CHAPTER 469

ECONOMIC DEVELOPMENT

469.0171 HOUSING PLAN, PROGRAM, AND REVIEW.

Prior to the issuance of bonds or obligations for a housing development project proposed by an authority under section 469.017, the authority shall:

(1) prepare a plan meeting the requirements of section 462C.03, subdivision 1, paragraphs (a) to (d);

(2) obtain review of the plan in the manner provided in section 462C.04, subdivision 1; and

(3) prepare and submit for review a program as defined in section 462C.02, subdivision 3, in the manner provided in section 462C.04, subdivision 2, and section 462C.05, subdivision 5, for the making or purchasing of loans by cities.

The authority shall prepare and submit the report required under section 462C.04, subdivision 3.

History: *1995 c 224 s 116*

469.038 BONDS, A LEGAL INVESTMENT.

When bonds issued by an authority or bonds issued by any public housing authority or agency in the United States are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, all banks, bankers, trust companies, savings banks and institutions, investment companies, savings associations, insurance companies, insurance associations, and other persons carrying on a banking or insurance business may legally invest any sinking funds, money, or other funds belonging to them or within their control in the bonds, and the bonds shall be authorized security for all public deposits.

History: *1995 c 202 art 1 s 25*

469.041 STATE PUBLIC BODIES, POWERS AS TO PROJECTS.

For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of projects, any state public body may upon the terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey, or lease any of its interests in any property, or grant easements, licenses, or any other rights or privileges therein to an authority. Except in cities of the first class having a population of less than 200,000, the public body may pay the bonds of or make loans or contributions for redevelopment projects, and the receipt or expenditure of any money expended hereunder by the state public body shall not be included within the definition of any limitation imposed on per capita taxing or spending in the charter of the state public body. No state public body may use any revenues or money of that state public body to pay the bonds of or make any loans or contributions to any public housing project, except to a public low-rent housing project (i) for which financial assistance is provided by the federal government which requires a municipality or other local public body to use its revenues or

money for a direct loan or grant to the project as a condition for federal financial assistance and (ii) where the local financial assistance for the project is authorized by resolution of the governing body of the municipality;

(2) Cause parks, playgrounds, recreational, community, education, water, sewer or drainage facilities, or any other works which it may undertake, to be furnished adjacent to or in connection with such projects;

(3) Approve, through its governing body or through an agency designated by it for the purpose, redevelopment plans, plan or replan, zone or rezone its parks; in the case of a city or town, make changes in its map; the governing body of any city may waive any building code requirements in connection with the development of projects;

(4) Cause services to be furnished to the authority of the character which it may otherwise furnish;

(5) Enter into agreements with respect to the exercise by it of its powers relating to the repair, closing, or demolition of unsafe, unsanitary, or unfit buildings;

(6) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of the projects;

(7) Incur the entire expense of any public improvements made by it in exercising the powers granted in sections 469.001 to 469.047;

(8) Enter into agreements with an authority respecting action to be taken by the state public body pursuant to any of the powers granted by sections 469.001 to 469.047; the agreements may extend over any period, notwithstanding any law to the contrary;

(9) Furnish funds available to it from any source, including the proceeds of bonds, to an authority to pay all or any part of the cost to the authority of the activities authorized by section 469.012, subdivision 1, clause (7); and

(10) With respect to a housing development project and bonds which an authority has issued for the project, exercise the powers available to a city under section 471.191, subdivision 2, as though the project were a recreational program; provided that this power may only be exercised by a city or county in which the project is located or in accordance with a joint powers agreement with other cities or counties that have authorized the exercise of the powers for other projects as part of a common financing plan.

History: *1995 c 256 s 7*

469.060 GENERAL OBLIGATION BONDS.

Subdivision 1. **Power; procedure.** A port authority may issue bonds in the principal amount authorized by its city's council. The bonds may be issued in anticipation of income from any source. The bonds may be issued: (1) to secure funds needed by the authority to pay for acquired property or (2) for other purposes in sections 469.049, 469.050, and 469.058 to 469.068. The bonds must be in the amount and form and bear interest at the rate set by the city council. Except as otherwise provided in sections 469.048 to 469.068, the issuance of the bonds is governed by chapter 475. The port authority when issuing the bonds is a municipal corporation under chapter 475. Notwithstanding any contrary city charter provision or any general or special law, the bonds may be issued and sold without submission of the question to the electors of the city, provided that the ordinance of the governing body of the city authorizing issuance of the bonds by the port authority shall be subject to any provisions in the city charter pertaining to the procedure for referendum on ordinances enacted by the governing body.

[For text of subds 2 to 7, see M.S.1994]

History: *1995 c 256 s 8*

469.102 GENERAL OBLIGATION BONDS.

Subdivision 1. **Authority; procedure.** An economic development authority may issue general obligation bonds in the principal amount authorized by two–thirds majority vote of its city's council. The bonds may be issued in anticipation of income from any source. The bonds may be issued: (1) to secure funds needed by the authority to pay for acquired property

or (2) for other purposes in sections 469.090 to 469.108. The bonds must be in the amount and form and bear interest at the rate set by the city council. Except as otherwise provided in sections 469.090 to 469.108, the issuance of the bonds is governed by chapter 475. The authority when issuing the bonds is a municipal corporation under chapter 475.

