

STATE OF MINNESOTA

Office of the State Auditor



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State Auditor

TAX INCREMENT FINANCING LEGISLATIVE REPORT

TIF Reports for the Year Ended December 31, 2009
TIF Audits Concluded for the Year Ended December 31, 2010

Description of the Office of the State Auditor

The mission of the Office of the State Auditor is to oversee local government finances for Minnesota taxpayers by helping to ensure financial integrity and accountability in local governmental financial activities.

Through financial, compliance, and special audits, the State Auditor oversees and ensures that local government funds are used for the purposes intended by law and that local governments hold themselves to the highest standards of financial accountability.

The State Auditor performs approximately 160 financial and compliance audits per year and has oversight responsibilities for over 3,300 local units of government throughout the state. The office currently maintains five divisions:

Audit Practice - conducts financial and legal compliance audits for local governments;

Government Information - collects and analyzes financial information for cities, towns, counties, and special districts;

Legal/Special Investigations - provides legal analysis and counsel to the Office and responds to outside inquiries about Minnesota local government law; as well as investigates allegations of misfeasance, malfeasance, and nonfeasance in local government;

Pension - monitors investment, financial, and actuarial reporting for approximately 730 public pension funds; and

Tax Increment Financing - promotes compliance and accountability in local governments' use of tax increment financing through financial and compliance audits.

The State Auditor serves on the State Executive Council, State Board of Investment, Land Exchange Board, Public Employee's Retirement Association Board, Minnesota Housing Finance Agency, and the Rural Finance Authority Board.

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TAX INCREMENT FINANCING LEGISLATIVE REPORT

TIF Reports for the Year Ended December 31, 2009
TIF Audits Concluded for the Year Ended December 31, 2010



January 26, 2011

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TAX INCREMENT FINANCING REPORT

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EXECUTIVE SUMMARY

Current Trends

- In calendar year 2009, development authorities returned **\$10,503,928** in tax increment revenues to the county auditor for redistribution to the city, county, and school district as property taxes. (p. 17)
- Fifty-six TIF districts were certified in Minnesota during calendar year 2009, while 153 TIF districts were decertified. (p. 22)
- In 2009, 34% of the total number of TIF districts were located in the Metro Area; 66% were located in Greater Minnesota. However, 83% of the tax increment revenue generated in 2009 was from districts located within the Metro Area. (p. 17)

Long-Term Trends

- The total number of TIF districts certified between 2005 and 2009 decreased by 43%. (p. 20)
- When examining trends over the five-year period between 2005 and 2009, it is interesting to note that the number of housing districts created or certified consistently decreased, while after four years of consistent growth, the number of economic development districts declined sharply in 2009. (p. 20)
- Over the ten-year period covering 2000 through 2009, the number of districts certified has decreased 67%. (p. 23)

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Scope and Methodology

In 1995, the Minnesota Legislature assigned compliance oversight for tax increment financing (TIF) to the Office of the State Auditor.¹ This oversight includes examining and auditing the use of TIF by political subdivisions, as authorized by the Minnesota Tax Increment Financing Act (TIF Act).²

The TIF Act requires an authority to file with the Office of the State Auditor annual financial reports for each of its TIF districts. This reporting requirement applies to all TIF districts regardless of when they were created. An authority must submit its reports on or before August 1 of each year, starting in the year in which the district is certified.

A total of 433 development authorities had 1,981 TIF districts for which they were required to file TIF reports with the Office of the State Auditor for the year ended December 31, 2009. To date, the Office of the State Auditor has received reports for 1,979 of the TIF districts.

Of the 433 development authorities required to file reports, 416 submitted complete reports by the statutory deadline of August 1. On August 17, 2010, letters were sent to the remaining 17 development authorities, addressed to the governing board of the municipality, advising them that the required reports had not been filed.

Of the 17 authorities that had not filed complete reports by the statutory deadline, three still had not filed all of the required reports as of October 1, 2010. Pursuant to Minnesota law, a notice was mailed to each of the applicable county auditors to withhold tax increment that otherwise would have been distributed to the authorities from the identified TIF districts.³ As of the date of this report, two authorities have not yet completed filing their reports.⁴

This fifteenth Annual Legislative Report was compiled from information received from the 433 municipalities and development authorities currently authorized to exercise TIF powers in Minnesota. The Report summarizes the data received from the 1,979 unaudited TIF reports for the year ended December 31, 2009, and provides a summary of the violations cited in the limited-scope reviews concluded by the Office of the State Auditor in 2010. This Report contains a summary of the TIF reports and audits and is provided annually to the chairs of the legislative committees with jurisdiction over TIF matters.⁵

¹ Minn. Stat. § 469.1771.

² Minn. Stat. §§ 469.174 through 469.1799 inclusive, as amended.

³ Minn. Stat. § 469.1771, subd. 2a. Any authority which has not filed complete TIF reports by October 1 will have 100% of the tax increment withheld from any payment scheduled to be made after October 1 until the authority has filed complete reporting forms with the Office of the State Auditor.

⁴ The Appleton Economic Development Authority and the City of Hitterdal have not filed the required reporting forms for 2008 or 2009.

⁵ Minn. Stat. § 469.1771, subd. 1(c).

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TAX INCREMENT FINANCING LEGISLATIVE REPORT

BACKGROUND

Tax increment financing (TIF) is a tool created by the Legislature to promote economic development, redevelopment, and housing development in areas where it would not otherwise occur. A development authority, which could be either a city, an entity created by a city, or an entity created by a county, “captures” the revenues generated by an increase in net tax capacity. New development within a designated geographic area, called a TIF district, generates the increase in tax capacity. The development authority uses the tax increment revenues to finance public improvements and other qualifying costs related to the new development.

Tax increment financing is not a property tax abatement program. The owner of the property located in the TIF district continues to pay the same amount of property taxes that would have otherwise been paid. Instead of being paid to the local taxing jurisdictions for their general use, the portion of property taxes generated by the new development is used to pay for public improvements and qualifying costs that made the new development possible. Examples of such costs include: land and building acquisition, demolition of structurally substandard buildings, removal of hazardous substances, site preparation, installation of utilities, and road improvements. The costs that may be paid from tax increment revenues depend on the type of development activity taking place, the type of TIF district created, and the year in which the TIF district was created.

In some TIF districts, bonds are sold by the municipality or development authority at the outset of the development activity so that funds are available for front-end costs, such as pollution clean-up. The bonds are then fully or partially paid with tax increment revenues from the TIF district. In other TIF districts, the authority or municipality loans or advances money from its general fund or from any other fund for which it has legal authority. The loan or advance must be authorized by resolution of the governing body before money is transferred, advanced, or spent. The terms and conditions for repayment of the loan must be provided in writing and include, at a minimum, the principal amount, the interest rate, and maximum term.¹

Pay-as-you-go (PAYG) financing is often used as an alternative to up-front bond financing. Under this type of bond, the development costs are initially paid by the developer pursuant to the terms of a (re)development agreement. After the qualifying costs are substantiated, the developer is then reimbursed pursuant to the terms of the PAYG note if, and when, tax increment is generated by the TIF district. Generally, in PAYG financing, the developer accepts the risks of failed development. If the tax base does not increase and tax increments are not generated as anticipated, the developer does not get reimbursed.

¹ Minn. Stat. § 469.178, subd. 7.

Development authorities within municipalities may create TIF districts.² Development authorities derive their powers from the Housing and Redevelopment Authorities (HRA) Act, the Port Authorities Act, the Economic Development Authorities (EDA) Act, and the Rural Development Financing Authorities Act.³ Any municipality administering a city development district or the powers of a port authority under any general or special law is also a development authority.⁴ City council members may also serve on the board of an HRA, an EDA, or a port authority established by the city they serve. Counties do not have independent development powers but can establish county HRAs and EDAs on which county board members may serve. A development authority must be in place before a TIF district can be created.

Each underlying development entity has unique development powers which come from the development authority. These powers identify the purposes for which tax increment can be used. The TIF Act, however, limits the development authority powers.⁵

The development authority laws and the TIF Act are linked through the term “project.”⁶ The term “project” is used differently in each of the development authority laws. A project can be (1) any combination of a housing project, a housing development project, or a redevelopment project; (2) property/cash/assets/funds held or used in connection with the development or operation of a project in the HRA Act;⁷ or, (3) a designated area within a city in the City Development Districts Act.⁸

When the TIF Act was enacted in 1979, the Legislature intended a TIF district to be the parcel on which new development activity was occurring. The geographic area of a project was intended to be only modestly larger than the TIF district to permit tax increment revenues to be spent outside the district but within a larger area. Tax increment could then be used to connect utilities and other infrastructure from the developed area of the community to the site. However, no specific statutory limits were placed on the size of the geographic area of a project, and the development authority laws themselves do not contain explicit limits on the size of areas that can qualify as projects.

² Minn. Stat. § 469.174, subd. 2 and subd. 6. Counties are defined as “municipalities” for projects undertaken by county development authorities.

³ Minn. Stat. § 469.174, subd. 2, lists the statutory citations for the HRA Act, the Port Authorities Act, the EDA Act, the City Development Districts Act, and the Rural Development Financing Authorities Act.

⁴ Minn. Stat. § 469.14, subd. 2. HRAs, port authorities, and EDAs are public bodies, corporate and politic; rural development financing authorities are public nonprofit corporations; city development districts are designated areas within the corporate limits of a city.

⁵ Minn. Stat. §§ 469.174 to 469.1799, as amended. The Act also provides procedures for establishing TIF districts and for the administration of districts, as well as providing additional development powers.

⁶ Minn. Stat. § 469.174, subd. 8.

⁷ Minn. Stat. § 469.002, subd. 12.

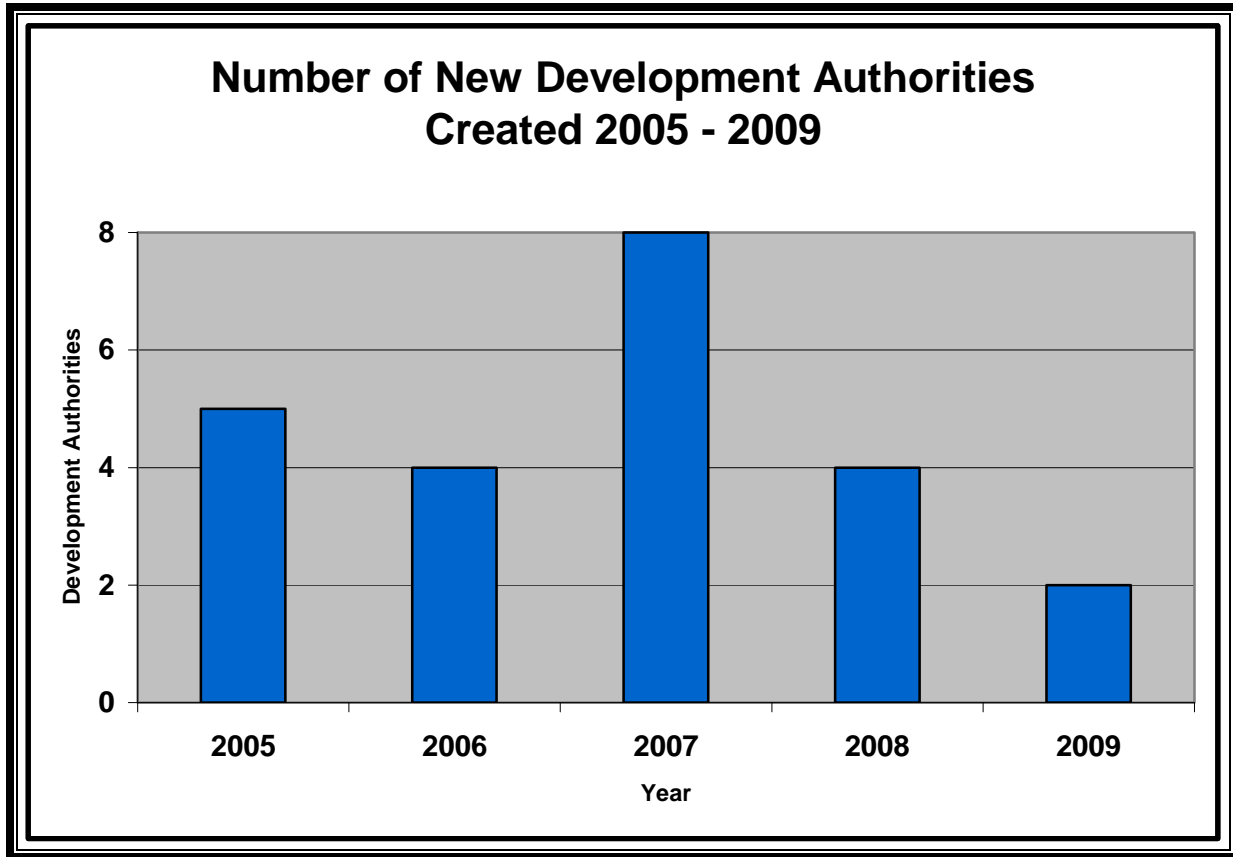
⁸ Minn. Stat. § 469.125, subd. 9.

Development Authorities

In 2009, two new development authorities were created, for a current total of 433 active development authorities.

Figure 1 below shows the number of new development authorities created over the past five years.

Figure 1.

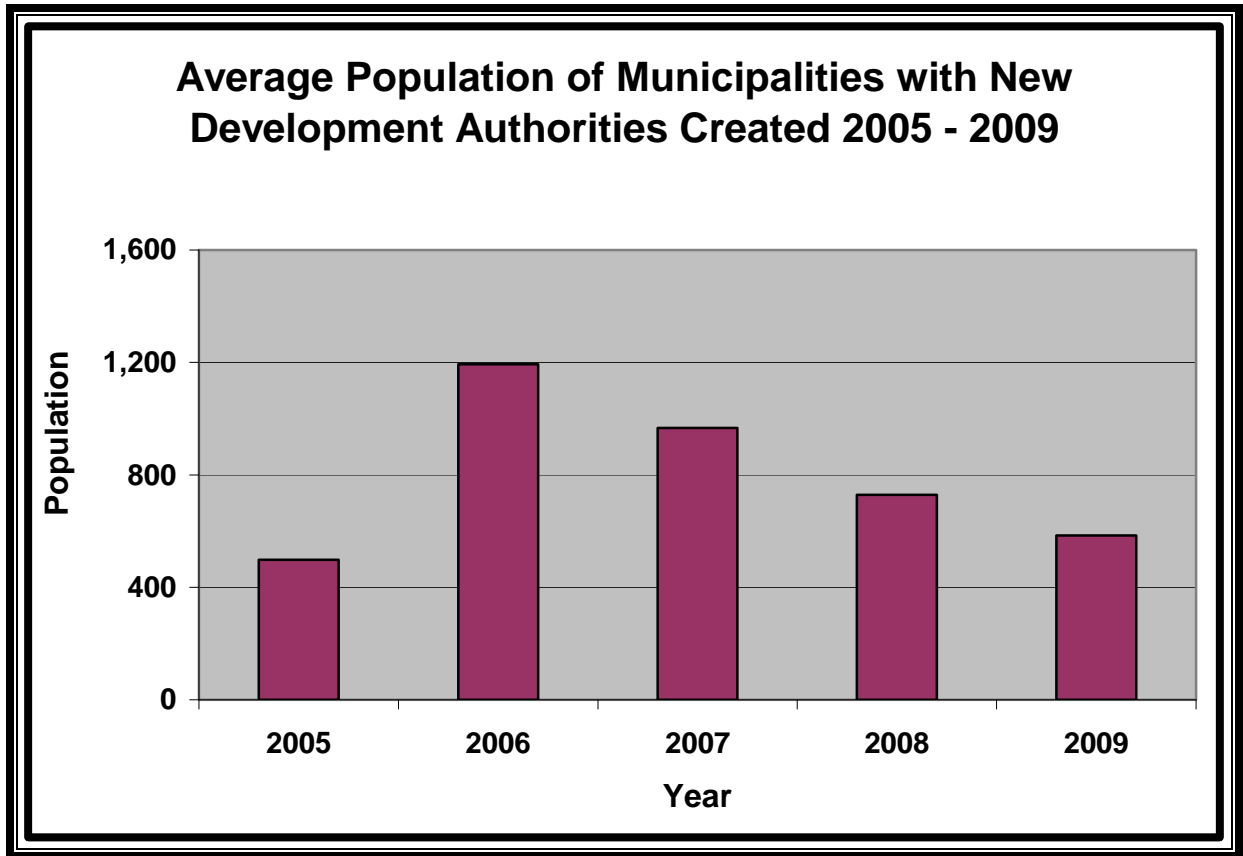


Since 2005, 23 new authorities have been created.⁹ The average population of the municipalities with new development authorities created since 2005 is approximately 830.

⁹ This number does not include the two new authorities created by municipalities already using TIF.

Figure 2 below shows the average population of the municipalities with new development authorities each year. In 2009, the average population of the two new development authorities was 584.

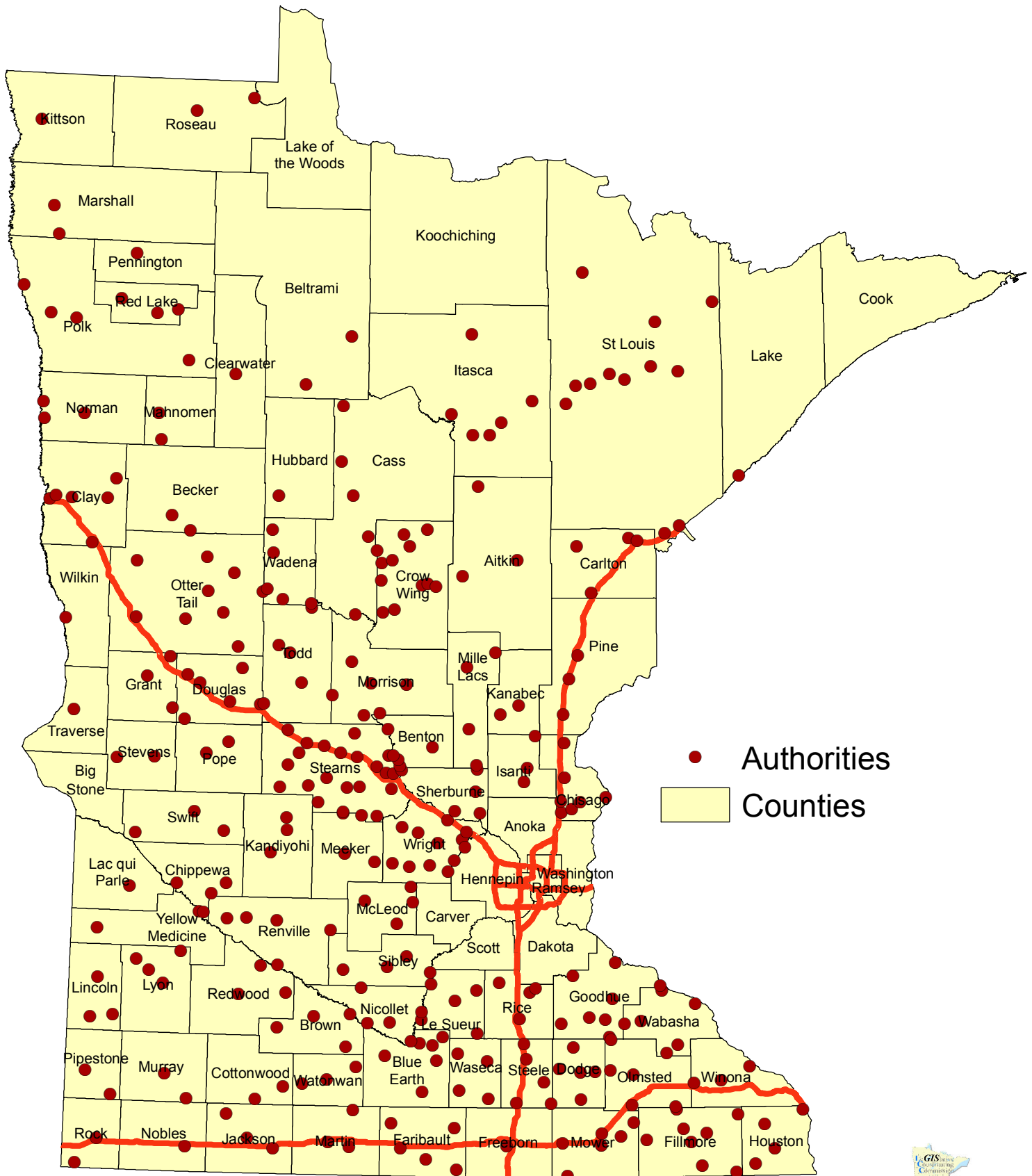
Figure 2.



