.8 development action response plan₂; by a municipality or redevelopment agency to finance
 7.9 or otherwise pay premiums for insurance or other security guaranteeing the payment when
 7.10 due of principal of and interest on the bonds pursuant to chapter 462C, sections 469.152 to
 7.11 469.165, or both, or to accumulate and maintain a reserve securing the payment when due
 7.12 of the principal of and interest on the bonds pursuant to chapter 462C, sections 469.152 to
 7.13 469.165, or both, which revenues in the reserve shall not exceed, subsequent to the fifth
 7.14 anniversary of the date of issue of the first bond issue secured by the reserve, an amount
 7.15 equal to 20 percent of the aggregate principal amount of the outstanding and nondefeased
 7.16 bonds secured by the reserve; and (3) to pay administrative expenses.

7.17 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 7.18 applies to all districts, regardless of when the request for certification was made.

7.19 Sec. 6. Minnesota Statutes 2022, section 469.1763, subdivision 2, is amended to read:

7.20 Subd. 2. **Expenditures outside district.** (a) For each tax increment financing district,
 7.21 an amount equal to at least 75 percent of the total revenue derived from tax increments paid
 7.22 by properties in the district must be expended on activities in the district or to pay bonds,
 7.23 to the extent that the proceeds of the bonds were used to finance activities in the district or
 7.24 to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other
 7.25 than redevelopment districts for which the request for certification was made after June 30,
 7.26 1995, the in-district percentage for purposes of the preceding sentence is 80 percent. Not
 7.27 more than 25 percent of the total revenue derived from tax increments paid by properties
 7.28 in the district may be expended, through a development fund or otherwise, on activities
 7.29 outside of the district but within the defined geographic area of the project except to pay,
 7.30 or secure payment of, debt service on credit enhanced bonds. For districts, other than
 7.31 redevelopment districts for which the request for certification was made after June 30, 1995,
 7.32 the pooling percentage for purposes of the preceding sentence is 20 percent. The revenues
 7.33 derived from tax increments paid by properties in the district that are expended on costs
 7.34 under section 469.176, subdivision 4h, ~~paragraph (b)~~, may be deducted first before calculating
 7.35 the percentages that must be expended within and without the district.

8.1 (b) In the case of a housing district, a housing project, as defined in section 469.174,
8.2 subdivision 11, is an activity in the district.

8.3 (c) All administrative expenses are considered to be expenditures for activities outside
8.4 of the district, except that if the only expenses for activities outside of the district under this
8.5 subdivision are for the purposes described in paragraph (d), administrative expenses will
8.6 be considered as expenditures for activities in the district.

8.7 (d) The authority may elect, in the tax increment financing plan for the district, to increase
8.8 by up to ten percentage points the permitted amount of expenditures for activities located
8.9 outside the geographic area of the district under paragraph (a). As permitted by section
8.10 469.176, subdivision 4k, the expenditures, including the permitted expenditures under
8.11 paragraph (a), need not be made within the geographic area of the project. Expenditures
8.12 that meet the requirements of this paragraph are legally permitted expenditures of the district,
8.13 notwithstanding section 469.176, subdivisions 4b, 4c, and 4j. To qualify for the increase
8.14 under this paragraph, the expenditures must:

8.15 (1) be used exclusively to assist housing that meets the requirement for a qualified
8.16 low-income building, as that term is used in section 42 of the Internal Revenue Code; and

8.17 (2) not exceed the qualified basis of the housing, as defined under section 42(c) of the
8.18 Internal Revenue Code, less the amount of any credit allowed under section 42 of the Internal
8.19 Revenue Code; and

8.20 (3) be used to:

8.21 (i) acquire and prepare the site of the housing;

8.22 (ii) acquire, construct, or rehabilitate the housing; or

8.23 (iii) make public improvements directly related to the housing; or

8.24 (4) be used to develop housing:

8.25 (i) if the market value of the housing does not exceed the lesser of:

8.26 (A) 150 percent of the average market value of single-family homes in that municipality;

8.27 or

8.28 (B) \$200,000 for municipalities located in the metropolitan area, as defined in section
8.29 473.121, or \$125,000 for all other municipalities; and

8.30 (ii) if the expenditures are used to pay the cost of site acquisition, relocation, demolition
8.31 of existing structures, site preparation, and pollution abatement on one or more parcels, if
8.32 the parcel contains a residence containing one to four family dwelling units that has been

9.1 vacant for six or more months and is in foreclosure as defined in section 325N.10, subdivision
 9.2 7, but without regard to whether the residence is the owner's principal residence, and only
 9.3 after the redemption period has expired; or

9.4 (5) to assist owner-occupied housing that meets the requirements of section 469.1761,
 9.5 subdivision 2.

9.6 (e) The authority under paragraph (d), clause (4), expires on December 31, 2016.
 9.7 Increments may continue to be expended under this authority after that date, if they are used
 9.8 to pay bonds or binding contracts that would qualify under subdivision 3, paragraph (a), if
 9.9 December 31, 2016, is considered to be the last date of the five-year period after certification
 9.10 under that provision.

9.11 (f) For purposes of determining whether the minimum percentage of expenditures for
 9.12 activities in the district and maximum percentages of expenditures allowed on activities
 9.13 outside the district have been met under this subdivision, any amounts returned to the county
 9.14 auditor as excess increment, as returned increment under subdivision 4, paragraph (g), or
 9.15 as remedies under section 469.1771, subdivision 2, shall first be subtracted from the total
 9.16 revenues derived from tax increments paid by properties in the district. Any other amounts
 9.17 returned to the county auditor for purposes other than a remedy under section 469.1771,
 9.18 subdivision 3, are considered to be expenditures for activities in the district.

9.19 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 9.20 applies to all districts with a request for certification date after April 30, 1990, except that
 9.21 paragraph (f) shall apply to districts decertifying after December 31, 2023.

9.22 Sec. 7. Minnesota Statutes 2022, section 469.1763, subdivision 3, is amended to read:

9.23 Subd. 3. **Five-year rule.** (a) Revenues derived from tax increments paid by properties
 9.24 in the district ~~that are considered to have been~~ expended on an activity within the district
 9.25 ~~under~~ will instead be considered to have been expended on an activity outside the district
 9.26 for purposes of subdivision 2 only if one of the following occurs unless:

9.27 (1) before or within five years after certification of the district, the revenues are actually
 9.28 paid to a third party with respect to the activity;

9.29 (2) bonds, the proceeds of which must be used to finance the activity, are issued and
 9.30 sold to a third party before or within five years after certification of the district, the revenues
 9.31 are spent to repay the bonds, and the proceeds of the bonds either are, on the date of issuance,
 9.32 reasonably expected to be spent before the end of the later of (i) the five-year period, or (ii)
 9.33 a reasonable temporary period within the meaning of the use of that term under section

10.1 148(c)(1) of the Internal Revenue Code, or are deposited in a reasonably required reserve
10.2 or replacement fund;

10.3 (3) binding contracts with a third party are entered into for performance of the activity
10.4 before or within five years after certification of the district and the revenues are spent under
10.5 the contractual obligation;

10.6 (4) costs with respect to the activity are paid before or within five years after certification
10.7 of the district and the revenues are spent to reimburse a party for payment of the costs,
10.8 including interest on unreimbursed costs; or

10.9 (5) ~~expenditures are made~~ revenues are spent for housing purposes as permitted described
10.10 by subdivision 2, paragraphs paragraph (b) and (d), or for public infrastructure purposes
10.11 within a zone as permitted by subdivision 2, paragraph (e).

10.12 (b) For purposes of this subdivision, bonds include subsequent refunding bonds if the
10.13 original refunded bonds meet the requirements of paragraph (a), clause (2).

10.14 (c) For a redevelopment district or a renewal and renovation district certified after June
10.15 30, 2003, and before April 20, 2009, the five-year periods described in paragraph (a) are
10.16 extended to ten years after certification of the district. For a redevelopment district certified
10.17 after April 20, 2009, and before June 30, 2012, the five-year periods described in paragraph
10.18 (a) are extended to eight years after certification of the district. This extension is provided
10.19 primarily to accommodate delays in development activities due to unanticipated economic
10.20 circumstances.