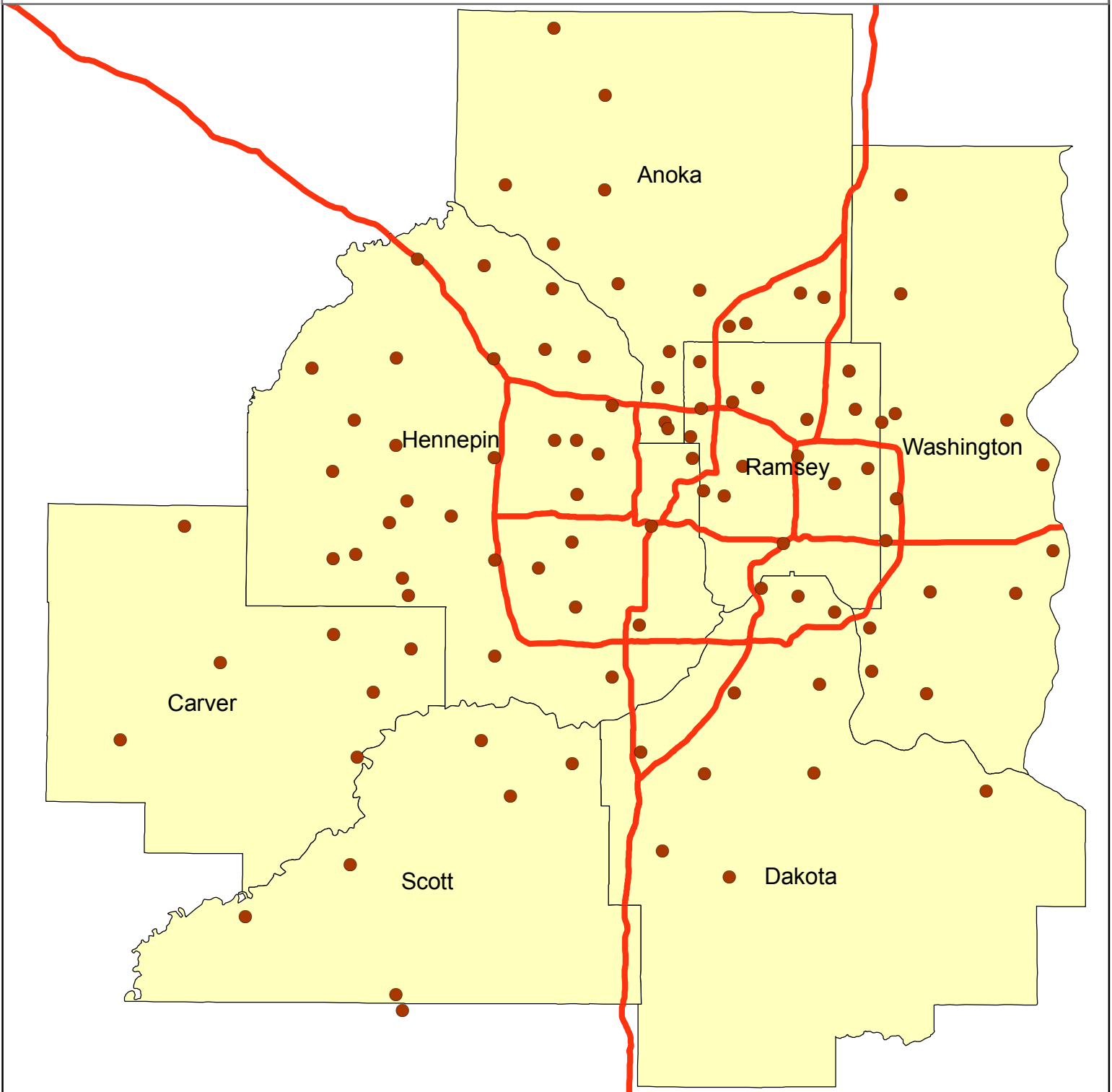
Development Authorities by Location

Development authorities using TIF powers are located throughout the State of Minnesota. Of the 433 development authorities required to submit reporting forms for 2009, 327 are located in Greater Minnesota and 106 are located in the Seven-County Metropolitan Area (Metro Area). Maps 1 and 2 on the following pages show the locations of these authorities.

Development Authorities in Greater Minnesota 2009



Development Authorities in Metro Area 2009



- Authorities - Metro Area
- Counties



Map 3 on the following page identifies the various counties throughout the state that have created a separate authority for economic development purposes.¹⁰

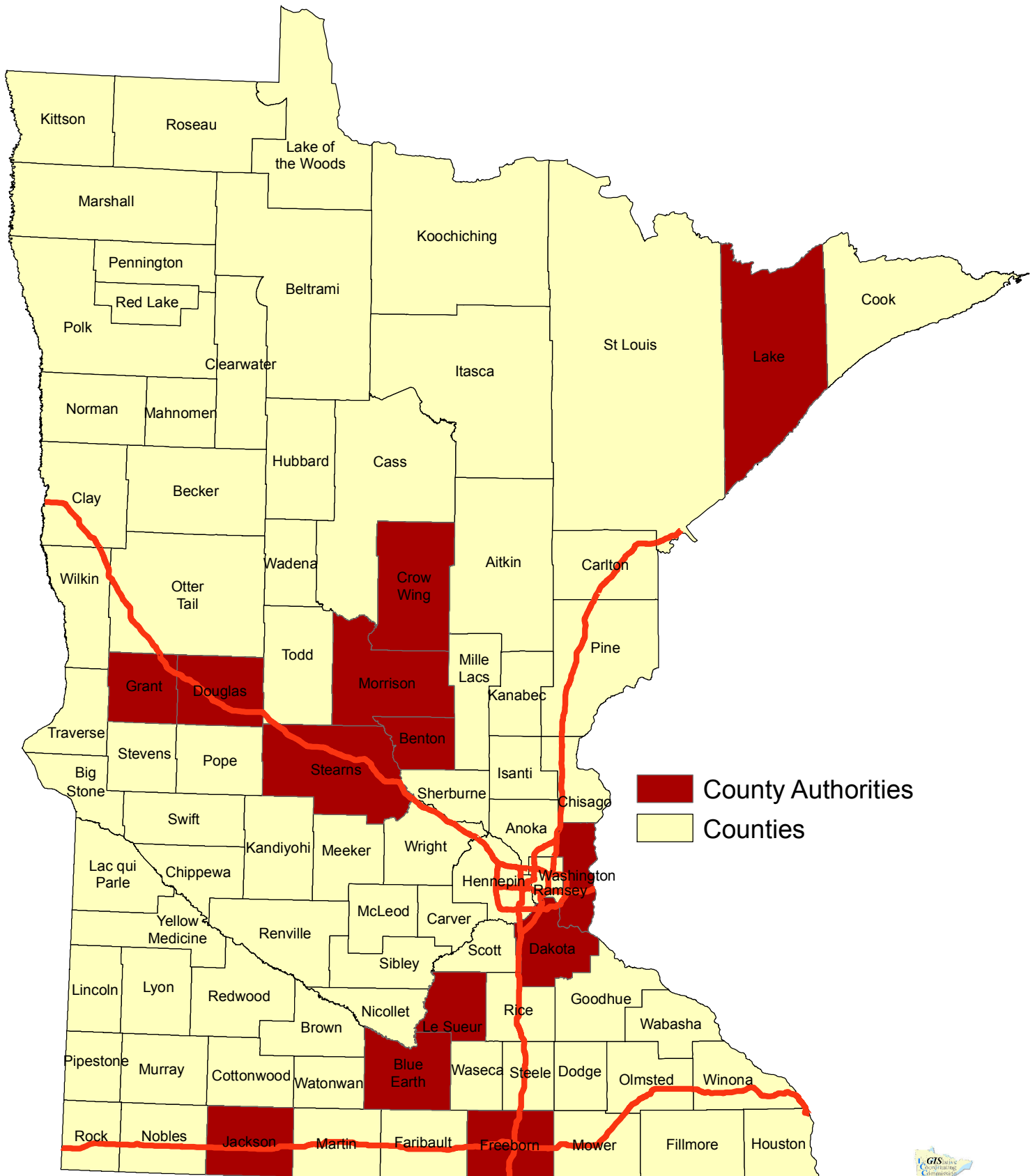
Map 4 on page 9 shows the distribution of development authorities among the regional development commissions (RDCs). RDCs are not limited to the boundaries of local units of government. RDCs work with authorities and on behalf of authorities to develop plans and implement programs addressing economic and governmental concerns of a regional nature.¹¹ The RDCs in Minnesota are:

- Region 1 Northwest
- Region 2 Headwaters
- Region 3 Arrowhead
- Region 4 West Central
- Region 5 North Central
- Region 6E Southwest Central
- Region 6W Upper Southwest
- Region 7E East Central
- Region 7W Central
- Region 8 Southeast
- Region 9 South Central
- Region 10 Southeast
- Region 11 Metro Area

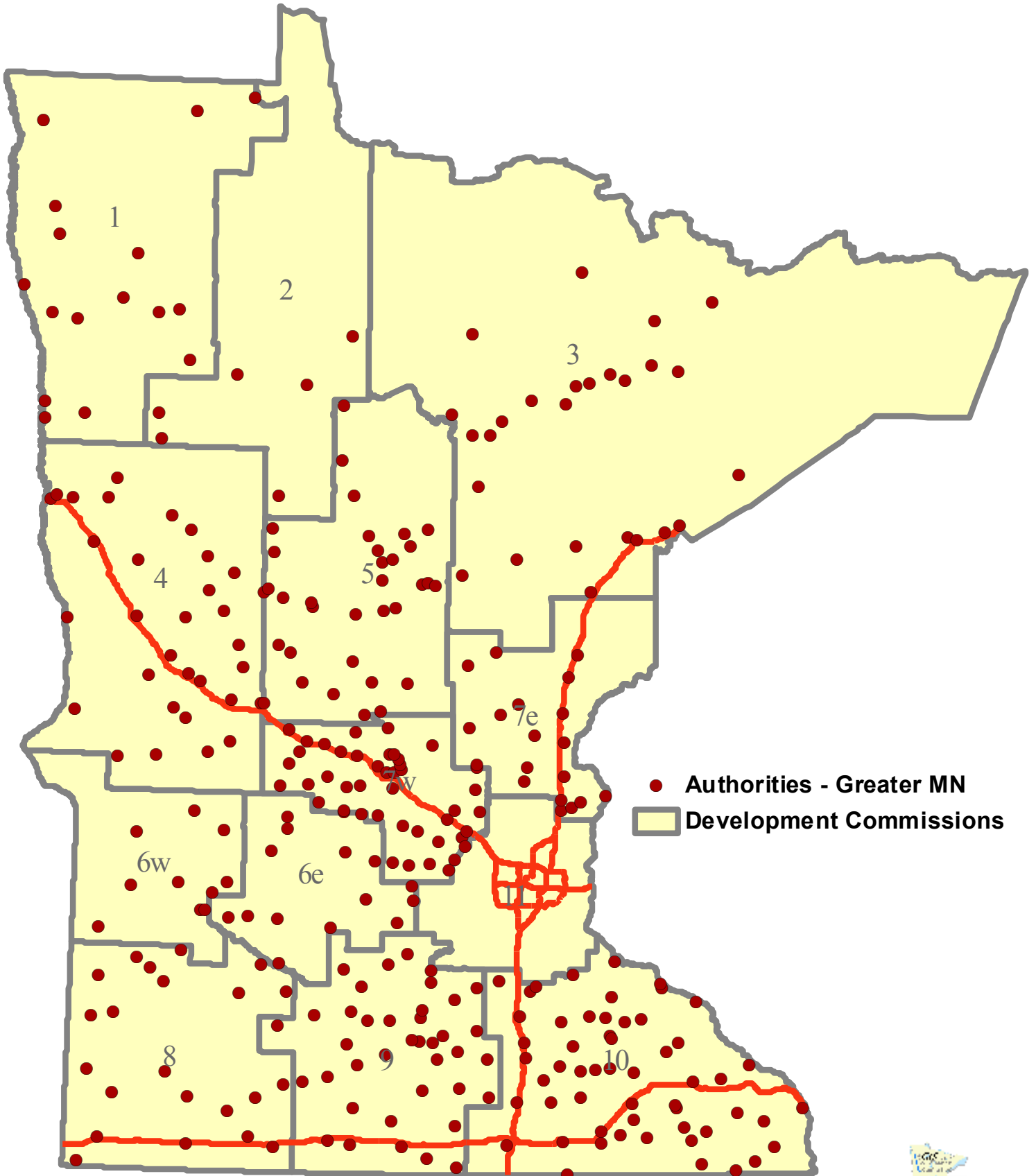
¹⁰ This map does not include multi-county or joint authorities.

¹¹ Minn. Stat. § 462.383, subd. 2 (authorizing the establishment of RDCs).

County Development Authorities with Active TIF Districts in 2009



Development Authorities in Greater Minnesota by Regional Development Commission 2009



Creation of TIF Districts

Adopting a TIF plan for a district is the first step a development authority takes in creating a TIF district. The TIF plan outlines the development activity to be funded with tax increment and authorizes the use of tax increment to pay TIF-eligible project costs.¹²

To create a new TIF district, an authority must obtain approval of the TIF plan from the governing body of the municipality in which the TIF district is to be located after the municipality has published a notice for and held a public hearing.¹³ For example, if a city's port authority proposes creating a TIF district in the city, the city council must first approve the TIF plan for the district.¹⁴ If a county HRA proposes creating a TIF district in a township in the county, the county board must approve the TIF plan.

Before a TIF district is created, the development authority must also provide a copy of the proposed TIF plan and certain information about the proposed TIF district to the county auditor and the clerk of the school board who, in turn, provide copies of these documents to the members of the county board of commissioners and the school board.¹⁵ The county board and school board may comment on the proposed district, but cannot prevent its creation.¹⁶

Types of TIF Districts

The TIF Act divides TIF districts into the following categories based on the physical condition of the site and on the type of construction that is to occur:

- Redevelopment districts
- Economic development districts
- Housing districts
- Renewal and renovation districts
- Soils condition districts

In addition to the types of districts listed above, there are districts that were created prior to the enactment of the TIF Act (called "pre-1979 districts") and districts that have been created under special laws. Each type of TIF district has different requirements for its creation. Each type of district also has different maximum duration limits and different restrictions on the use of tax increment revenue.

¹² Minn. Stat. § 469.175, subd. 1.

¹³ Minn. Stat. § 469.175, subd. 3.

¹⁴ In many cases, the commissioners of the TIF authority include some or all of the council members.

¹⁵ Minn. Stat. § 469.175, subd. 2.

¹⁶ In those situations in which the county is the municipality that must approve the TIF plan, the county board may prevent creation of a TIF district.

Redevelopment Districts – The primary purpose of a redevelopment district is to eliminate blighted conditions.¹⁷ Qualifying tax increment expenditures include acquiring sites containing substandard buildings or improvements; demolishing and removing substandard structures; eliminating hazardous substances; clearing the land; and installing utilities, sidewalks, and parking facilities. This activity, paid for with tax increment, is often referred to as “leveling the playing field.” It allows developed cities to compete for development with outlying cities with bare land. Redevelopment districts are intended to conserve the use of existing utilities, roads, and other public infrastructure and to discourage urban sprawl.

Economic Development Districts – An economic development district need not meet the requirements of any other type of district. It is a type of district that consists of a project which an authority considers to be in the public interest because it will: (i) discourage commerce, industry or manufacturing from moving to another state or city; (ii) increase employment in the state; or (iii) preserve and enhance the tax base.¹⁸ Economic development districts are short-term districts (eight years). Tax increment revenues from economic development districts are used primarily to assist manufacturing, warehousing, storage and distribution, research and development, telemarketing, and tourism. Commercial development (retail sales) is excluded by law, except in “small cities.”¹⁹

Housing Districts – The purpose of a housing district is to encourage development of owner-occupied and rental housing for low- and moderate-income individuals and families by using tax increment revenues as a type of financial assistance. Tax increment revenues can be used in the construction of low- and moderate-income housing, as well as to acquire and improve the housing site. The TIF Act’s low- and moderate-income limits are the same income limits found in the Internal Revenue Code.²⁰ However, the income limits for “qualified” housing districts are tied to the stricter federal low-income tax credit guidelines, regardless of whether tax credits are used. The 2008 Minnesota Legislature repealed the definition of “qualified housing.” Nevertheless, this more restrictive type of housing district designation continues to be used for qualified housing districts created prior to March 8, 2008.

Renewal and Renovation Districts – The purpose of a renewal and renovation district is similar to that of a redevelopment district, except the amount of blight to be removed may be less, and the development activity is more closely related to inappropriate or obsolete land use.

¹⁷ Minn. Stat. § 469.174, subd. 10(a)(1).

¹⁸ Minn. Stat. § 469.174, subd. 12.

¹⁹ Minn. Stat. § 469.174, subd. 27 and Minn. Stat. § 469.176, subd. 4c.

²⁰ Minn. Stat. § 469.1761. Income limits for owner-occupied housing units are identified in section 143(f) of the Internal Revenue Code. Income limits for rental housing units are identified in section 142(d) of the Internal Revenue Code.

Soils Condition District – The purpose of a soils condition district is to assist in the redevelopment of property which cannot otherwise be developed due to the existence of hazardous substances, pollutants, or contaminants. The presence of these materials requires removal or remedial action before the property can be used, and the estimated cost of the proposed removal and remediation must exceed the fair market value of the land before the remediation is completed.²¹

Pre-1979 Districts – Districts created prior to the enactment of the TIF Act on August 1, 1979, are called pre-1979 districts. On April 1, 1990, many of the pre-1979 districts still in existence had significant amounts of debt outstanding. Tax increment from these districts could then be used only to retire that debt. Since August 1, 2009, pre-1979 districts can no longer receive tax increment payments.²²

Uncodified District – A special law may be enacted that permits the generation of tax increment revenues from a geographic area not meeting the definition of a type of TIF district authorized by the TIF Act. This type of district is referred to as an “uncodified” district. Examples of uncodified districts are housing transition districts for the cities of Crystal, Fridley, St. Paul, and Minneapolis, and a district with distressed rental properties in Brooklyn Park.

Special Legislation

In some cases, special legislation has been enacted to allow an exception to the general law for a development authority. As of 2009, 75 TIF districts reported having received one or more pieces of special legislation. The most common reasons for enacting special legislation are: (1) extending the five-year deadline for entering into contracts or issuing bonds;²³ (2) extending the duration limits of a TIF district;²⁴ (3) creating an exception to requirements or findings needed to create a TIF district;²⁵ and (4) creating an exception to the limitations on the use of tax increment.²⁶

Number of TIF Districts

In 2009, 95% of the 1,979 TIF districts were redevelopment, economic development, and housing districts. Figure 3 on the following page shows TIF districts by type statewide.

²¹ Minn. Stat. § 469.174, subd. 19.

²² Minn. Stat. § 469.176, subd. 1c.

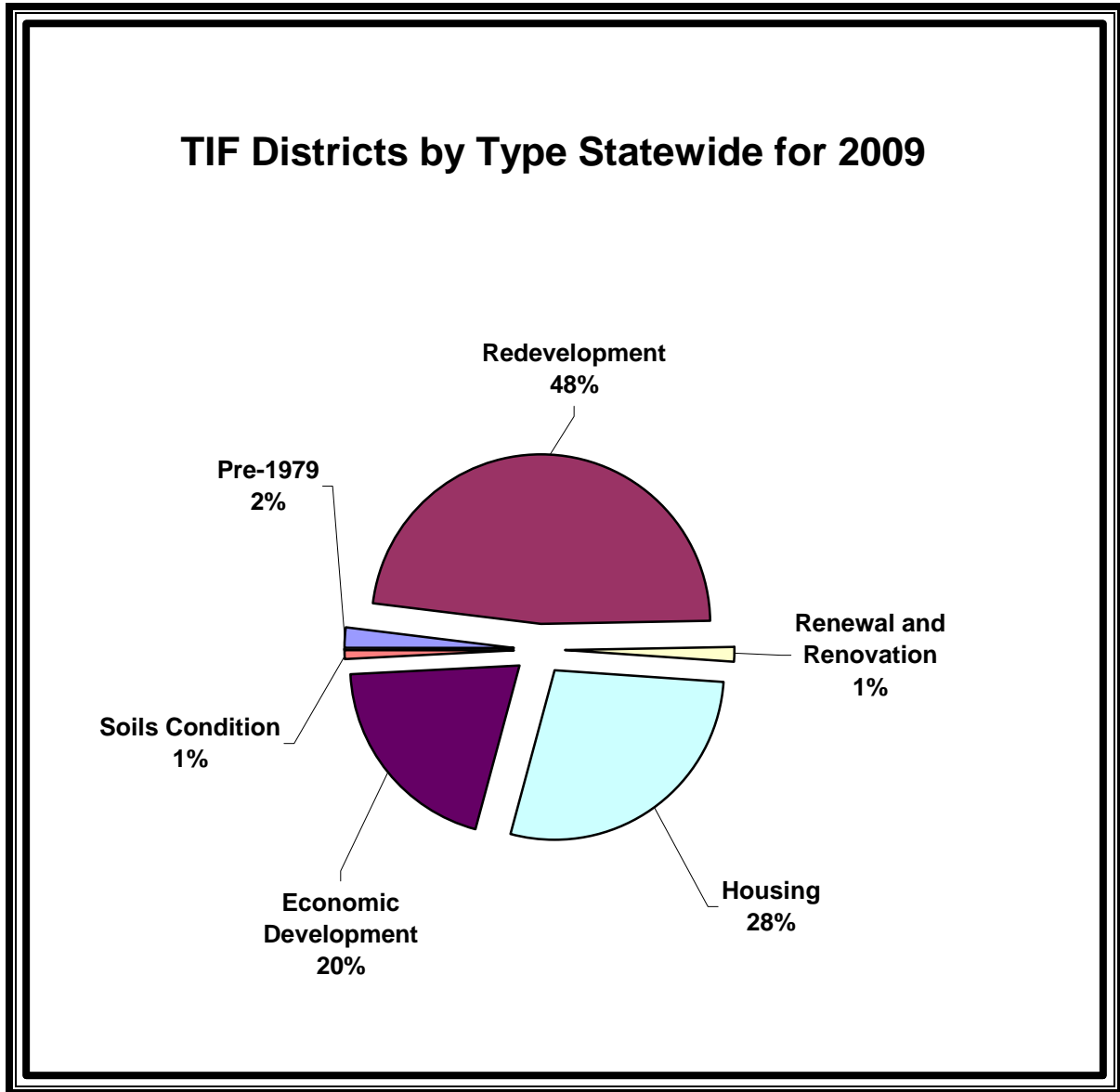
²³ See Minn. Stat. § 469.1763, subd. 3.

²⁴ See Minn. Stat. § 469.176, subd. 1b.

²⁵ See Minn. Stat. § 469.174 and Minn. Stat. § 469.175.

²⁶ See Minn. Stat. § 469.176.

Figure 3.



As shown in Figure 4 and Figure 5 on the following page, redevelopment districts make up the largest percentage of districts in both the Metro Area and in Greater Minnesota.

Figure 4.

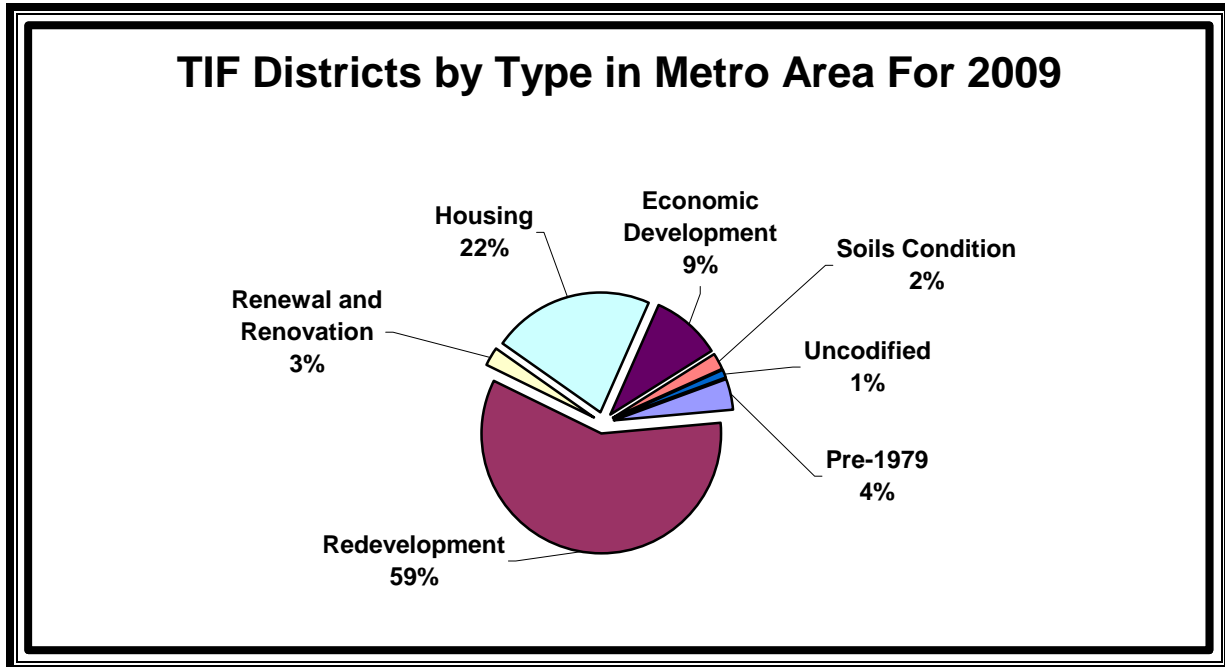
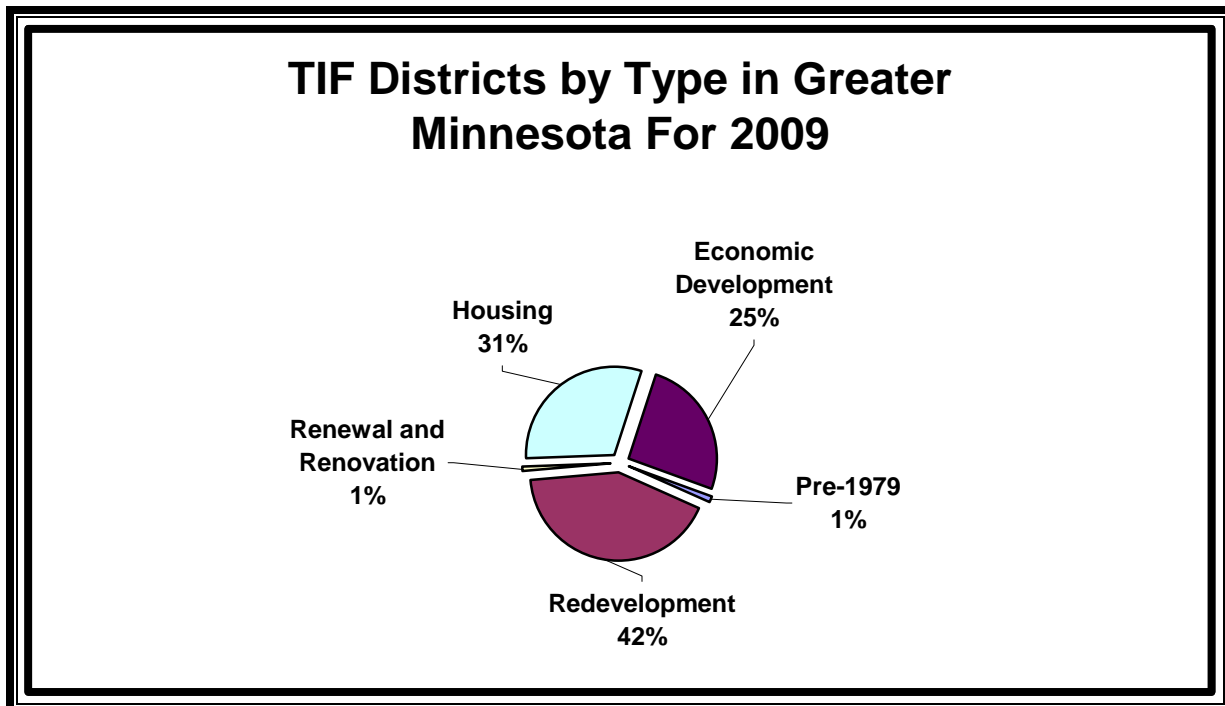


Figure 5.



Economic development districts focus on job production rather than on clearance and preparation of a development site. Therefore, Greater Minnesota, with open space and a critical need for employment, uses economic development districts more frequently than the more fully-developed Metro Area. The land on which an economic development district is established may be bare land. The eight-year term of the district is generally sufficient as less tax increment is needed to pay for site preparation.

Figure 6 below identifies TIF districts by Regional Development Commission (RDC). TIF districts are concentrated in the central and southern development regions of the state, with the largest concentration of districts located in Region 11, which is the Metro Area.

Figure 6.

TIF District Type by Region for 2009									
Regional Development Commission	Region	Total Districts	Pre-1979	Redevelopment	Renewal and Renovation	Housing	Economic Development	Soils Condition	Uncodified
Northwest	1	43	1	15	0	23	4	0	0
Headwaters	2	19	0	5	0	12	2	0	0
Arrowhead	3	89	3	42	0	30	12	2	0
West Central	4	179	1	73	0	60	45	0	0
North Central	5	135	0	53	1	43	38	0	0
Southwest Central	6E	52	0	21	0	12	19	0	0
Upper Southwest	6W	37	0	22	0	7	8	0	0
East Central	7E	75	1	31	2	22	19	0	0
Central	7W	204	2	87	2	38	75	0	0
Southeast	8	73	0	37	1	25	10	0	0
South Central	9	169	3	74	3	48	41	0	0
Southeast	10	241	2	93	0	85	61	0	0
Metro Area	11	663	28	388	17	146	62	15	7
Total		1,979	41	941	26	551	396	17	7

Tax Increment Revenue by Type of District

The amount of tax increment revenue generated from within a TIF district depends, in part, on the type of the district, the development activity occurring within the district, the length of its term, and the location of the district.

In 2009, redevelopment districts made up 48% of the TIF districts in the state, but generated 73% of the state's tax increment revenues. Housing districts made up 28% of the TIF districts in the state, but generated only 9% of the tax increment revenues. Economic development districts made up 20% of the state's TIF districts, but generated only 5% of the tax increment revenues.

As shown in Figure 7 below, redevelopment and pre-1979 districts accounted for 84% of the tax increment revenue generated in 2009. Pre-1979 districts could no longer receive tax increment revenues after August 1, 2009.

Figure 7.

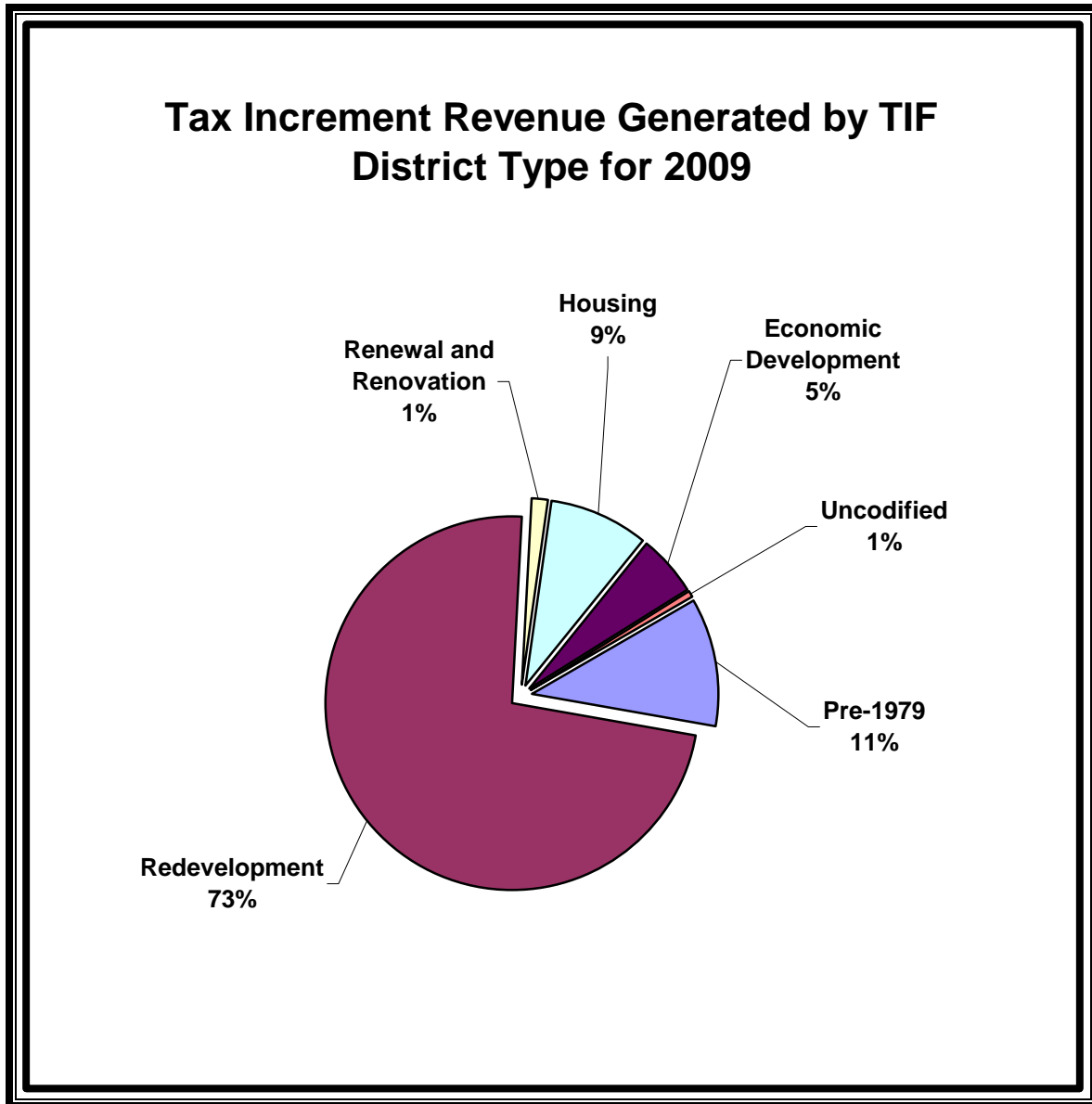


Figure 8.

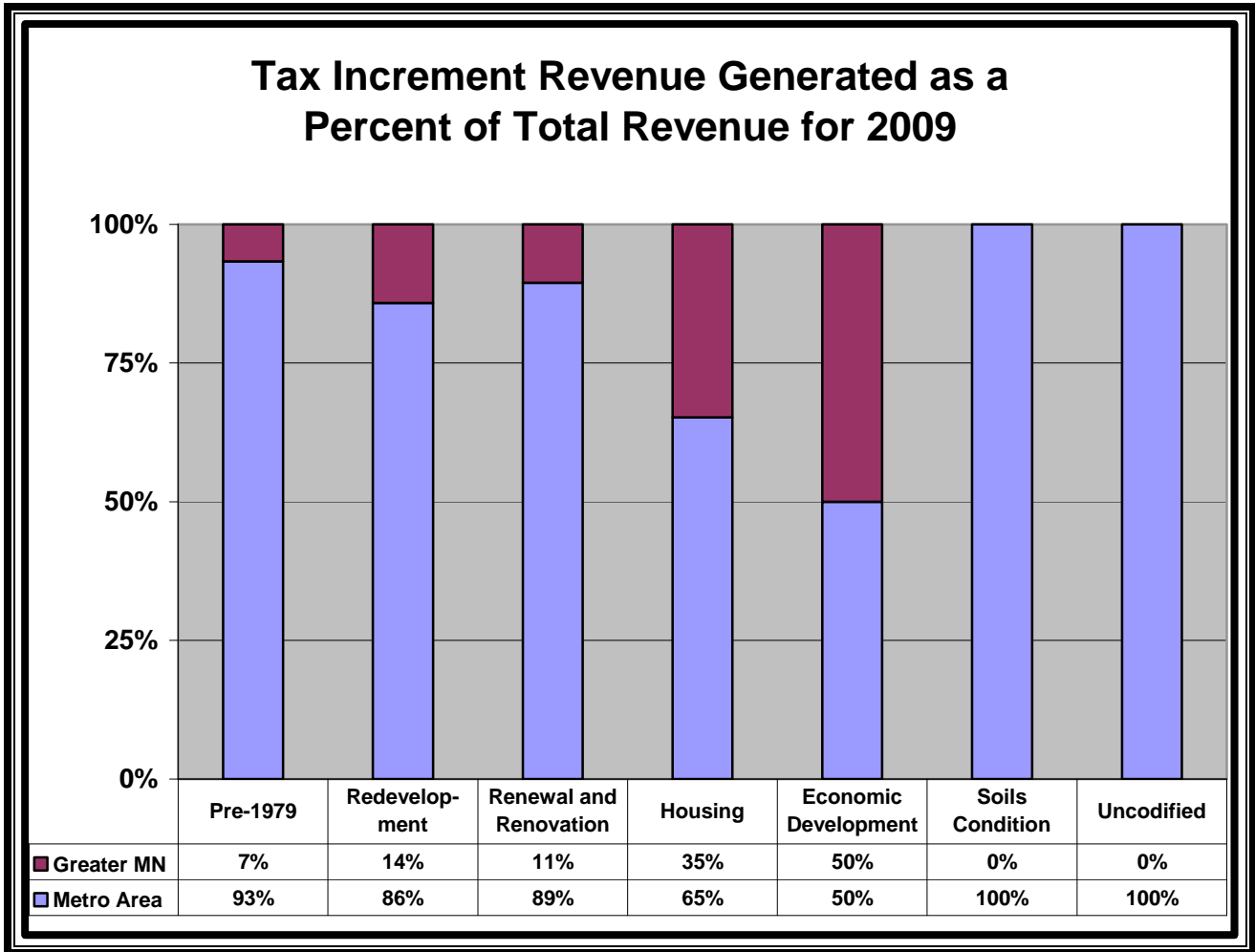


Figure 8 above shows the tax increment revenue generated by district type as a percentage of the total tax increment in the Metro Area and Greater Minnesota. In 2009, 34% of the total number of TIF districts were located in the Metro Area; 66% were located in Greater Minnesota. However, 83% of the tax increment revenue generated in 2009 was from districts located within the Metro Area.

Returned Tax Increment

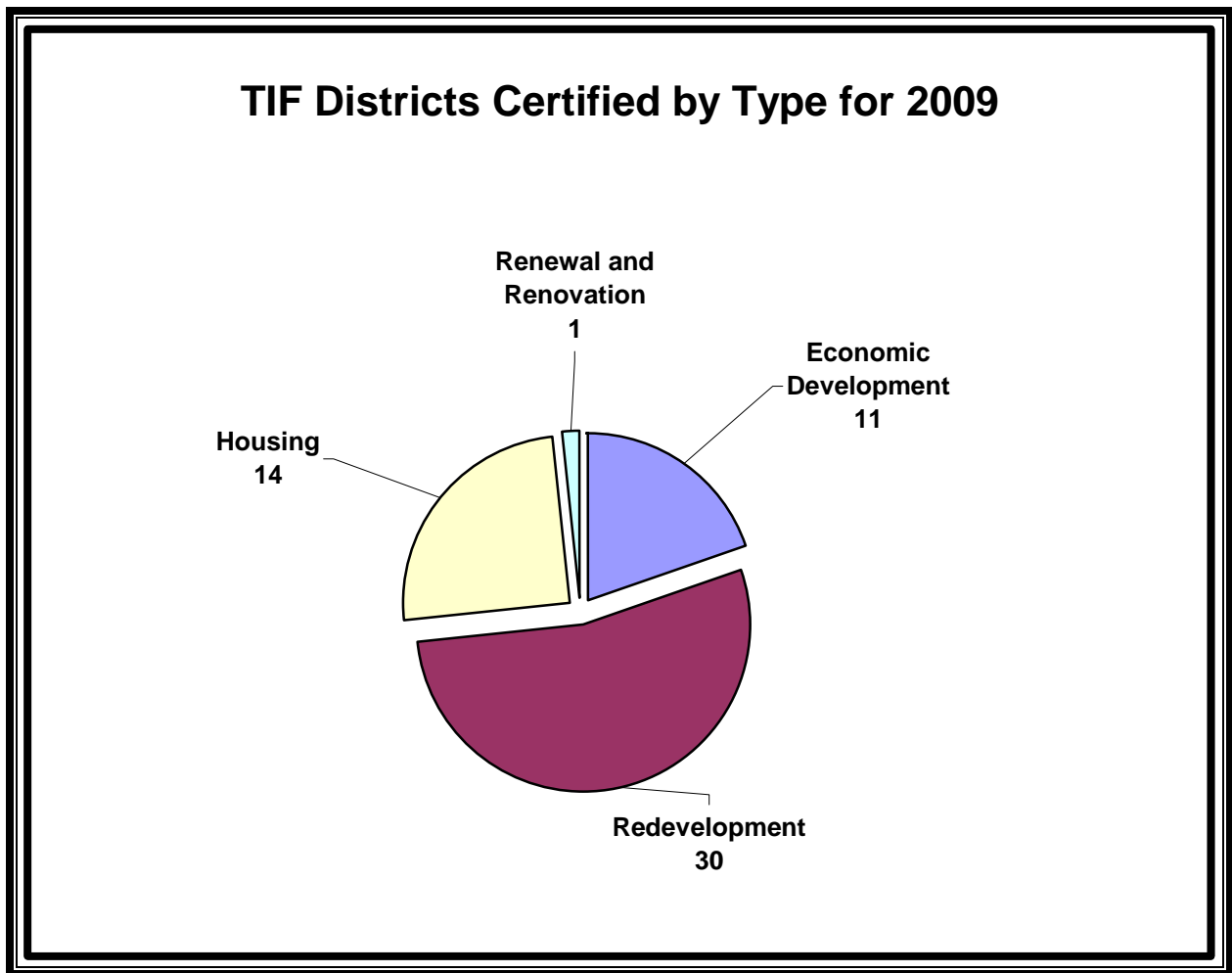
In calendar year 2009, development authorities returned \$10,503,928 in tax increment revenues to the county auditor for redistribution to the city, county, and school district as property taxes. Some of the reasons tax increment revenue is returned include receiving excess tax increment revenue or improperly receiving tax increment revenue.