10.21 (d) For a redevelopment district that was certified after December 31, 2017, and before
10.22 June 30, 2020, the five-year periods described in paragraph (a) are extended to eight years
10.23 after certification of the district.

10.24 **EFFECTIVE DATE.** This section is effective the day following final enactment and
10.25 applies to all districts with a request for certification date after April 30, 1990.

10.26 Sec. 8. Minnesota Statutes 2022, section 469.1763, subdivision 4, is amended to read:

10.27 **Subd. 4. Use of revenues for decertification.** ~~(a) In each year beginning with the sixth~~
10.28 ~~year following certification of the district, or beginning with the ninth year following~~
10.29 ~~certification of the district for districts whose five-year rule is extended to eight years under~~
10.30 ~~subdivision 3, paragraph (d), if the applicable in-district percent of the revenues derived~~
10.31 ~~from tax increments paid by properties in the district exceeds the amount of expenditures~~
10.32 ~~that have been made for costs permitted under subdivision 3, an amount equal to the~~
10.33 ~~difference between the in-district percent of the revenues derived from tax increments paid~~

11.1 ~~by properties in the district and the amount of expenditures that have been made for costs~~
 11.2 ~~permitted under subdivision 3 must be used and only used to pay or defease the following~~
 11.3 ~~or be set aside to pay the following:~~

11.4 ~~(1) outstanding bonds, as defined in subdivision 3, paragraphs (a), clause (2), and (b);~~

11.5 ~~(2) contracts, as defined in subdivision 3, paragraph (a), clauses (3) and (4);~~

11.6 ~~(3) credit enhanced bonds to which the revenues derived from tax increments are pledged,~~
 11.7 ~~but only to the extent that revenues of the district for which the credit enhanced bonds were~~
 11.8 ~~issued are insufficient to pay the bonds and to the extent that the increments from the~~
 11.9 ~~applicable pooling percent share for the district are insufficient; or~~

11.10 ~~(4) the amount provided by the tax increment financing plan to be paid under subdivision~~
 11.11 ~~2, paragraphs (b), (d), and (e).~~

11.12 ~~(b) The~~ (a) Beginning with the sixth year following certification of the district, or
 11.13 beginning with the year following the extended period for districts whose five-year period
 11.14 is extended under subdivision 3, paragraphs (c) and (d), a district must be decertified and
 11.15 the pledge of tax increment discharged when the outstanding bonds have been defeased and
 11.16 when sufficient money has been set aside to pay, based on the product of the applicable
 11.17 in-district percentage multiplied by the increment to be cumulative revenues derived from
 11.18 tax increments paid by properties in the district that have been collected through the end of
 11.19 the calendar year, equals or exceeds an amount sufficient to pay the following amounts:

11.20 ~~(1) contractual~~ any costs and obligations as defined described in subdivision 3, paragraph
 11.21 paragraphs (a), clauses (3) and (4); and (b), excluding those under a qualifying pay-as-you-go
 11.22 contract and note;

11.23 ~~(2) the amount specified in the tax increment financing plan for activities qualifying~~
 11.24 ~~under subdivision 2, paragraph (b), that have not been funded with the proceeds of bonds~~
 11.25 ~~qualifying under paragraph (a), clause (1); and~~

11.26 ~~(3) the additional expenditures permitted by the tax increment financing plan for housing~~
 11.27 ~~activities under an election under subdivision 2, paragraph (d), that have not been funded~~
 11.28 ~~with the proceeds of bonds qualifying under paragraph (a), clause (1).~~

11.29 (2) any accrued interest on the costs and obligations in clause (1), payable in accordance
 11.30 with the terms thereof; and

11.31 (3) any administrative expenses falling within the exception in subdivision 2, paragraph
 11.32 (c).

12.1 (b) For districts with an outstanding qualifying pay-as-you-go contract and note, the
12.2 required decertification under paragraph (a) is deferred until the end of the remaining term
12.3 of the last outstanding qualifying pay-as-you-go contract and note, and the applicable
12.4 in-district percentage of cumulative revenues derived from tax increments paid by properties
12.5 in the district are sufficient to pay the obligations identified in subdivision 3, paragraphs
12.6 (a) and (b), provided that the deferral shall not exceed the district's duration limit under
12.7 section 469.176. During the deferral, beginning at the time paragraph (a) would otherwise
12.8 require decertification, the authority must annually either:

12.9 (1) remove from the district, by the end of the year, all parcels that will no longer have
12.10 their tax increment revenue pledged or subject to a qualifying pay-as-you-go contract and
12.11 note or other costs and obligations described in subdivision 3, paragraphs (a) and (b), after
12.12 the end of the year; or

12.13 (2) use the applicable in-district percentage of revenues derived from tax increments
12.14 paid by those parcels to prepay an outstanding qualifying pay-as-you-go contract and note
12.15 of the district or other costs and obligations described in subdivision 3, paragraphs (a) and
12.16 (b), or to accumulate and use revenues derived from tax increments paid by those parcels
12.17 as permitted under paragraph (i).

12.18 The authority must remove any parcels as required by this paragraph by modification
12.19 of the tax increment financing plan and notify the county auditor of the removed parcels by
12.20 the end of the same calendar year. Notwithstanding section 469.175, subdivision 4,
12.21 paragraphs (b), clause (1), and (e), the notice, discussion, public hearing, and findings
12.22 required for approval of the original plan are not required for such a modification.

12.23 (c) Notwithstanding paragraph (a) or (b), if tax increment was pledged prior to August
12.24 1, 2023, to a bond other than a pay-as-you-go contract and note or interfund loan, and the
12.25 proceeds of the bond were used solely or in part to pay authorized costs for activities outside
12.26 the district, the requirement to decertify under paragraph (a) or remove parcels under
12.27 paragraph (b) shall not apply prior to the bond being fully paid or defeased.

12.28 (d) For purposes of this subdivision, "applicable in-district percentage" means the
12.29 percentage of tax increment revenue that is restricted for expenditures within the district,
12.30 as determined under subdivision 2, paragraphs (a) and (d), for the district.

12.31 (e) For purposes of this subdivision, "qualifying pay-as-you-go contract and note" means
12.32 a pay-as-you-go contract and note that is considered to be for activities within the district
12.33 under subdivision 3, paragraph (a).

13.1 (f) For purposes of this subdivision, the reference in paragraph (a) to cumulative revenues
13.2 derived from tax increments paid by properties in the district through the end of the calendar
13.3 year shall include any final settlement distributions made in the following January. For
13.4 purposes of the calculation in paragraph (a), any amounts returned to the county auditor as
13.5 excess increment or as remedies under section 469.1771, subdivision 2, shall first be
13.6 subtracted from the cumulative revenues derived from tax increments paid by properties in
13.7 the district.

13.8 (g) The timing and implementation of a decertification pursuant to paragraphs (a) and
13.9 (b) shall be subject to the following:

13.10 (1) when a decertification is required under paragraph (a) and not deferred under
13.11 paragraph (b), the authority must, as soon as practical and no later than the final settlement
13.12 distribution date of January 25 as identified in section 276.111 for the property taxes payable
13.13 in the calendar year identified in paragraph (a), make the decertification by resolution
13.14 effective for the end of the calendar year identified in paragraph (a), and communicate the
13.15 decertification to the county auditor;

13.16 (2) when a decertification is deferred under paragraph (b), the authority must, by
13.17 December 31 of the year in which the last qualifying pay-as-you-go contract and note reaches
13.18 termination, make the decertification by resolution effective for the end of that calendar
13.19 year and communicate the decertification to the county auditor;

13.20 (3) if the county auditor is unable to prevent tax increments from being calculated for
13.21 taxes payable in the year following the year for which the decertification is made effective,
13.22 the county auditor may redistribute the tax increments in the same manner as excess
13.23 increments under section 469.176, subdivision 2, paragraph (c), clause (4), without first
13.24 distributing them to the authority; and

13.25 (4) if tax increments are distributed to an authority for a taxes payable year after the year
13.26 for which the decertification was required to be effective, the authority must return the
13.27 amount of the distributions to the county auditor for redistribution in the same manner as
13.28 excess increments under section 469.176, subdivision 2, paragraph (c), clause (4).