Tax increment is returned as a result of both the oversight work of the Office of the State Auditor and voluntary payments made by authorities. From January 1, 1996, to date, a total of more than \$105,297,379 has been paid or returned to county auditors who then redistributed the funds to the cities, counties, and school districts.

Districts Certified for Calendar Year 2009

Once a municipality approves the creation of a TIF district, the county auditor certifies the original net tax capacity.²⁷ From the date it is *certified*, the increase in property taxes generated by new development is sent to the TIF authority to pay qualifying development costs. Figure 9 below shows the number of TIF district certifications by type in 2009.

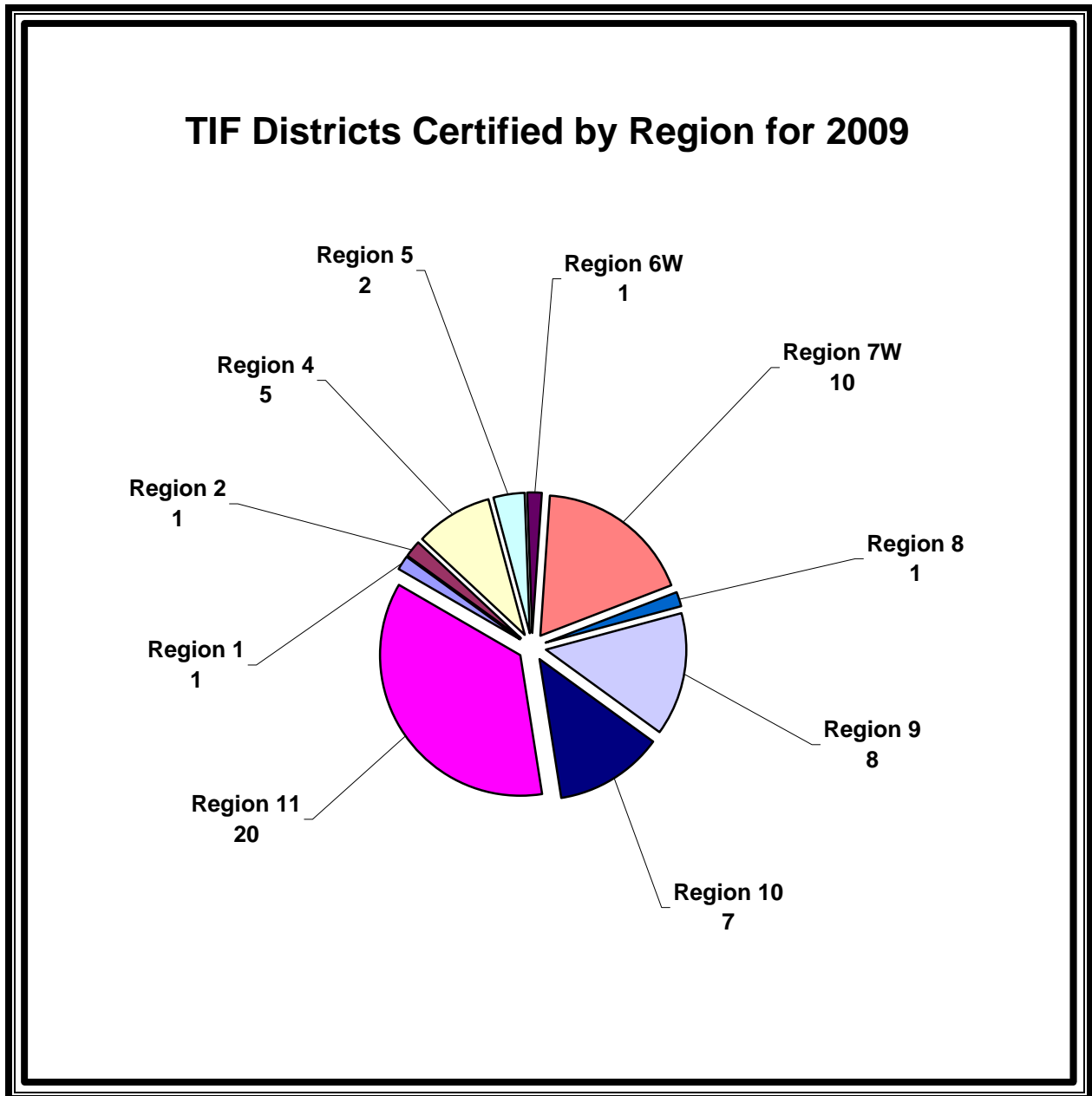
Figure 9.



²⁷ Minn. Stat. § 469.177, subd. 1.

Figure 10 below shows that the largest number of new TIF district certifications in 2009 occurred in Region 11. Except for Region 11 (Metro Area), Region 7W (Central) and Region 9 (South Central), the Regions certified substantially fewer districts in 2009 than were certified in 2008. Region 11 almost doubled the number of TIF districts certified in 2009 over the number of districts certified in 2008.

Figure 10.

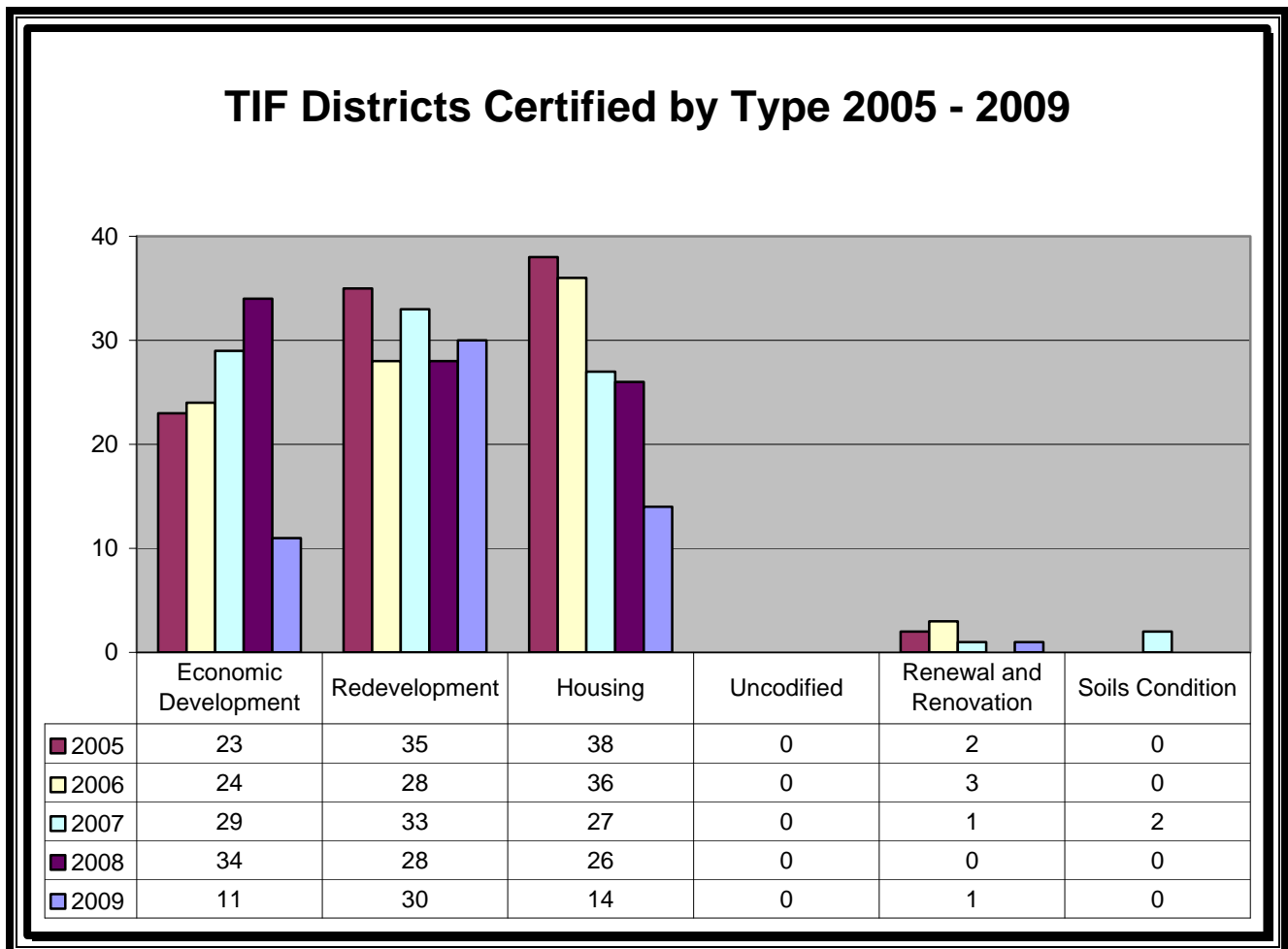


Certification Trends – Current and Five-Year

The total number of TIF districts certified between 2005 and 2009 decreased by 43%. The number of economic development districts certified decreased by 52% between 2005 and 2009, and decreased by 68% between 2008 and 2009. Certification of housing districts decreased by 63% between 2005 and 2009, and decreased by 46% between 2008 and 2009. The number of redevelopment districts certified decreased by 14% between 2005 and 2009, with an increase of 7% between 2008 and 2009. The number of renewal and renovation districts certified decreased by 100% between 2005 and 2009, with an increase of 50% between 2008 and 2009. The number of soils condition districts certified decreased by 100% between 2005 and 2009, with an increase of 100% between 2008 and 2009.

Figure 11 below compares the TIF districts certified by type since 2005. When examining trends over the five-year period between 2005 and 2009, it is interesting to note that the number of housing districts created or certified consistently decreased, while after four years of consistent growth, the number of economic development districts declined sharply in 2009.

Figure 11.



Districts Decertified for Calendar Year 2009

After the TIF district's statutory time expires and the development costs are paid, the district is *decertified*, and all future taxes are redirected to the city, county, and school district as property taxes, thereby increasing the local tax base. As Figure 12 below shows, of the type of districts decertified in 2009, most were economic development districts.

Figure 12.

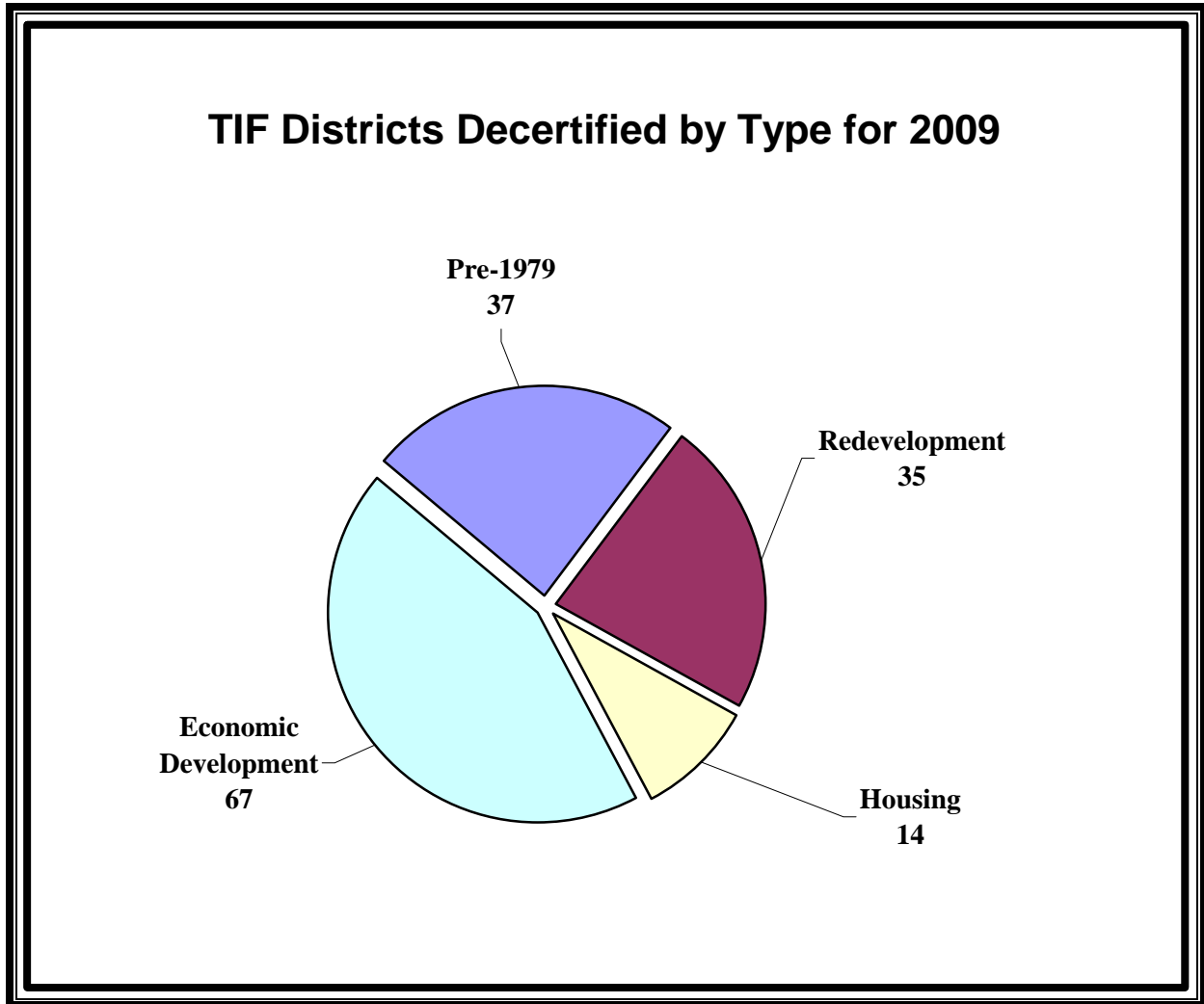
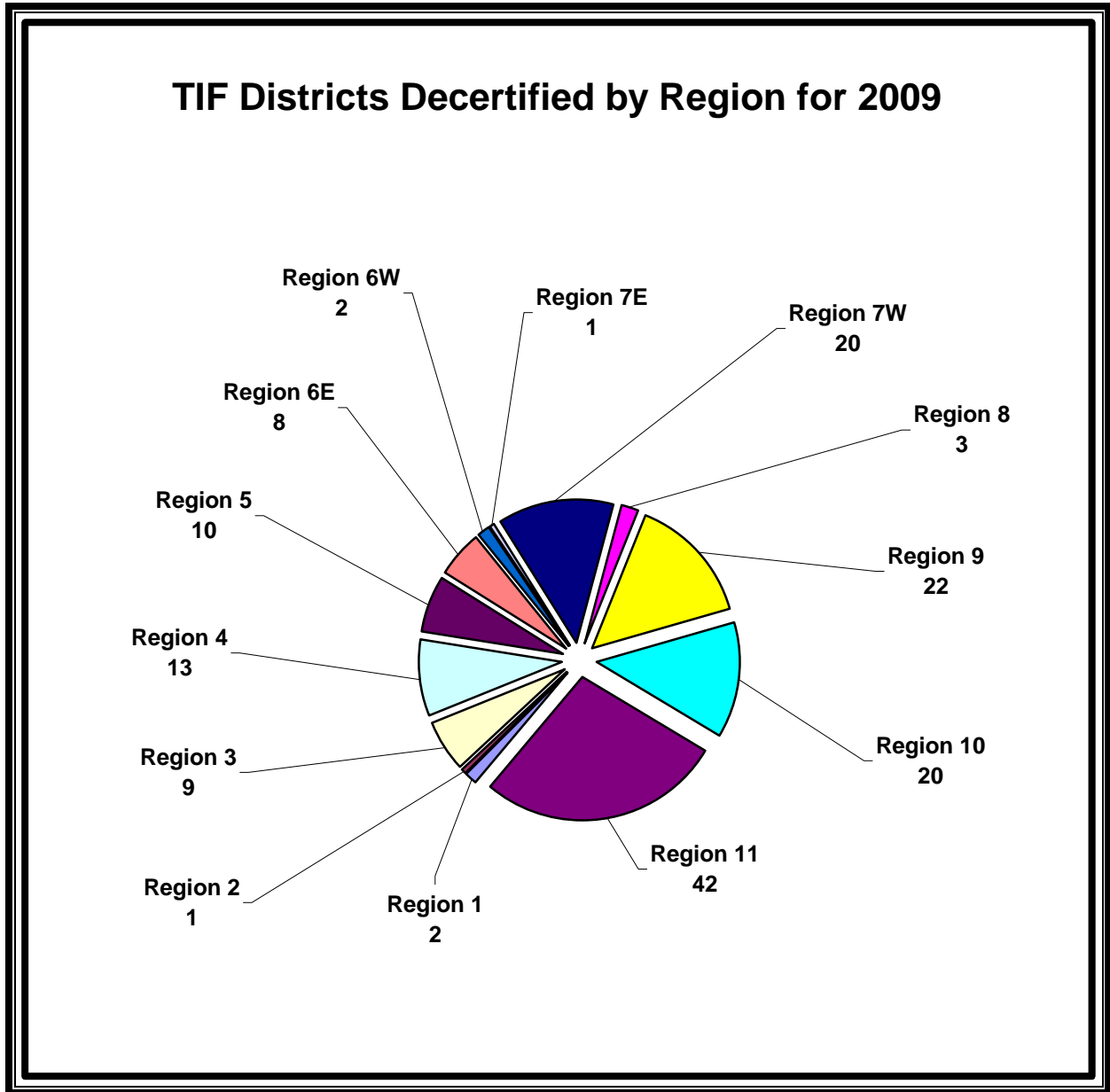


Figure 13 on the following page shows that the TIF districts decertified in 2009 were spread evenly among the various regions of the state, with the largest number of decertifications in Region 11.

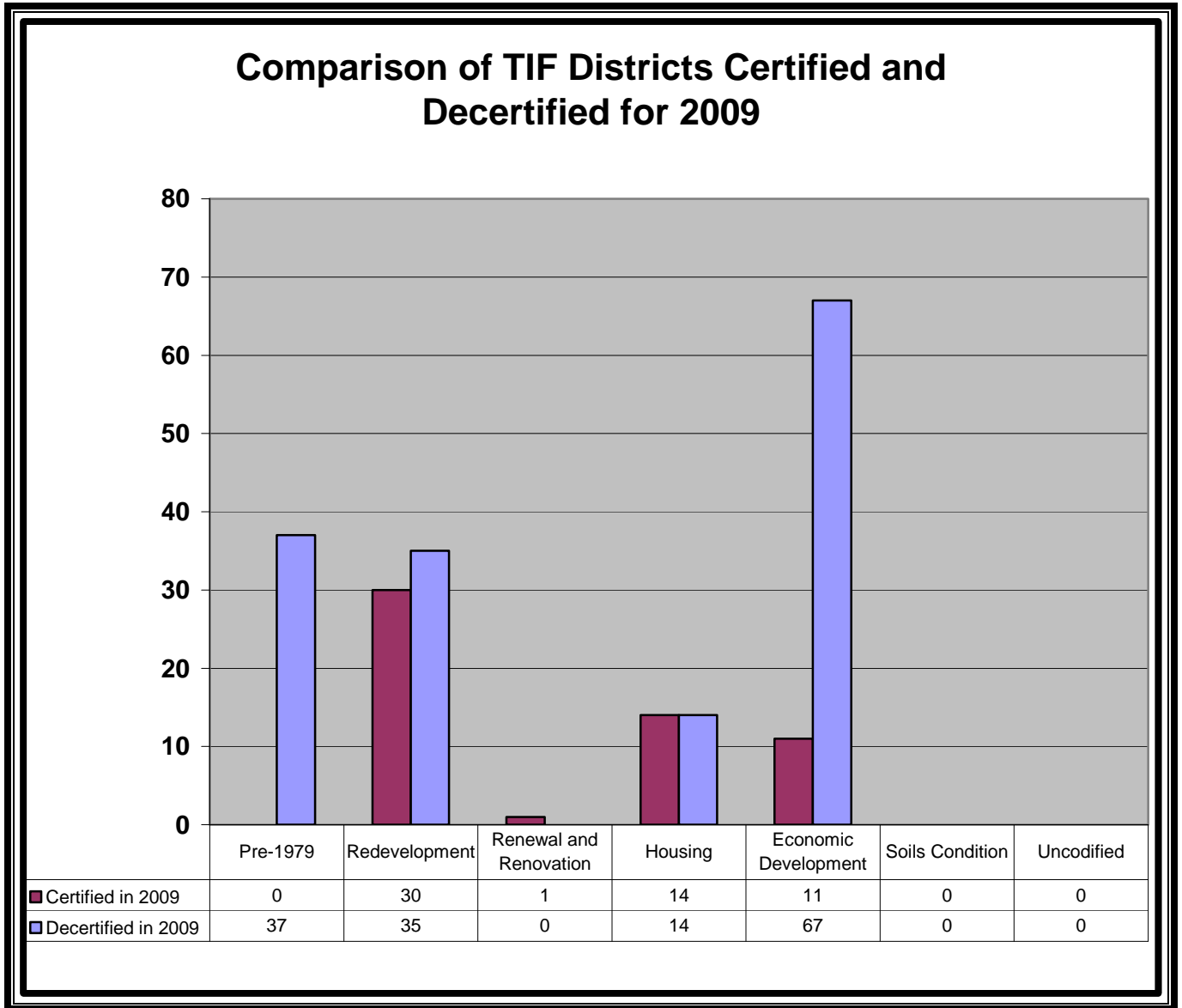
Figure 13.



Comparison of TIF Districts Certified and Decertified

Fifty-six TIF districts were certified in Minnesota during calendar year 2009, while 153 TIF districts were decertified. Figure 14 on the following page compares the number of districts certified and the number of districts decertified in 2009 by type of TIF district.

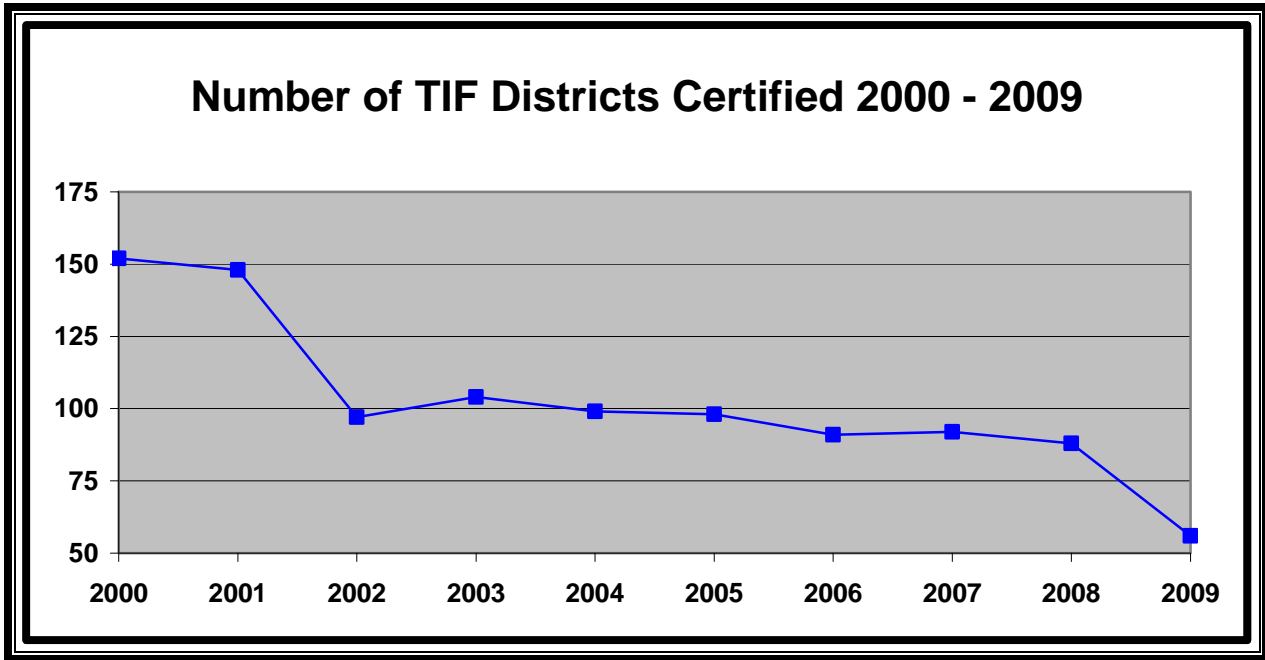
Figure 14.



Ten-Year Trends

Figure 15 on the following page shows the number of TIF districts certified over the last ten years. The number of districts certified dropped sharply from 2001 to 2002. The decline was likely the result of the 2001 Tax Reform Act, in which the school district portion from commercial and industrial property taxes was redirected to the state. These property taxes were no longer available for use by development authorities. While there was a slight increase in 2003, the number of districts certified has continued to decrease. Over the ten-year period covering 2000 through 2009, the number of districts certified has decreased 67%.

Figure 15.



As shown in Figure 16 below, the total number of TIF districts existing was on the rise until 2004, when a decline began. The reasons for the decline in the number of TIF districts could be the result of the decertification of older districts and the declining number of new districts certified.

Figure 16.

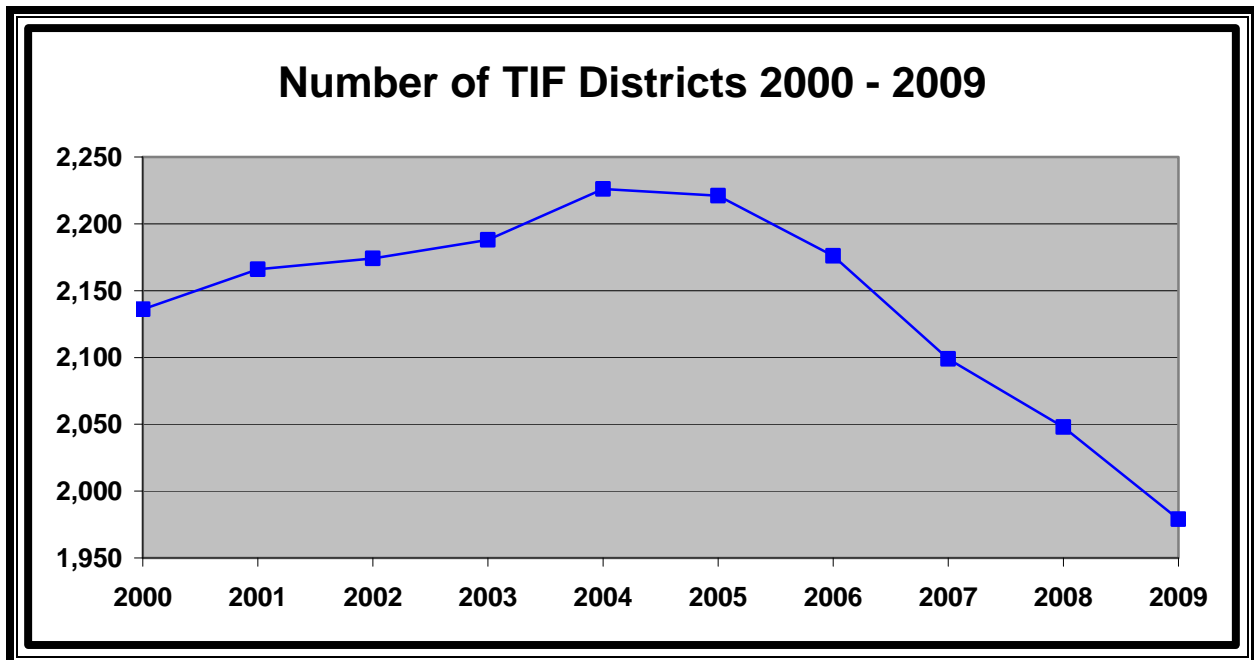
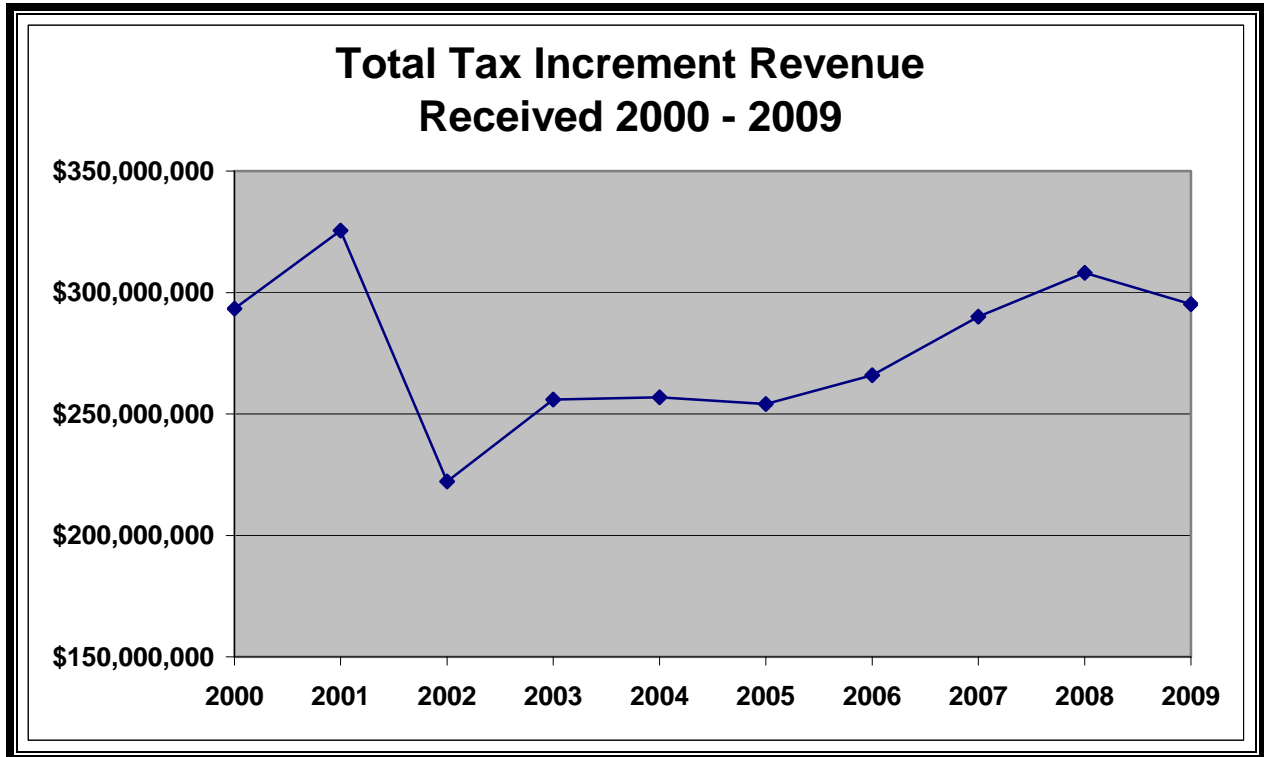


Figure 17 below shows the total amount of tax increment revenue received over the last ten years. The sharp drop in 2002 was likely due to the 2001 changes to the property tax laws. The reasons for the continuing decline from 2008 to 2009 could be the required decertification of Pre-1979 districts in 2009 and the fact that fewer districts were certified.

Figure 17.



In 2002, tax increment revenues declined sharply. The sharp drop was likely due to the 2001 changes to the property tax laws. Other factors, such as the decertification of large, Pre-1979 districts, may have also played a role starting in 2001. However, after about three years of slow growth, tax increment revenues appeared to be on the rise until 2009. The increase in local property taxes could be a factor in the increase of tax increment generated, while the 2009 decline could be a result of fewer districts being certified and the required decertification of Pre-1979 districts.

2009 REVENUES

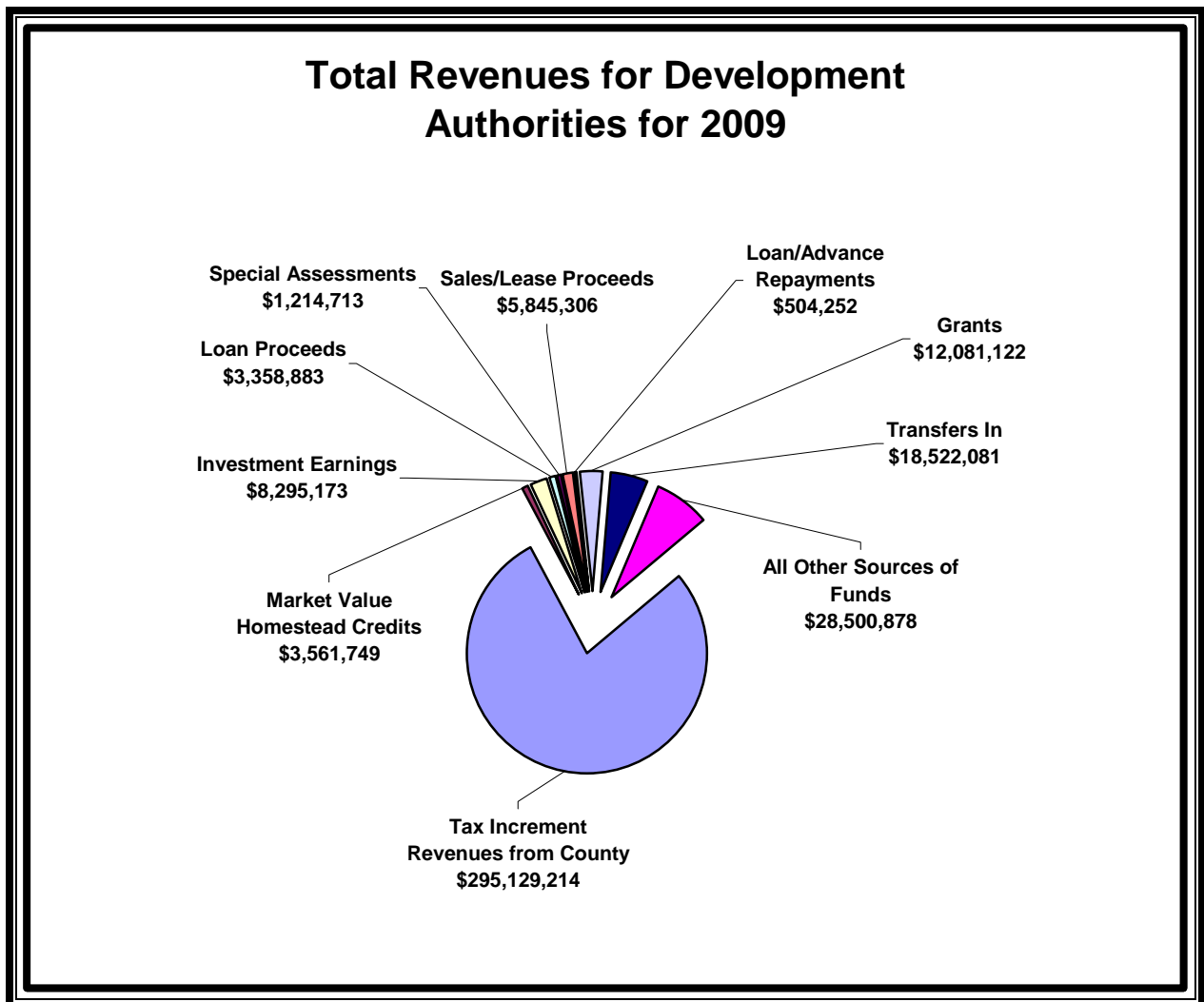
Development authorities receive revenues from a variety of financing sources. Revenues may include, among other funding sources: (1) local, state, and federal grants; (2) special assessments; (3) loans; (4) bond proceeds; (5) interest earned on invested funds; (6) sales and lease proceeds; (7) market value homestead credits; and (8) tax increment revenues.²⁸

²⁸ Interest earned on invested funds, sales and lease proceeds, and market value homestead credits are often characterized as tax increment revenues.

The way in which revenues are reported can be confusing. The nature of generally accepted accounting principles results in some revenues of a project being accounted for twice. For example, a bond may be issued to pay for the authorized costs of a project, and tax increment revenue is then used to pay the principal and interest payments on the bond, and both appear in the TIF reports. To identify revenues without accounting for both bond proceeds and the expenditure of tax increment revenues for payment of bonded indebtedness, bond proceeds have been removed from Figure 18.

Three other categories listed in Figure 18, loan proceeds, loan/advance repayments, and transfers in, include forms of indebtedness for which tax increment revenues were expended for repayment, resulting in revenues being accounted for twice. Because it is not possible to ascertain from the reports the extent to which tax increment revenues were expended to repay such indebtedness, these three categories were not removed from Figure 18.

Figure 18.



Revenue by Region

Figure 19 shows the amount of tax increment revenue generated by region. A substantial share is generated in the Metro Area. Minneapolis and St. Paul are the most fully-developed and densely-populated cities in the state. The Metro Area (Region 11) generates the largest amount of tax increment per district, due in large part to the higher property tax values, density, and size of development.

Figure 19.

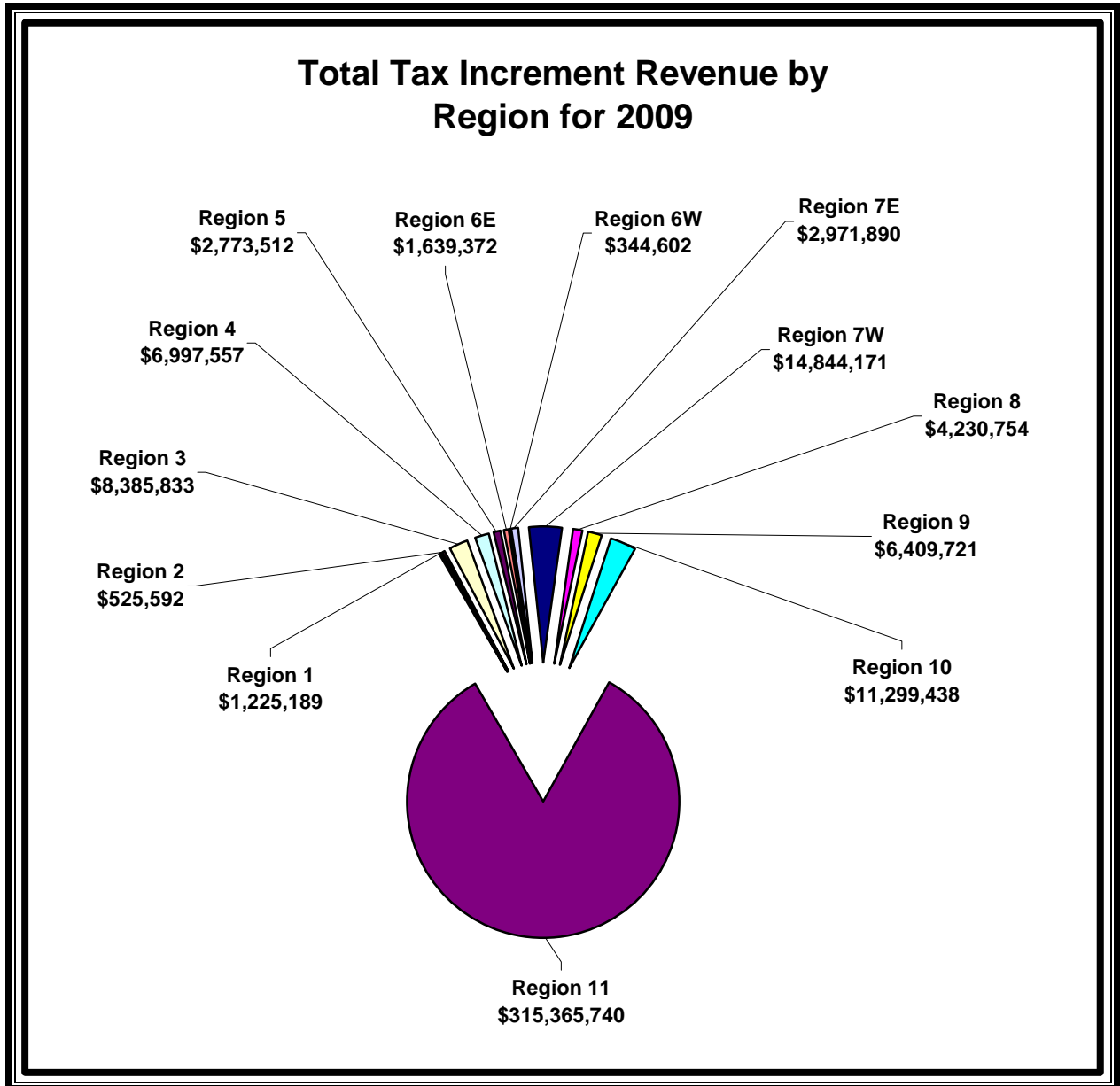
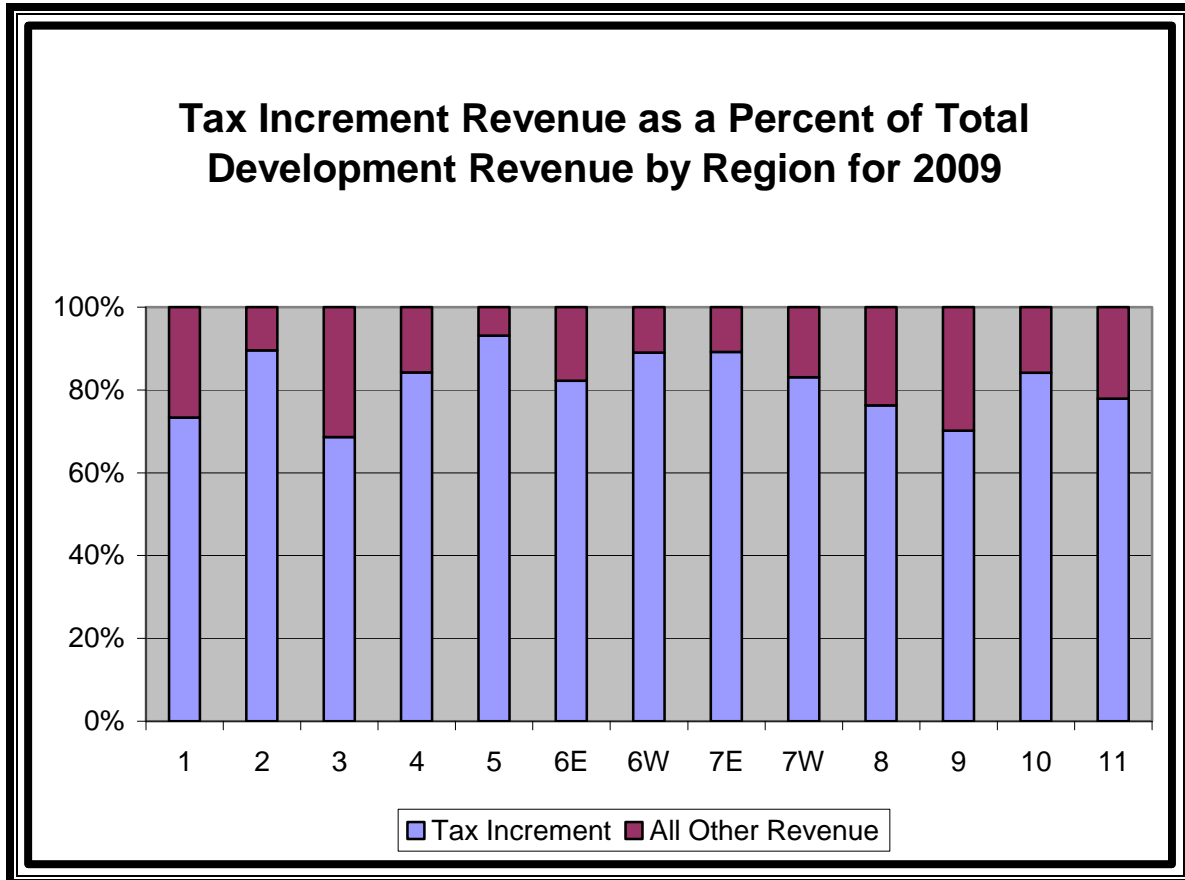


Figure 20 below illustrates tax increment revenues generated in calendar year 2009 as a percent of total revenues.