13.29 (h) The provisions of this subdivision do not apply to a housing district.

13.30 (i) Notwithstanding anything to the contrary in paragraph (a) or (b), if an authority has
13.31 made the election in the tax increment financing plan for the district under subdivision 2,
13.32 paragraph (d), then the requirement to decertify under paragraph (a) or remove parcels under
13.33 paragraph (b) shall not apply prior to such time that the accumulated revenues derived from
13.34 tax increments paid by properties in the district that are eligible to be expended for housing

14.1 purposes described under subdivision 2, paragraph (d), equals the lesser of the amount the
 14.2 authority is permitted to expend for housing purposes described under subdivision 2,
 14.3 paragraph (d), or the amount authorized for such purposes in the tax increment financing
 14.4 plan. Increment revenues collected after the district would have decertified under paragraph
 14.5 (a) or from parcels which otherwise would be subject to removal under paragraph (b), absent
 14.6 the exception of this paragraph, shall be used solely for housing purposes as described in
 14.7 subdivision 2, paragraph (d).

14.8 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 14.9 applies to all districts with a request for certification after April 30, 1990, except that the
 14.10 requirements under paragraph (b) to remove parcels or use revenues from such parcels as
 14.11 prescribed in paragraph (b) apply only to districts for which the request for certification
 14.12 was made after the day following final enactment.

14.13 Sec. 9. Minnesota Statutes 2022, section 469.1763, subdivision 6, is amended to read:

14.14 Subd. 6. **Pooling permitted for deficits.** (a) This subdivision applies only to districts
 14.15 for which the request for certification was made before August 1, 2001, and without regard
 14.16 to whether the request for certification was made prior to August 1, 1979.

14.17 (b) The municipality for the district may transfer available increments from another tax
 14.18 increment financing district located in the municipality, if the transfer is necessary to
 14.19 eliminate a deficit in the district to which the increments are transferred. The municipality
 14.20 may transfer increments as provided by this subdivision without regard to whether the
 14.21 transfer or expenditure is authorized by the tax increment financing plan for the district
 14.22 from which the transfer is made. A deficit in the district for purposes of this subdivision
 14.23 means the lesser of the following two amounts:

14.24 (1) ~~(i)~~ the amount due during the calendar year to pay preexisting obligations of the
 14.25 district; minus the sum of

14.26 ~~(ii)~~ (i) the total increments collected or to be collected from properties located within
 14.27 the district that are available for the calendar year including amounts collected in prior years
 14.28 that are currently available; plus

14.29 ~~(iii)~~ (ii) total increments from properties located in other districts in the municipality
 14.30 including amounts collected in prior years that are available to be used to meet the district's
 14.31 obligations under this section, excluding this subdivision, or other provisions of law; or

14.32 (2) the reduction in increments collected from properties located in the district for the
 14.33 calendar year as a result of the changes in classification rates in Laws 1997, chapter 231,

15.1 article 1; Laws 1998, chapter 389, article 2; and Laws 1999, chapter 243, and Laws 2001,
15.2 First Special Session chapter 5, or the elimination of the general education tax levy under
15.3 Laws 2001, First Special Session chapter 5.

15.4 The authority may compute the deficit amount under clause (1) only (without regard to
15.5 the limit under clause (2)) if the authority makes an irrevocable commitment, by resolution,
15.6 to use increments from the district to which increments are to be transferred and any
15.7 transferred increments are only used to pay preexisting obligations and administrative
15.8 expenses for the district that are required to be paid under section 469.176, subdivision 4h,
15.9 paragraph (a).

15.10 (c) A preexisting obligation means:

15.11 (1) bonds issued and sold before August 1, 2001, or bonds issued pursuant to a binding
15.12 contract requiring the issuance of bonds entered into before July 1, 2001, and bonds issued
15.13 to refund such bonds or to reimburse expenditures made in conjunction with a signed
15.14 contractual agreement entered into before August 1, 2001, to the extent that the bonds are
15.15 secured by a pledge of increments from the tax increment financing district; and

15.16 (2) binding contracts entered into before August 1, 2001, to the extent that the contracts
15.17 require payments secured by a pledge of increments from the tax increment financing district.

15.18 (d) The municipality may require a development authority, other than a seaway port
15.19 authority, to transfer available increments including amounts collected in prior years that
15.20 are currently available for any of its tax increment financing districts in the municipality to
15.21 make up an insufficiency in another district in the municipality, regardless of whether the
15.22 district was established by the development authority or another development authority.
15.23 This authority applies notwithstanding any law to the contrary, but applies only to a
15.24 development authority that:

15.25 (1) was established by the municipality; or

15.26 (2) the governing body of which is appointed, in whole or part, by the municipality or
15.27 an officer of the municipality or which consists, in whole or part, of members of the
15.28 governing body of the municipality. The municipality may use this authority only after it
15.29 has first used all available increments of the receiving development authority to eliminate
15.30 the insufficiency and exercised any permitted action under section 469.1792, subdivision
15.31 3, for preexisting districts of the receiving development authority to eliminate the
15.32 insufficiency.

16.1 (e) The authority under this subdivision to spend tax increments outside of the area of
16.2 the district from which the tax increments were collected:

16.3 (1) is an exception to the restrictions under section 469.176, subdivisions 4b, 4c, 4d, 4e,
16.4 4i, and 4j; the expenditure limits under section 469.176, subdivision 1c; and the other
16.5 provisions of this section; and the percentage restrictions under subdivision 2 must be
16.6 calculated after deducting increments spent under this subdivision from the total increments
16.7 for the district; and

16.8 (2) applies notwithstanding the provisions of the Tax Increment Financing Act in effect
16.9 for districts for which the request for certification was made before June 30, 1982, or any
16.10 other law to the contrary.

16.11 (f) If a preexisting obligation requires the development authority to pay an amount that
16.12 is limited to the increment from the district or a specific development within the district and
16.13 if the obligation requires paying a higher amount to the extent that increments are available,
16.14 the municipality may determine that the amount due under the preexisting obligation equals
16.15 the higher amount and may authorize the transfer of increments under this subdivision to
16.16 pay up to the higher amount. The existence of a guarantee of obligations by the individual
16.17 or entity that would receive the payment under this paragraph is disregarded in the
16.18 determination of eligibility to pool under this subdivision. The authority to transfer increments
16.19 under this paragraph may only be used to the extent that the payment of all other preexisting
16.20 obligations in the municipality due during the calendar year have been satisfied.

16.21 (g) For transfers of increments made in calendar year 2005 and later, the reduction in
16.22 increments as a result of the elimination of the general education tax levy for purposes of
16.23 paragraph (b), clause (2), for a taxes payable year equals the general education tax rate for
16.24 the school district under Minnesota Statutes 2000, section 273.1382, subdivision 1, for taxes
16.25 payable in 2001, multiplied by the captured tax capacity of the district for the current taxes
16.26 payable year.

16.27 **EFFECTIVE DATE.** This section is effective the day following final enactment and
16.28 applies only to districts for which the request for certification was made before August 1,
16.29 2001, and without regard to whether the request for certification was made prior to August
16.30 1, 1979.