Figure 20.



2009 EXPENDITURES

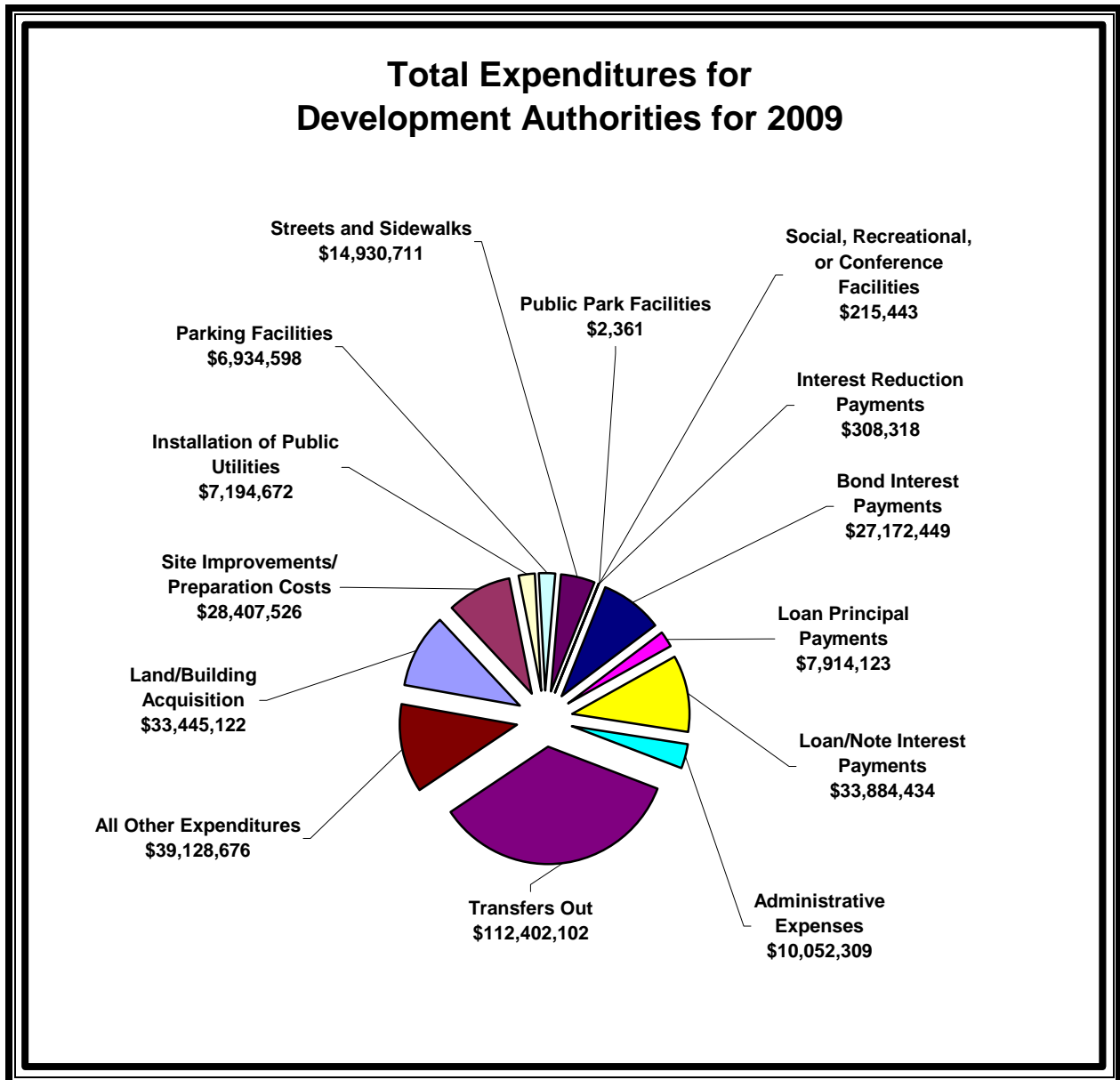
Expenditures for development activity must be made within limits set by state law. Tax increment revenues must be expended only as permitted in the underlying development authority and in the TIF Act.

As with revenues, the way in which expenditures are reported can be confusing. The nature of generally accepted accounting principles results in some costs of a project being accounted for twice. The information contained in the TIF reports includes both the authorized costs of a project and the costs associated with debt service (principal and interest). To identify expenditures without accounting for both the costs of the development activity and the costs associated with debt incurred to cover the costs of the development activity, bond principal payments have been removed from the table above (Figure 20) and the two charts that follow (Figures 21 and 22). Two other categories listed in Figure 21, loan principal payments and transfers out, include substantial indebtedness for which tax increment revenues were expended

for repayment. Since it is not possible to ascertain from the reports the extent to which tax increment revenues were expended to repay such indebtedness, those two categories were not removed.

Figure 21 below identifies the type of expenditures made by development authorities for calendar year 2009.²⁹

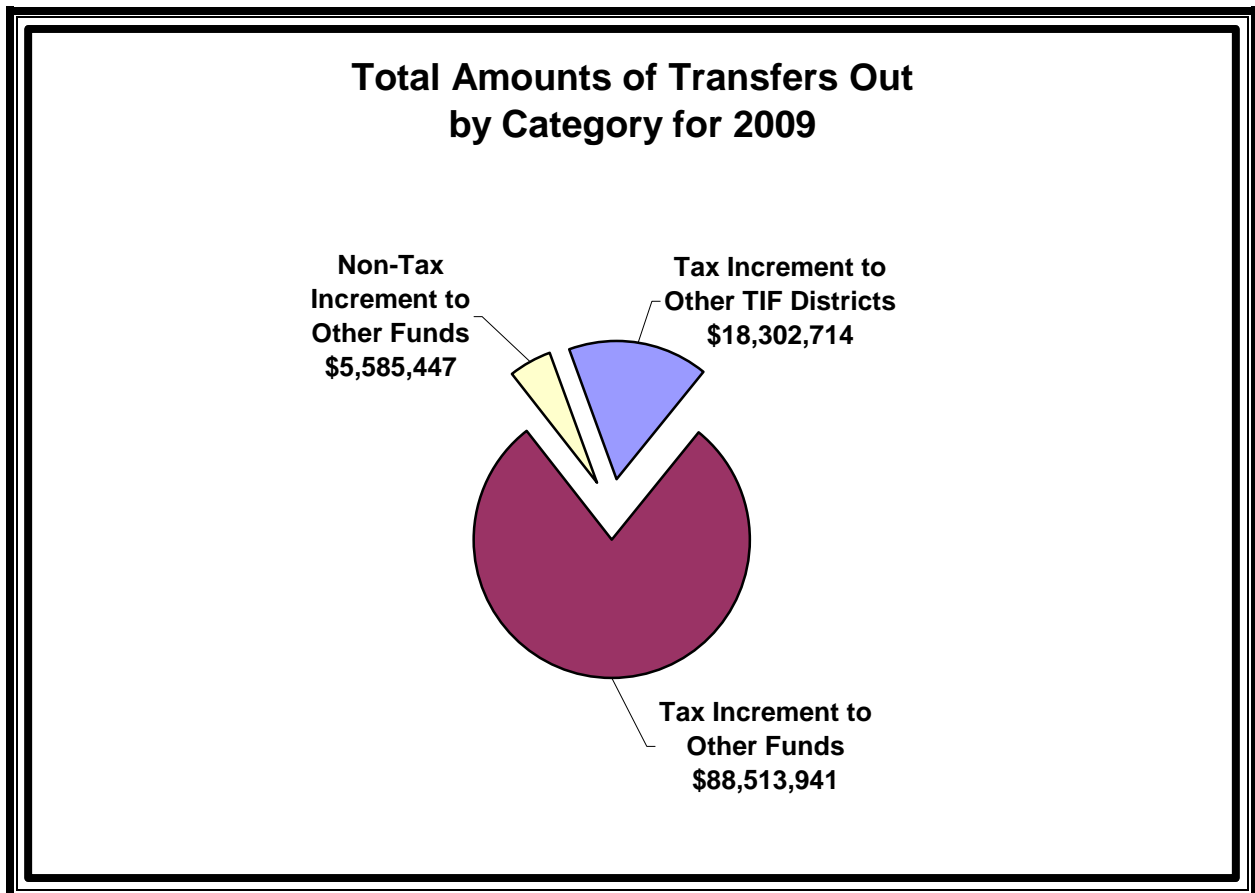
Figure 21.



²⁹ Expenditures for public park facilities and public social, recreational, or conference facilities are no longer an authorized use of tax increment. However, some obligations incurred when the use of tax increment revenue was authorized for these purposes remain outstanding.

As noted in Figure 21, the largest expense in 2009 was for transfers out of the TIF districts. Transfers out can be divided into three categories: transfers of tax increment revenue to other funds, transfers of tax increment revenue to other TIF districts, and transfers of non-tax increment revenue to other funds. Figure 22 below identifies the amounts transferred out of the TIF districts by category.

Figure 22.



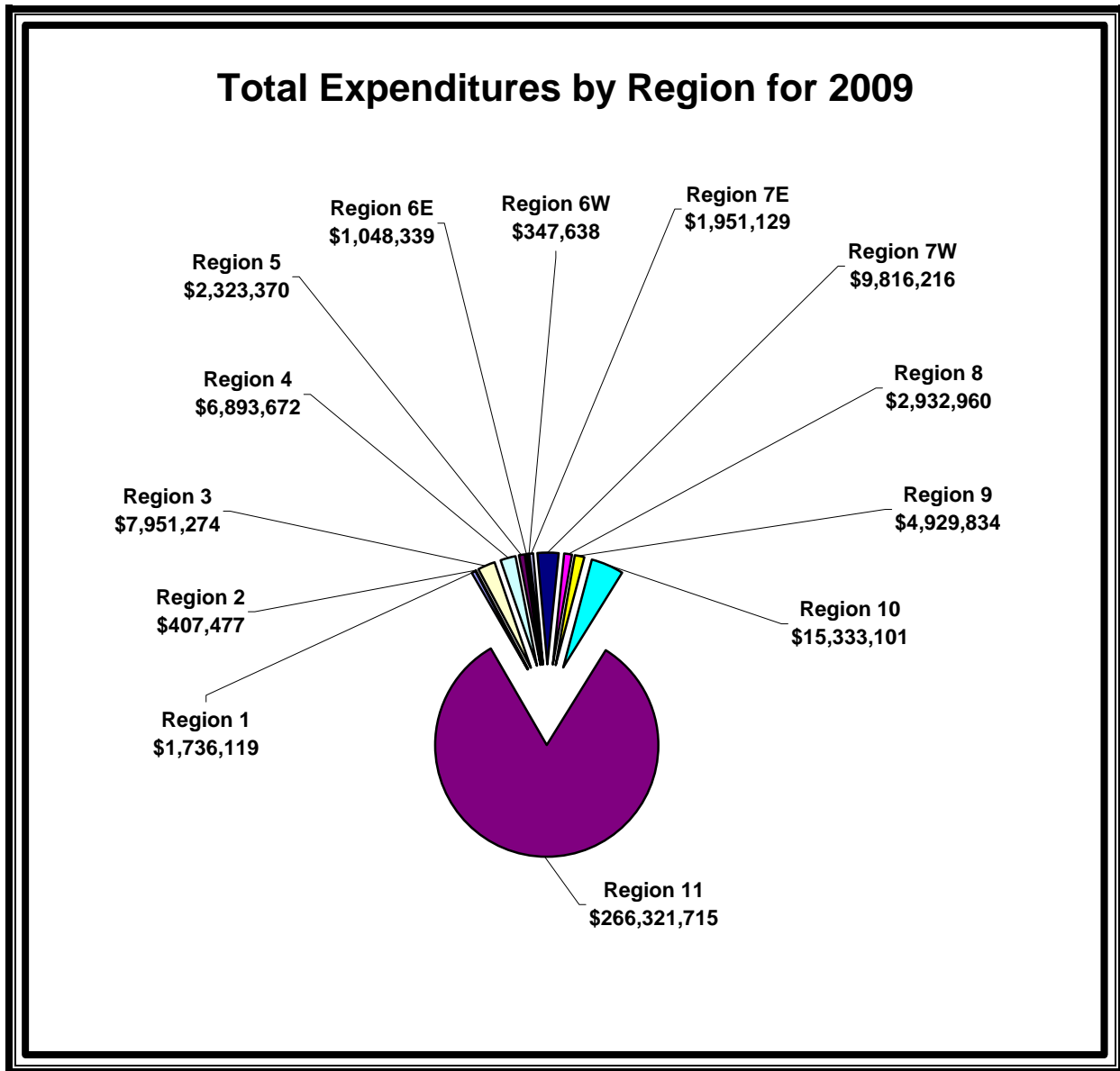
In 2009, the amount of tax increment transferred to other TIF districts accounted for approximately 16% of the total \$112,402,102 transferred out. Very often, these transfers were made to offset deficits in the receiving TIF district, or to assist in paying outstanding expenses in the receiving TIF district.

The amount of tax increment transferred out to other funds was 79% of the total. Minneapolis accounted for 76% of the \$88,513,941 of tax increment transferred to other funds, with the majority being for debt service payments.

The final 5% of the transfers out were transfers of non-tax increment revenue to other funds. The non-tax increment revenue includes revenue from such things as special assessments and grants.

Figure 23 below shows the total expenditures by region.

Figure 23.



FINDINGS AND RESPONSES

The Office of the State Auditor conducts informal reviews and limited reviews of development authorities. After the completion of a TIF review, if an authority is not in compliance with the TIF Act, an initial notice of noncompliance (Initial Notice) is sent to the governing body of the municipality that approved the TIF district in which the violation arose. The Initial Notice provides the findings, the basis for the findings, and describes the possible consequences of the noncompliance.

The municipality is required by law to respond in writing within 60 days after receiving the Initial Notice. In its response (Response), the municipality must state whether it accepts the findings, in whole or in part, and indicate the basis for any disagreement with the findings. After consideration of the municipality's Response, the Office of the State Auditor submits its final notice of noncompliance (Final Notice) to the municipality. The Office of the State Auditor forwards information regarding unresolved findings of noncompliance to the appropriate county attorney who may bring an action to enforce the TIF Act.³⁰

If the county attorney does not commence an action against the authority within one year after receiving a referral of a Final Notice, and the matter is not otherwise resolved to the Office of the State Auditor's satisfaction, the Final Notice is referred to the Attorney General. If the Attorney General finds that the authority violated a provision of the TIF Act, and the violation was substantial, the Attorney General will commence an action in the tax court to suspend the use of TIF by the authority. Before commencing the action in the tax court, however, the Attorney General must attempt to resolve the dispute using appropriate alternative dispute resolution procedures. If the Attorney General commences an action and the tax court finds that the authority violated the TIF Act, and the violation was substantial, the tax court may suspend the use of TIF by the authority for a period of up to five years.³¹

Summary of Findings and Responses

State law requires the Office of the State Auditor to provide a Summary of the Responses it received from the municipalities and copies of the Responses themselves to the chairs of the legislative committees with jurisdiction over tax increment financing.³² This section of the report summarizes the various TIF legal compliance reviews and investigations concluded as of December 31, 2010. Reviews were completed, and Initial Notices and Final Notices were sent to the following municipalities:

1. Bloomington Port Authority – An Initial Notice was sent on March 29, 2010. A Final Notice was sent on December 8, 2010.
2. Mountain Iron EDA– An Initial Notice was sent on November 20, 2009. A Final Notice was sent on December 8, 2010.

Complete copies of the Initial Notices and Final Notices and the municipalities' Responses (if applicable) are provided at the end of this report.

³⁰ All information and communications remain confidential until the Final Notice is submitted. Minn. Stat. § 6.715.

³¹ Minn. Stat. § 469.1771, subd. 2b(c).

³² Minn. Stat. § 469.1771, subd. 1(c).

Improper Transfers and/or Use of Tax Increment

Bloomington Port Authority

TIF District 1-C

In the Initial Notice, the Office of the State Auditor found that between 1999 and 2009, the Port Authority improperly transferred or moved \$3,833,206 of tax increment from TIF District 1-C to the City of Bloomington. The Office of the State Auditor also determined that, if the transfers had not occurred, an additional \$759,466 of interest on tax increment would have been generated, resulting in a total violation amount of \$4,592,672.

In its Response, the City acknowledged that “it would have been more appropriate to deposit the tax increment revenues in a fund different than the fund in which the revenues were initially deposited” On May 3, 2010, after receiving the March 31, 2010, Initial Notice, and prior to providing the Office of the State Auditor with its May 24, 2010, Response, the Port Authority and the City voluntarily took corrective action. The City moved the amount at issue (\$4,592,672) from the City fund in which it had been residing back to the Port Authority fund it had come from. The Port Authority and the City made prior period adjustments in the accounting records for year-end 2009. In the Final Notice, the Office of the State Auditor considered this finding resolved.

Tax Increment Received after Statutory Maximum Duration

Mountain Iron EDA

TIF District 7 and TIF District 8

In the Initial Notice, the Office of the State Auditor found that the EDA improperly received \$43,282.93 of tax increment revenues from TIF District 7 and \$34,277.27 of tax increment revenues from TIF District 8 after the statutorily-required decertification date for each TIF district had passed. No formal Response or other communication from the City or the EDA on this matter was received by the Office of the State Auditor.

In the Final Notice, the Office of the State Auditor considered this finding resolved based on documentation received from the St. Louis County Auditor-Treasurer showing that the tax increment had been returned.

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APPENDIX A

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REBECCA OTTO
STATE AUDITOR

STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

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(651) 296-4755 (Fax)
state.auditor@state.mn.us (E-mail)
1-800-627-3529 (Relay Service)

March 29, 2010

The Honorable Gene Winstead, Mayor
The Honorable Amy Grady, Council Member
The Honorable Karen Nordstrom, Council Member
The Honorable Steve Peterson, Council Member
The Honorable Thomas Hulting, Council Member
The Honorable Steve Elkins, Council Member
The Honorable Vern Wilcox, Council Member

City of Bloomington

1800 West Old Shakopee Road,
Bloomington, MN 55431-3027

Re: Port Authority TIF District 1-C – Initial Notice

Dear Mayor Winstead and Council Members:

In December 2009 and January 2010, the Office of the State Auditor (OSA) performed an examination of various records of two tax increment financing districts (TIF Districts) of the Bloomington Port Authority (PA), located in the City of Bloomington (City). The examination covered TIF Districts 1-C and 1-G. Both districts are currently active.