16.31 Sec. 10. Minnesota Statutes 2022, section 469.1771, subdivision 2, is amended to read:

16.32 Subd. 2. **Collection of increment.** If an authority includes or retains a parcel of property
16.33 in a tax increment financing district that does not qualify for inclusion or retention within

17.1 the district, the authority must pay to the county auditor an amount of money equal to the
 17.2 increment collected from the property for the year or years. The property must be eliminated
 17.3 from the original and captured tax capacity of the district effective for the current property
 17.4 tax assessment year. ~~This subdivision does not apply to a failure to decertify a district at~~
 17.5 ~~the end of the duration limit specified in the tax increment financing plan.~~

17.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

17.7 Sec. 11. Minnesota Statutes 2022, section 469.1771, subdivision 2a, is amended to read:

17.8 Subd. 2a. **Suspension of distribution of tax increment.** (a) If an authority fails to make
 17.9 a disclosure or to submit a report containing the information required by section 469.175,
 17.10 subdivisions 5 and 6, regarding a tax increment financing district within the time provided
 17.11 in section 469.175, subdivisions 5 and 6, the state auditor shall mail to the authority a written
 17.12 notice that it or the municipality has failed to make the required disclosure or to submit a
 17.13 required report with respect to a particular district. The state auditor shall mail the notice
 17.14 on or before the third Tuesday of August of the year in which the disclosure or report was
 17.15 required to be made or submitted. The notice must describe the consequences of failing to
 17.16 disclose or submit a report as provided in paragraph (b). If the state auditor has not received
 17.17 a copy of a disclosure or a report described in this paragraph on or before the first day of
 17.18 October of the year in which the disclosure or report was required to be made or submitted,
 17.19 the state auditor shall mail a written notice to the county auditor to hold the distribution of
 17.20 tax increment from a particular district.

17.21 (b) Upon receiving written notice from the state auditor to hold the distribution of tax
 17.22 increment, the county auditor shall hold all tax increment that otherwise would be distributed
 17.23 after receipt of the notice, until further notified under paragraph (c).

17.24 ~~(1) 100 percent of the amount of tax increment that otherwise would be distributed, if~~
 17.25 ~~the distribution is made after the first day of October but during the year in which the~~
 17.26 ~~disclosure or report was required to be made or submitted; or~~

17.27 ~~(2) 100 percent of the amount of tax increment that otherwise would be distributed, if~~
 17.28 ~~the distribution is made after December 31 of the year in which the disclosure or report was~~
 17.29 ~~required to be made or submitted.~~

17.30 (c) Upon receiving the copy of the disclosure and all of the reports described in paragraph
 17.31 (a) with respect to a district regarding which the state auditor has mailed to the county
 17.32 auditor a written notice to hold distribution of tax increment, the state auditor shall mail to
 17.33 the county auditor a written notice lifting the hold and authorizing the county auditor to

18.1 distribute to the authority or municipality any tax increment that the county auditor had held
18.2 pursuant to paragraph (b). The state auditor shall mail the written notice required by this
18.3 paragraph within five working days after receiving the last outstanding item. The county
18.4 auditor shall distribute the tax increment to the authority or municipality within 15 working
18.5 days after receiving the written notice required by this paragraph.

18.6 (d) Notwithstanding any law to the contrary, any interest that accrues on tax increment
18.7 while it is being held by the county auditor pursuant to paragraph (b) is not tax increment
18.8 and may be retained by the county.

18.9 (e) For purposes of sections 469.176, subdivisions 1a to 1g, and 469.177, subdivision
18.10 11, tax increment being held by the county auditor pursuant to paragraph (b) is considered
18.11 distributed to or received by the authority or municipality as of the time that it would have
18.12 been distributed or received but for paragraph (b).

18.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

18.14 Sec. 12. Minnesota Statutes 2022, section 469.1771, subdivision 3, is amended to read:

18.15 Subd. 3. **Expenditure of increment.** If an authority expends revenues derived from tax
18.16 increments, including the proceeds of tax increment bonds, (1) for a purpose that is not a
18.17 permitted project under ~~section 469.176~~ sections 469.174 to 469.1794, (2) for a purpose
18.18 that is not permitted under ~~section 469.176~~ sections 469.174 to 469.1794 for the district
18.19 from which the increment was received, or (3) on activities outside of the geographic area
18.20 in which the revenues may be expended under this chapter, the authority must pay to the
18.21 county auditor an amount equal to the expenditures made in violation of the law.

18.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.