The OSA examined, on a test basis, evidence supporting the PA's compliance with the TIF Act.¹ The OSA reviewed and/or tested the TIF District reports filed with the OSA through the year ended December 31, 2008, TIF plans, bond transcripts, trust indentures, trust accounts, pledge agreements, special legislation, general ledgers, invoices, and other supporting documents. No findings were made in the examination of TIF District 1-G. The examination resulted in two findings of noncompliance with Minnesota law in TIF District 1-C (the "District"). This Initial Notice of Noncompliance (Initial Notice) contains those two findings.

Minnesota law requires the City to respond in writing to the OSA within 60 days after receipt of this Initial Notice. The Response must state whether the City accepts the findings, in whole or in part, and must indicate the basis for any disagreement. At the conclusion of the examination, if the findings remain unresolved, a Final Notice of Noncompliance (Final Notice) will be submitted to the City. If the OSA finds that the PA violated a provision of the TIF Act for which a remedy is provided, the relevant information will be forwarded to the Hennepin County Attorney for review.²

¹ See Minn. Stat. §§ 469.174 to 469.1799, as amended.

² See Minn. Stat. § 469.1771, subdivision 1 (b).

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March 29, 2010
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All data relating to this examination, including this Initial Notice and the City's Response (Response), are not public until the OSA has issued its final report.³

Brief History

The PA created TIF District 1-C in calendar year 1984. To finance redevelopment of the district, the PA issued Tax Increment Revenues Bonds in 1985, an Initial Tax Increment Developer Note in 1988, and an Additional Tax Increment Revenue Note in 1992. To provide additional sources of funding for the redevelopment, the PA also issued a series of General Obligation Bonds in 1984, followed by a series of General Obligation Refunding Bonds. To realize debt service savings, the PA refunded the Tax Increment Revenue Bonds and the Developer Notes by issuing six series of bonds between the years 1994 and 1996 under a Trust Indenture, dated March 1, 1994.

In 1986, the Legislature authorized the City to collect sales tax on certain types of lodging located within the City and on sales of liquor and fermented malt beverages. The Legislature also authorized the City to pledge the lodging and alcohol sales tax revenues to the PA to secure the payment of debt service on bonds issued by the PA to finance the costs of redevelopment.

By 1999, the PA decided to refund various outstanding bonds by issuing a series of Special Tax Revenue Refunding Bonds pursuant to the terms of a Trust Indenture, dated August 1, 1999. The 1999 Trust Indenture created various trust funds to be held by the trustee for the benefit of the registered owners of the 1999 Bonds. Three trust funds are relevant here and discussed below.

1. A Revenue Fund, with two separate accounts designated the Tax Increment Account and the Special Revenue Sources Account. All tax increment revenue from TIF District 1-C was required to be deposited to the credit of the Tax Increment Account, and all special revenue sources (primarily liquor and lodging taxes) were to be deposited to the credit of the Special Revenue Sources Account.

On the twenty-fifth day of each month, the Trust Indenture required the trustee to transfer to the bank from the amounts on deposit in the Tax Increment Account and the Special Revenue Sources Account amounts to cover various fees, interest and principal related to the bonds. The Trust Indenture also required the trustee to transfer to the Debt Service Reserve Fund an amount sufficient to cause its balance to equal the \$8,595,000 Debt Service Fund Reserve Requirement.

³ See Minn. Stat. § 6.715 (During an audit, the information is confidential and/or nonpublic until the audit is complete); Minn. Stat. § 13.03, subdivision 4 (c) (to the extent data is sent to another government entity, the data retains the same classification).

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March 29, 2010
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On the twenty-fifth day of January each year, the trustee was required to transfer to the PA any money remaining in the Tax Increment Account of the Revenue Fund, and to the City of Bloomington any money remaining in the Special Revenue Sources Account of the Revenue Fund.

2. A Bond Fund. As described above, the trustee transferred tax increment from the Tax Increment Account of the Revenue Fund to the Bond Fund, and that tax increment was used to make principal and interest payments on the 1999 Bonds. Since the tax increment transferred from the Tax Increment Account to the Bond Fund was sufficient to make the debt service payments, no transfers were made from the Special Revenue Sources Account of the Revenue Fund to the Bond Fund.

3. A Debt Service Reserve Fund. On the date of issuance and delivery of the 1999 Bonds, \$8,595,000 of the \$30,123,917.81 held in a Bond Fund, a Debt Service Reserve Fund, and a Common Reserve Fund, established under the terms of the 1999 Trust Indenture, was deposited to the Debt Service Reserve Fund. The initial amount credited to the Debt Service Reserve Fund was to be transferred to the Bond Fund to provide for the payment of principal and interest on the 1999 Bonds, if necessary. Money credited to the Debt Service Reserve Fund in excess of the \$8,595,000 Debt Service Reserve Requirement was transferred to the Special Revenue Sources Account of the Revenue Fund.

FINDINGS OF NONCOMPLIANCE

Our findings of noncompliance regarding TIF District 1-C are as follows:

Finding 1. Improper Transfers and/or Use of Tax Increment

As described above, the Revenue Fund had two separate accounts: the Tax Increment Account and the Special Revenue Account. All tax increment revenue from TIF District 1-C was deposited in the Tax Increment Account. The revenue from the Tax Increment Account was then transferred to the Bond Fund to make debt service payments on the 1999 Bonds. As there was sufficient tax increment available to make the required debt service payments on the bonds, no transfers were made from the Special Revenue Sources Account to the Bond Fund. The Bond Fund therefore contained only tax increment revenue. The tax increment on deposit in the Bond fund earned investment income. Investment income earned on tax increment is itself tax increment.⁴

On the date of issuance and delivery of the 1999 Bonds, \$8,595,000 of the \$30,123,917.81 of money held in a Bond Fund, a Debt Service Reserve Fund, and a Common Reserve Fund,

⁴ Minn. Stat. § 469.174, subd. 25.

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March 29, 2010
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established under the terms of the 1999 Trust Indenture, was deposited into the Debt Service Reserve Fund. Because the tax increment transfers from the Tax Increment Account to the Bond Fund were sufficient to make the required debt service payments on the 1999 Bonds, no transfers were made from the Debt Service Reserve Fund to the Bond Fund to cover shortfalls. The tax increment on deposit in the Debt Service Reserve Fund earned investment income and the investment income is tax increment.⁵

Because the tax increment generated from the property in TIF District 1-C was sufficient to make the debt service payments on the 1999 Bonds and because the TIF plan authorizes no other expenditures, any investment income earned from the amounts on deposit in the Bond Fund and the Debt Service Reserve Fund, although it was tax increment, was not needed for debt service. Between calendar years 1999 and 2009, the PA transferred \$428,532 of tax increment from the Bond Fund and \$3,404,674 of tax increment from the Debt Service Reserve Fund to the Special Revenue Sources Account of the Revenue Fund. On or about the twenty-fifth day of January each year, the trustee transferred to the City of Bloomington the tax increment on deposit in the Special Revenue Sources Account of the Revenue Fund.

The TIF Act requires tax increment to be spent only as authorized in the TIF plan.⁶ Between calendar years 1999 and 2009, the PA transferred \$3,833,206 of tax increment from the Bond Fund and the Debt Service Reserve Fund to the Special Revenue Sources Account of the Revenue Fund and, on or about the twenty-fifth day of January of each year, the trustee transferred to the City of Bloomington the tax increment on deposit in the Special Revenue Sources Account of the Revenue Fund. These transfers were not authorized by the TIF plan, as required by the TIF Act.⁷

The Office of the State Auditor finds that the PA was in violation of the TIF Act when it improperly transferred \$3,833,206 of tax increment from TIF District 1-C to the City of Bloomington.⁸

Finding 2. Inadequately Documented Expenditures

⁵ Minn. Stat. § 469.174, subd. 25.

⁶ Minn. Stat. § 469.176, subd. 4.

⁷ The 2009 Trust Indenture uses language similar to the language used in the 1999 Trust Indenture, which requires that any money credited to the Debt Service Reserve Fund in excess of the Debt Service Reserve Requirement to be transferred to the Special Revenue Sources Account of the Revenue Fund. If the language of the Trust Indenture remains unchanged, TIF Act violations will continue to occur each year as the tax increment credited to the Debt Service Reserve Fund is paid to the City. The PA has advised the OSA that it is in the process of amending the 2009 Trust Indenture to correct the language.

⁸ The PA determined, and the OSA substantiated, that, if it hadn't transferred the \$428,532 and \$3,404,674 of tax increment to the City of Bloomington, the increment would have earned investment income of \$65,145 and \$694,321, respectively, through December 31, 2009. Investment income is tax increment.

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A TIF authority is required by Minnesota Statutes section 469.175, subd. 6, to file with the OSA annual financial reports (TIF reports), for each TIF district it has created. In its 2004 and 2005 TIF reports, the PA reported transfers out of tax increment to the General Fund of \$262,471 and \$89,520, respectively. Later, the PA corrected its TIF reports by providing the OSA with a TIF report spreadsheet showing corrections, on an annual basis, of the sources and uses of funds associated with TIF District 1-C. The spreadsheet shows transfers out of tax increment to the General Fund of \$120,000 in 2004, and \$100,000 in 2005.

When asked during this examination to substantiate the \$220,000 of transfers out of tax increment in calendar years 2004 and 2005, the PA failed to provide to the OSA the documentation required. Instead, the PA stated that the transfers would be adjusted in 2009 (*i.e.*, when the 2009 TIF report is filed with the OSA by August 1, 2010).

Absent documentation, the OSA must find the PA in violation of the TIF Act because it improperly expended \$220,000 of tax increment from TIF District 1-C in calendar years 2004 and 2005.

CONCLUSION

As noted above, the City's Response to the findings must be submitted in writing to the OSA within 60 days after receipt of this Initial Notice. We are available to review and discuss the findings at any time during the preparation of the City's Response. After reviewing the City's Response, we will issue the Final Notice.

If you have any questions, please call me at (651) 296-7979. We look forward to receiving your Response.

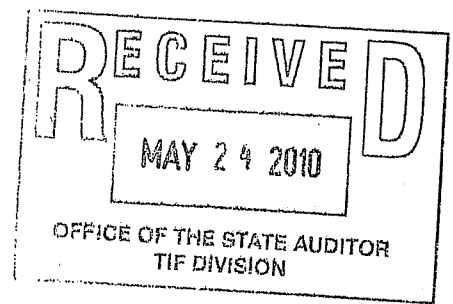
Very truly yours,

/s/ Arlin Waelti

Arlin Waelti
Assistant State Auditor
TIF Division Director

cc: Lori Economy-Scholler, Chief Financial Officer

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May 21, 2010

Arlin Waelti
Assistant State Auditor
TIF Division Director
Office of the State Auditor
525 Park Street, Suite 500
Saint Paul, Minnesota 55103-2139

Re: Port Authority of the City of Bloomington
TIF District 1-C
Initial Findings of Noncompliance

In accordance with Minnesota Statutes, Section 469.1771, subdivision 1(c), the City of Bloomington (the "City") hereby submits its response to the Initial Notice of Noncompliance, dated March 31, 2010 (the "Initial Notice"), delivered by the Office of the State Auditor ("OSA") to the City Council of the City regarding Tax Increment Financing District No. 1-C (Mall of America Phase I) ("TIF District 1-C") established by the Port Authority of the City of Bloomington (the "Port Authority") pursuant to the provisions of Minnesota Statutes, Sections 273.71-273.78, as amended, repealed by 1987 Minnesota Laws, Chapter 291, Section 244, and replaced by Minnesota Statutes, Sections 469.174-1799, as amended (the "Tax Increment Act"). TIF District 1-C is located within Industrial Development District I Airport South (the "Project") established under Minnesota Statutes, Sections 458.09-458.1991 and 458.70-458.703, as amended, repealed by 1987 Minnesota Laws, Chapter 291, Section 244, and replaced by Minnesota Statutes, Sections 469.048-469.068 and 469.071, as amended (the "Port Authority Act").

The City does not agree with the findings of noncompliance, for the reasons described in detail below.

As a preface to our detailed response in this letter, we have some general observations that will assist in providing the perspective of the City on the issues raised by the Initial Notice.

GENERAL OBSERVATIONS:

The first finding of the Initial Notice relates to an "improper transfer" of tax increment revenues. While the City acknowledges that it would have been more appropriate to deposit the tax increment revenues in a fund different than the fund in which the revenues were initially deposited, the amount at issue (\$4,592,671.68) has already been moved from a fund of the City to the appropriate fund of the Port Authority and prior period adjustments have been made in the accounting records of the City and the Port Authority for year-end 2009. The City and the Port Authority recognize an obligation to segregate tax increment revenues. The fact that the City and the Port Authority had identified the amounts at issue prior to the onsite OSA audit visit and made arrangements to make a transfer to the appropriate fund long after the initial deposits were made, demonstrates that the accounting systems of the City and the Port Authority serve the function of segregating tax increment revenues. The purpose of segregating tax

increment revenues is to ensure that tax increment revenues are properly expended. While the City and the Port Authority believe that the tax increment revenues derived from TIF District 1-C would have been expended in accordance with the Tax Increment Act without such a movement, the actions taken by the City and the Port Authority will ensure that all tax increment revenues derived from TIF District 1-C will be very easy to trace and expended in accordance with the terms and limitations of the Tax Increment Act.

The second finding of the Initial Notice relates to "inadequately documented expenditures" of tax increment revenues. The City believes that this finding was based on a misunderstanding between the staff of OSA and the accounting staff of the City and Port Authority. After a visit by staff members of OSA, the accounting staff expected to receive a written request for specific documents relating to various expenditures of tax increment revenues derived from TIF District 1-C. When this request did not arrive, the accounting staff assumed that there were no outstanding questions regarding such records. The City and the Port Authority have adequate records to substantiate the expenditures referred to in the second finding of the Initial Notice and copies of those records are included with this letter.

SPECIFIC FINDING RESPONSES:

The two findings of the Initial Notice assert that there has been improper accounting for tax increment revenues and inadequate documentation of expenditures of tax increment revenues. Over two years prior to notification of the tax increment audit, City staff gathered all historical documents related to Tax Increment District 1-C and 1-G. A thorough analysis of these documents was undertaken and was still in process at the time of the OSA audit. Reclassification entries have been posted in 2007 and in 2008, with anticipated final entries occurring for 2009. The City concedes that assumptions were made with the OSA audit review process of its accounting records with respect to the items referred to in the Initial Notice. The City and the Port Authority have made appropriate prior period adjustments to record these entries. Most important, however, is the fact that a fair review of the records will show that there have been no improper expenditures of tax increment revenues that violate the provisions of the Tax Increment Act and no uses of tax increment revenues that thwart the underlying purposes of the Tax Increment Act.

Finding 1. Improper Transfers and/or Use of Tax Increment

The OSA made a finding that the Port Authority was in violation of the Tax Increment Act when it improperly transferred \$3,833,206 of tax increment revenues from TIF District 1-C to the City. The OSA also stated that such tax increment revenues would have earned investment income of \$759,466, after reviewing the analysis and calculations made by City staff, and that such investment income must also be treated as tax increment revenues. As a result, a total of \$4,592,671.68 was deemed improperly transferred to the City.

Response to Finding 1. The City respectfully disagrees with this finding.

Commencing in 1985, the Port Authority has issued several series of obligations to finance certain public improvements in TIF District 1-C and has issued several series of refunding bonds to refinance such public improvements. The last series of refunding bonds was the Special Tax Revenue Refunding Bonds (Mall of America Project), Series 2009 (the "Series 2009 Bonds"), issued by the Port Authority on October 14, 2009, pursuant to the terms of a Trust Indenture, dated as of October 1, 2009 (the "Series 2009 Indenture"), between the Port Authority and Zions First National Bank, as trustee. The proceeds derived from the sale of the Series 2009 Bonds were applied by the Port Authority to the redemption and prepayment of the Special Tax Revenue Refunding Bonds (Mall of America Project),

Series 1999 (the "Series 1999 Bonds") issued by the Port Authority on August 2, 1999. The tax increment revenues derived from TIF District 1-C (the "Tax Increment Revenues") and the tax revenues derived from liquor taxes and lodging taxes imposed under the authority of Laws of Minnesota 1986, Chapter 391 (the "Special Revenues") were pledged to the Series 1999 Bonds and are pledged to the Series 2009 Bonds.

The Series 1999 Bonds were issued pursuant to a Trust Indenture, dated as of August 1, 1999 (the "Series 1999 Indenture"), between the Port Authority and Wells Fargo Bank, National Association, as trustee. Under the terms of the Series 1999 Indenture, a Revenue Fund was established and a Tax Increment Account and a Special Revenue Sources Account were established in the Revenue Fund. All Tax Increment Revenues were to be deposited in the Tax Increment Account and all Special Revenues were to be deposited in the Special Revenue Sources Account. On dates specified in the Series 1999 Indenture, an amount required to pay the debt service on the Series 1999 Bonds was required to be transferred to the Bond Fund from the Tax Increment Account. If the amounts in the Tax Increment Account were not sufficient to pay all debt service due on the Series 1999 Bonds on the next interest payment date then additional amounts were to be transferred to the Bond Fund from the Special Revenue Sources Account. Finally, a Debt Service Reserve Fund was established under the Series 1999 Indenture into which bond proceeds were deposited. The money in the Debt Service Reserve Fund was required to be transferred to the Bond Fund in the event that money in the Revenue Fund was not sufficient to pay the debt service on the Series 1999 Bonds on any interest payment date.

The Indenture provides that any earnings derived from the investment of amounts held in the Debt Service Reserve Fund are to be deposited in the Special Revenue Sources Account. All earnings derived from the investment of money held in the Debt Service Reserve Fund were deposited in the Special Revenue Sources Account. It also appears that earnings derived from the investment of amounts held in the Bond Fund were deposited in the Special Revenue Sources Account. Pursuant to Section 469.174, subdivision 25, of the Tax Increment Act, the term "tax increment" includes all "interest or other investment earnings on or from tax increments." Therefore, the investment earnings transferred from the Bond Fund and the Debt Service Reserve Fund to the Special Revenue Sources Account constitutes tax increment revenues for purposes of the Tax Increment Act.

Under the terms of the Series 1999 Indenture, once each year the money held in the Special Revenue Sources Account, including the investment earnings required to be treated as tax increment revenues, was transferred to the City. The total amount of such earnings for the period from August 2, 1999, to December 1, 2009, was \$3,833,206. Such funds were deposited by the City in South Loop Fund 435 in years 2000 thru 2010 and remain unexpended. The City and the Port Authority was aware of the appropriate location of the TIF interest prior to the onsite visit and were awaiting the onsite visit to confirm the total amount. On May 3, 2010, the City posted a prior period adjustment of \$4,188,025.25 for activities from 2000-2008, adjusted 2009 activities for \$368,090.96 and a transfer of \$36,555.47 for 2010 for a total of \$4,592,671.68 (representing the \$3,833,206 referred to above plus income derived from the investment of such amount of \$759,466) from the South Loop Fund 435 of the City to Tax Increment Fund 083 of the Port Authority.

The first finding of the Initial Notice stated that the Port Authority "was in violation of the [Tax Increment] Act when it improperly transferred \$3,833,206 of tax increment from TIF District 1-C to the City of Bloomington." The Initial Notice did not assert that the tax increment revenues at issue were improperly expended but, rather, that the mere transfer of the funds to the City was a violation of the Tax Increment Act. The Initial Notice was not explicit as to which provision of the Tax Increment Act was violated by such transfers. The OSA may have been concerned as to compliance with Section 469.177, subdivision 5, which states:

Subd. 5. Tax increment account. The tax increment received with respect to any district shall be segregated by the authority in a special account or accounts on its official books and records or as otherwise established by resolution of the authority to be held by a trustee or trustees for the benefit of holders of the bonds.

The City and the Port Authority recognize an obligation to segregate tax increment revenues. The fact that the City and the Port Authority had already determined the amounts at issue prior to the onsite audit visit and has affected the transfer and prior period adjustments to Tax Increment Fund 083 of the Port Authority long after the initial deposits were made, demonstrates that the accounting systems of the City and the Port Authority serve the function of segregating tax increment revenues.

More importantly, the segregation of tax increment revenues is not an end in itself but is imposed to ensure that tax increment revenues are properly expended on statutorily-authorized purposes. Through the transfer and prior period adjustments of such revenues back to the Port Authority, the City will ensure that the total amount of tax increment revenues generated by TIF District 1-C will be expended on costs authorized by the terms and limitations of the Tax Increment Act.

Furthermore, the City and the Port Authority believe that the tax increment revenues derived from TIF District 1-C that were transferred to South Loop Fund 435 of the City would have been expended in accordance with the Tax Increment Act even if the funds had not been returned to Tax Increment Fund 083 of the Port Authority. The expenditure of the Special Revenues is governed by Laws of Minnesota 1986, Chapter 391 ("Chapter 391"). The lodging tax is authorized by Section 4 of Chapter 391 and the liquor tax is authorized by Section 5 of Chapter 391. The permitted uses of the Special Revenues prior to the movement of funds to the Port Authority fund 083 are set forth in Sections 7 and 8 of Chapter 391 which state, in relevant part, as follows:

The proceeds of the taxes imposed under section . . . 4, or 5 . . . may only be expended by the city for the public purpose stated in section 1, as follows: * * * (iii) the proceeds from the taxes imposed under sections 4 and 5 may be expended for debt service on bonds issued for . . . citywide improvements and public services as authorized by law and charter. The city may transfer funds to the port authority to accomplish the public purpose of section 1 as authorized by this section.

* * *

The proceeds of the taxes permitted by sections . . . 4, and 5 . . . may be pledged by the city or port authority for the payment of tax increment revenue bonds issued pursuant to Minnesota Statutes, chapter 273.

Section 1 of Chapter 391 states in its entirety:

The legislature finds that providing area wide and local financial assistance, including the provision of security for debt financing, but not including direct subsidies to private interests, in the development of the former metropolitan stadium site, is a public purpose of state, metropolitan, and local government in Minnesota and that it is a benefit to the metropolitan area within the purpose of the metropolitan revenue distribution program pursuant to chapter 473F.

Read together, the provisions of Sections 1, 4, 5, 7, and 8 of Chapter 391 authorize the use of the Special Revenues for the payment of costs related to the development of the former metropolitan stadium site and

the City and the Port Authority have been so advised by the City Attorney and bond counsel. The former metropolitan stadium site is the land now included within Tax Increment Financing District 1-C.

The Special Revenues have been expended by the City to date on the following costs:

- Mall of America Related Infrastructure Improvements of \$16 million. These projects include burial of transmissions lines along American Boulevard, transportation improvements on American Boulevard, TH77, Killebrew Avenue, and Lindau Lane. Storm capacity improvements for Pond C and sanitary sewer improvements for MOA/IKEA.
- Mall of America Public Safety Related costs of \$4.5 million. Costs associated with the satellite police station and police radio services at MOA.
- Mall of America Related Studies and Administrative costs of \$790 thousand. These include traffic, parking and South Loop Studies since 2000.

There is no provision of the Tax Increment Act that precludes the mere transfer of tax increment revenues from the Port Authority to another entity. The Tax Increment Act imposes limitations on the *expenditures* of tax increment revenues. Section 469.176, subdivision 4, states in relevant part that:

All revenues derived from tax increment shall be used in accordance with the tax increment financing plan. The revenues shall be used solely for the following purposes: (1) to pay the principal of and interest on bonds issued to finance a project: (2) . . . by a port authority . . . to finance or otherwise pay the cost of redevelopment pursuant to sections 469.048 to 469.068

The transfers of the tax increment revenues in question from the Port Authority to the City do not constitute expenditures of tax increment revenues. If that were the case, then each transfer of tax increment revenues to a trustee, to a provider of investments, or to a third party to be applied to subsequent authorized purposes would also be deemed to be an expenditure. Transfers constitute a violation of the Tax Increment Act only if such revenues were actually expended contrary to the requirements of the Tax Increment Act. The tax increment revenues that are the subject of the first finding of the Initial Notice have not been expended but are being held in Tax Increment Fund 083 of the Port Authority pending expenditures for authorized costs in TIF District 1-C or other authorized costs.

As noted above, we do not believe that the legal basis for the alleged violation is clear from the Initial Notice. Another possible reading of the Initial Notice is that, by transferring tax increment funds from a Port Authority account to a City account, the funds were deemed spent on the date of that transfer; presumably the violation is that the funds were spent for general City purposes. However, this conclusion is a surprising (and to our knowledge unprecedented) interpretation of the Tax Increment Act, which would have unexpected consequences in other contexts. For example, under 2010 Minnesota Laws, Chapter 216, Section 32 (the "Temporary Law") authorities may spend tax increments without regard to various general law restrictions, provided that "the authority to spend tax increments under this subdivision expires on December 31, 2011." The logical conclusion, based on this alternate reading of the Initial Notice, is that an authority may meet the December 31, 2011 deadline simply by transferring funds to a city account that will ultimately be used for some purpose authorized under the Temporary Law; the funds will be considered "spent" on the date of that transfer. This result seems unlikely, and demonstrates that the "transfer equals expenditure" analysis is flawed. Rather, a plain reading of the Tax Increment Act would suggest that tax increments are "spent" when money is paid in consideration for some good or service.

Finding 2. Inadequately Documented Expenditures

The OSA made a finding that the Port Authority is in violation of the Tax Increment Act because it cannot provide documentation of its expenditures of \$120,000 of tax increment revenues from TIF District 1-C in calendar year 2004 and its expenditures of \$100,000 of tax increment revenues from TIF District 1-C in calendar year 2005.

Response to Finding 2. The City respectfully disagrees with this finding.

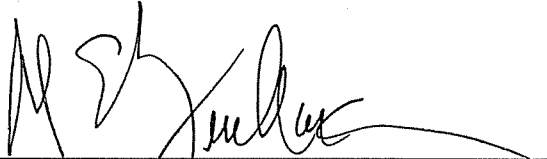
Attached to this letter in EXHIBIT A are documents related to the expenditure of \$120,000 for the purchase of traffic signal software and fiber optics and voice data cable installation with respect to the light rail transit line to be constructed in the Project. These documents include City Council authorization for the expenditures, several invoices, and correspondence to and from the Hiawatha Project Office and the Minnesota Department of Transportation with respect to such expenditures. The Port Authority and the City have made a prior period adjustment with respect to such expenditures that reflect a transfer of such funds from South Loop Fund 435 to Tax Increment Fund 083 and a disbursement from Tax Increment Fund 083 for such tax-increment-eligible expenditures for the cost of redevelopment of the Project.

Attached to this letter in EXHIBIT B are documents related to the expenditure of \$74,000 for the cost of a Phase II Parking Study prepared by SFR Consulting Group, Inc. These documents include Board authorization for the expenditure and several invoices. The Port Authority and the City have made a prior period adjustment with respect to such expenditures that reflect a transfer of \$100,000 from the South Loop Environmental Fund 286 to Tax Increment Fund 083 and a disbursement from Tax Increment District 1-C Administrative Fund 052 of \$74,000 for such tax-increment-eligible expenditures for administrative costs of the Project.

In discussions with its external independent auditor, HLB Tautges Redpath, Ltd., a representative of the auditor indicated that these prior period adjustments would not generate an audit finding for year-end 2009 and that the prior period adjustments for financial activities between 2000-2008 was the appropriate accounting entry. No budget adjustments will be required by the City Council or the Board as a result of such prior period adjustments.

Please contact the undersigned or Lori Economy-Scholler, the Chief Financial Officer of the City, if you have any questions with respect to the foregoing.

CITY OF BLOOMINGTON



Mark Bernhardson
City Manager

Attachments

- cc: Mayor and City Council of the City
Acting Administrator and Board of Commissioners of the Port Authority
Sandra Johnson, City Attorney
Thomas Barrett, Hinshaw Law, General Counsel Port Authority
John Utley, Kennedy & Graven, Chartered
David Mol, CPA, HLB Tautges Redpath, Ltd.

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1-800-627-3529 (Relay Service)

December 8, 2010

The Honorable Gene Winstead, Mayor
The Honorable Amy Grady, Council Member
The Honorable Karen Nordstrom, Council Member
The Honorable Steve Peterson, Council Member
The Honorable Thomas Hulting, Council Member
The Honorable Steve Elkins, Council Member
The Honorable Vern Wilcox, Council Member

City of Bloomington

1800 West Old Shakopee Road,
Bloomington, MN 55431-3027

Re: **Port Authority TIF District 1-C – Final Notice**

Dear Mayor Winstead and Council Members:

On March 31, 2010, the Office of the State Auditor (OSA) sent to the City of Bloomington (City) an Initial Notice of Noncompliance (Initial Notice) regarding the Bloomington Port Authority's (PA) TIF District 1-C. The OSA received the City's Response (Response) from Mark Bernhardson, City Manager, on May 24, 2010.

This letter is the Final Notice of Noncompliance (the "Final Notice") of the Office of the State Auditor. It provides the OSA's final conclusions regarding the issues raised by the review.

FINDINGS OF NONCOMPLIANCE

Finding 1. Improper Transfers and/or Use of Tax Increment – RESOLVED

In the Initial Notice, the OSA found that, between 1999 and 2009, the PA improperly transferred or moved \$3,833,206 of tax increment from TIF District 1-C to the City of Bloomington. The OSA also determined that, if the transfers had not occurred, an additional \$759,466 of interest on tax increment would have been generated, resulting in a total violation amount of \$4,592,672.

In its Response, the City acknowledged that "it would have been more appropriate to deposit the tax increment revenues in a fund different than the fund in which the revenues were initially deposited . . ." On May 3, 2010, after receiving the March 31, 2010, Initial Notice and prior to providing the OSA with its May 24, 2010, Response, the PA and the City voluntarily took

corrective action. The City moved the amount at issue (\$4,592,672) from the City fund in which it had been residing back to the PA fund it had come from. The PA and the City made prior period adjustments in the accounting records for year end 2009.

The Office of the State Auditor finds that the PA violated state law when it improperly expended and/or transferred \$3,833,206 of tax increment from TIF District 1-C to the City of Bloomington and when it commingled tax increment with other tax revenues. The City subsequently took appropriate corrective action. Because corrective action has been taken, Finding 1 is considered resolved.

Finding 2. Inadequately Documented Expenditures – RESOLVED

In the Initial Notice, the OSA found that the PA improperly expended \$220,000 of tax increment from TIF District 1-C when the PA reported \$220,000 of transfers out but did not provide documentation to substantiate the transfers were subsequently spent on TIF eligible costs.

The City's Response provided documentation to show the \$220,000 was spent on TIF eligible costs and, as such, Finding 2 is considered resolved.

CONCLUSION

As to Finding 1, the City took appropriate corrective action by moving the funds at issue from the City back to the PA. With corrective action having been taken, the OSA considers Finding 1 to be resolved.

Because documentation to substantiate the proper use of \$220,000 was provided to the OSA, the OSA considers Finding 2 to be resolved.

This letter constitutes our Final Notice with respect to this Review. The OSA makes no representations as to other TIF districts or other aspects of city governance. Because Findings 1 and 2 have been resolved, the Final Notice will not be forwarded to the county attorney, as otherwise required pursuant to Minn. Stat. §469.1771, subd. 1(b).

If you have questions or concerns, please call me at (651) 296-7979.

Very truly yours,

/s/ Arlin Waelti

Arlin Waelti
Assistant State Auditor
TIF Division Director

cc: Mark Bernhardson, City Manager
Lori Economy-Scholler, Chief Financial Officer

APPENDIX B

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STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

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1-800-627-3529 (Relay Service)

November 20, 2009

The Honorable Gary Skalko, Mayor
The Honorable Joe Prebeg, Council Member
The Honorable Ed Roskoski, Council Member
The Honorable Alan Stanaway, Council Member
The Honorable Tony Zupanich, Council Member
City of Mountain Iron
8586 Enterprise Drive South
Mountain Iron, MN 55768-8260

Re: EDA's TIF District Nos. 7 and 8— Initial Notice

Dear Mayor Skalko and Council Members:

The Office of the State Auditor reviewed the 2007 and 2008 Tax Increment Financing (TIF) forms filed by the Mountain Iron Economic Development Authority (EDA) for TIF District 7 (L and M Supply-Perpich TV) and TIF District 8 (Americinn-WJ Holdings). After reviewing the information provided by the EDA and contacting St. Louis County, the Office of the State Auditor finds that the EDA is not in compliance with the TIF Act. This report contains the State Auditor's findings.

State law requires the City to respond in writing to the State Auditor within 60 days after receipt of this letter. Your response must state whether you accept the findings, in whole or in part, and indicate the basis for any disagreement. After reviewing your response, our office is required to forward information on any unresolved issues to the St. Louis County Attorney for its review.¹ All data relating to this review, including this letter and its response, are not public until our office has issued its final report.²

Finding 1. TIF 7 (L and M Supply-Perpich TV)—Tax Increment Received After Statutory Maximum Duration

In 2007 and 2008, the EDA reported to the Office of the State Auditor a TIF plan approval date of September 19, 1994, a certification request date of October 3, 1994, and a date of required

¹ Minn. Stat. § 469.1771, subd. 1.

² Minn. Stat. § 6.715.

OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Mountain Iron
November 20, 2009
Page 2

decertification of September 19, 2006. The EDA also reported an actual decertification date of September 19, 2007, which is after the required date of September 19, 2006.

A TIF authority may not receive tax increment from a soils condition district with a certification request date of October 3, 1994, after twelve years from approval of the tax increment financing plan.³ Twelve years from the September 19, 1994 TIF plan approval date for TIF District 7 is September 19, 2006. Accordingly, the EDA should not have received any tax increment from the district after September 19, 2006.

On line 51C of the 2007 TIF form and line 51B of the 2008 TIF form, the EDA reported a \$43,283 expense labeled “Return to County Auditor.” On line 62F of the 2007 TIF form and line 62A of the 2008 TIF form, the EDA reported a \$43,283 “Account Payable.” These entries suggest the EDA did not return the \$43,283 to the county auditor as of December 31, 2008.

The Office of the State Auditor contacted St. Louis County and learned that “the EDA was paid \$43,282.93 of tax increment after their decertification date of September 19, 2006. The increment was paid with settlement payments in October of 2006, May of 2007 and October of 2007. This excess increment has not been returned to St. Louis County.”⁴

The Office of the State Auditor called Craig Wainio, City Administrator, and left a voice message asking when the EDA planned on returning the \$43,283 of tax increment to the county auditor. The voice message also stated that failure to respond to the request for information would result in the issuance of a notice of noncompliance.⁵ The City did not respond.

The Office of the State Auditor finds that the Mountain Iron EDA improperly received \$43,282.93 of tax increment from TIF District 7 after the statutory maximum duration limit for the district.

Finding 2. TIF 8 (Americinn-WJ Holdings)—Tax Increment Received After Statutory Maximum Duration

In 2007 and 2008, the EDA reported to the Office of the State Auditor a TIF plan approval date of May 30, 1995, a certification request date of June 7, 1995, a month/year of first tax increment

³ Minn. Stat. §469.176, subd. 1b(a)(3) (1994).

⁴ Letter from Donald Dicklich, St. Louis County Auditor, to Kurt Mueller, Office of the State Auditor, dated November 10, 2009.

⁵ Telephone call on November 5, 2009, from Kurt Mueller, Office of the State Auditor, to Craig Wainio, City Administrator.

OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Mountain Iron
November 20, 2009
Page 3

receipt of July 1997, and a date of required decertification of May 30, 2006. The EDA also reported an actual decertification date of September 19, 2007, which is after the required date of May 30, 2006.

A TIF authority may not receive tax increment from an economic development district with a certification request date of June 7, 1995, after nine years from the date of receipt of the first tax increment from the district or eleven years from approval of the TIF plan, whichever is less.⁶ Nine years from receipt of the first tax increment with the duration extension provided in Minn. Stat. §469.176, subd. 1b(b), was December 31, 2006. Eleven years from approval of the TIF plan was May 30, 2006. Therefore, the EDA was not entitled to receive tax increment from TIF District 8 after May 30, 2006.

On line 51B of the 2007 and 2008 TIF forms, the EDA reported a \$34,277 expense labeled "Return to County Auditor." On line 62F of the 2007 TIF form, the EDA reported a \$34,277 "Account Payable." On line 62A of the 2008 TIF form, the EDA reported a \$0 "Account Payable."⁷

The Office of the State Auditor contacted St. Louis County and learned that "the EDA was paid \$34,277.27 of tax increment after their decertification date of May 30, 2006. The increment was paid with settlement payments in May and October of 2006 and May and October of 2007. This excess increment has not been returned to St. Louis County."⁸

The Office of the State Auditor called Craig Wainio, City Administrator, and left a voice message asking when the EDA planned on returning the \$37,277 of tax increment to the county auditor. The voice message also stated that failure to respond to the request for information would result in the issuance of a notice of noncompliance.⁹ The City did not respond.

⁶ Minn. Stat. §469.176, subd. 1b(a)(4) (1994).

⁷ Based on the totality of the information reported by the EDA on pages 3 and 4 of the 2008 TIF form, it appears that the EDA did not return \$34,277 of tax increment to the county auditor, even though it reported a \$0 Account Payable.

⁸ Letter from Donald Dicklich, St. Louis County Auditor, to Kurt Mueller, Office of the State Auditor, dated November 10, 2009.

⁹ Telephone call on November 5, 2009, from Kurt Mueller, Office of the State Auditor, to Craig Wainio, City Administrator.

OFFICE OF THE STATE AUDITOR

Mayor and Council, City of Mountain Iron
November 20, 2009
Page 4

The Office of the State Auditor finds that the Mountain iron EDA improperly received \$34,277.27 of tax increment from TIF District 8 after the statutory maximum duration limit for the district.

CONCLUSION

As noted above, the City's response to these findings must be submitted in writing to the State Auditor within 60 days after receipt of this notice. Our TIF Division staff is available to review and discuss the findings at any time during the preparation of your response. After reviewing your response, the State Auditor will issue the final notice.

If you have any questions, please call me at (651) 296-7979. We look forward to receiving your response.

Very truly yours,

/s/ Arlin Waelti

Arlin Waelti
Assistant State Auditor
TIF Division Director



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December 8, 2010

The Honorable Gary Skalko, Mayor
The Honorable Joe Prebeg, Council Member
The Honorable Ed Roskoski, Council Member
The Honorable Alan Stanaway, Council Member
The Honorable Tony Zupanich, Council Member
City of Mountain Iron
8586 Enterprise Drive South
Mountain Iron, MN 55768-8260

Re: **EDA's TIF District Nos. 7 and 8 – Final Notice**

Dear Mayor Skalko and Council Members:

On November 20, 2009, the Office of the State Auditor (OSA) sent the City of Mountain Iron (City) an Initial Notice of Noncompliance (Initial Notice) regarding the following tax increment financing (TIF) districts of the City's Economic Development Authority (EDA): TIF District No. 7 (L&M Supply-Perpich TV) and TIF District No. 8 (Americinn-WJ Holdings). A discussion of the bases for the findings can be found in the Initial Notice.

State law requires the City to provide a written response (Response) to the State Auditor within 60 days after receipt of the Initial Notice.¹ The City failed to respond, even after the OSA reminded the City of this 60-day deadline. Instead, the St. Louis County Auditor-Treasurer (County Auditor-Treasurer) provided the OSA with the information referenced in this letter.

This letter is the Final Notice of Noncompliance (Final Notice) of the OSA. It summarizes the initial findings and provides the OSA's final conclusion regarding the issues raised by its review of TIF Districts Nos. 7 and 8.

All data relating to this matter, including the Initial Notice, are not public until the OSA has issued its Final Notice.²

¹ Minn. Stat. § 469.1771, subd. 1.

² Minn. Stat. §6.715.

Findings 1 and 2. TIF District No. 7 and TIF District No. 8 – Tax Increment Received after Statutory Maximum Duration – RESOLVED.

In its review, the OSA found that the EDA improperly received \$43,282.93 of tax increment revenues from TIF District No. 7 and \$34,277.27 of tax increment revenues from TIF District No. 8 after the statutorily-required decertification date for each TIF district had passed. The Initial Notice was issued to the City after the OSA notified the City that its EDA had improperly received tax increment revenues and was required to return those revenues to the County.

No formal Response or other communication from the City or the EDA on this matter has been received by the OSA.

Because no Response to the Initial Notice had been received, the OSA contacted the County Auditor-Treasurer to determine whether the revenue had been returned. The County Auditor-Treasurer informed the OSA that the City had returned \$77,560.20 of tax increment revenue from TIF Districts Nos. 7 and 8 on December 23, 2009.

The law provides that, if an authority or municipality returns improperly received tax increment revenues within 60 days of receiving the Initial Notice, it receives its proportional share of the revenues when the money is redistributed.³ The Initial Notice was issued on November 20, 2009. The City repaid the money on December 23, 2009. Since the EDA/City repaid all of the tax increment revenues it owed prior to the 60-day expiration date, the City received \$34,943.41 of the \$77,560.27 it had returned to the County as part of the December 2009 apportionment.

CONCLUSION

Based on the information received from the St. Louis County Auditor-Treasurer, the OSA considers Findings 1 and 2 resolved. Because the findings have been resolved, the Final Notice will not be forwarded to the county attorney, as otherwise required by law.⁴

If you have questions, would like additional information, or if we can be of any assistance, please do not hesitate to contact me. I can be reached at (651) 296-7979.

Very truly yours,

/s/ Arlin Waelti

Arlin B. Waelti
Assistant State Auditor
Director, TIF Division

cc: Craig Wainio, Administrator

³ Minn. Stat. §469.1771, subd. 5.

⁴ Minn. Stat. §469.1771, subd. 1 (b).