[For text of subds 2 to 6, see M.S.1994]

History: *1995 c 256 s 9*

469.110 DEFINITIONS.

[For text of subds 1 to 8, see M.S.1994]

Subd. 9. [Repealed, 1995 c 186 s 80]

[For text of subds 10 to 13, see M.S.1994]

469.116 BOND ISSUE FOR REDEVELOPMENT PURPOSES.

[For text of subds 1 to 6, see M.S.1994]

Subd. 7. **Investment in bonds.** Subject to the approval of the state agency, the bonds of a local agency may be declared securities in which all public officers and bodies of the state and of its municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings associations, executors, administrators, guardians, trustees, and all other fiduciaries in the state may properly and legally invest the funds within their control. Each mortgage or issue of bonds shall relate only to a single specified project, and those bonds shall be secured by a mortgage upon all the real property of which the projects consist and shall be first lien bonds, secured by a mortgage not exceeding 80 percent of the estimated cost prior to the completion of the project, or 80 percent of the appraised value or actual cost, but in no event in excess of 80 percent of the actual cost, after that completion, as certified by the authority.

[For text of subd 8, see M.S.1994]

History: *1995 c 202 art 1 s 25*

469.169 SELECTION OF ENTERPRISE ZONES.

[For text of subds 1 to 8, see M.S.1994]

Subd. 9. **Additional border city allocations.** In addition to tax reductions authorized in subdivisions 7 and 8, the commissioner may allocate $1,100,000 for tax reductions to border city enterprise zones in cities located on the western border of the state, and $300,000 to the border city enterprise zone in the city of Duluth. The commissioner shall make allocations to zones in cities on the western border by evaluating which cities' applications for allocations relate to business prospects that have the greatest positive economic impact. Allocations made under this subdivision may be used for tax reductions as provided in section 469.171, or other offsets of taxes imposed on or remitted by businesses located in the enterprise zone, but only if the municipality determines that the granting of the tax reduction or offset is necessary in order to retain a business within or attract a business to the zone. Limitations on allocations under section 469.169, subdivision 7, do not apply to this allocation. Enterprise zones that receive allocations under this subdivision may continue in effect for purposes of those allocations through December 31, 1995.

Subd. 10. **Additional border city allocations.** In addition to tax reductions authorized in subdivisions 7, 8, and 9, the commissioner may allocate $1,500,000 for tax reductions to border city enterprise zones in cities located on the western border of the state. The commissioner shall make allocations to zones in cities on the western border on a per capita basis. Allocations made under this subdivision may be used for tax reductions as provided in section 469.171, or other offsets of taxes imposed on or remitted by businesses located in the enterprise zone, but only if the municipality determines that the granting of the tax reduction

or offset is necessary in order to retain a business within or attract a business to the zone. Limitations on allocations under section 469.169, subdivision 7, do not apply to this allocation. Enterprise zones that receive allocations under this subdivision may continue in effect for purposes of those allocations through December 31, 1996.

History: *1995 c 264 art 5 s 10,11*

469.170 TAX CLASSIFICATION OF EMPLOYMENT PROPERTY.

[For text of subds 1 to 8, see M.S.1994]

Subd. 9. [Repealed, 1995 c 186 s 81]

469.174 DEFINITIONS.

[For text of subds 1 to 3, see M.S.1994]

Subd. 4. **Captured net tax capacity.** "Captured net tax capacity" means the amount by which the current net tax capacity of a tax increment financing district or an extended subdistrict exceeds the original net tax capacity, including the value of property normally taxable as personal property by reason of its location on or over property owned by a tax-exempt entity. In the case of a hazardous substance subdistrict, except an extended subdistrict, "captured net tax capacity" means the amount by which the original net tax capacity of the portion of the tax increment financing district overlying the subdistrict exceeds the original net tax capacity of the subdistrict.

[For text of subds 5 to 18, see M.S.1994]

Subd. 19. **Soils condition district.** (a) "Soils condition district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that the following conditions exist:

(1) the presence of hazardous substances, pollution, or contaminants requires removal or remedial action for use;

(2) the estimated cost of the proposed removal and remedial action exceeds the fair market value of the land before completion of the preparation.

The requirements of clause (2) need not be satisfied, if each parcel of property in the district either satisfies the requirements of clause (2) or the estimated costs of the proposed removal or remedial action exceeds $2 per square foot for the area of the parcel.

(b) The proposed removal or remediation action must be specified in a development action response plan to satisfy the requirements of paragraph (a).

[For text of subd 20, see M.S.1994]

Subd. 21. **Credit enhanced bonds.** "Credit enhanced bonds" means special obligation bonds that are:

(1) payable primarily from tax increments (i) derived from a tax increment financing district within which the activity, as defined in section 469.1763, subdivision 1, financed by at least the applicable in-district percentage of the bond proceeds is located and (ii) estimated on the date of issuance to be sufficient to pay when due the debt service on the bonds, and

(2) further secured by tax increments (i) derived from one or more tax increment financing districts and (ii) determined by the issuer to be necessary in order to make the marketing of the bonds feasible.

For purposes of this subdivision, "applicable in-district percentage" means the percentage under section 469.1763, subdivision 2, for the district.

[For text of subd 22, see M.S.1994]

Subd. 23. **Hazardous substance subdistrict.** "Hazardous substance subdistrict" or "subdistrict" means a hazardous substance subdistrict created under section 469.175, subdivision 7.

Subd. 24. **Extended subdistrict.** "Extended subdistrict" means a hazardous substance subdistrict, but only for any period during which the subdistrict remains in effect after the overlying tax increment district has terminated.

History: *1995 c 264 art 5 s 12-16*

469.175 ESTABLISHING, MODIFYING TAX INCREMENT FINANCING PLAN, ANNUAL ACCOUNTS.

Subdivision 1. **Tax increment financing plan.** (a) A tax increment financing plan shall contain:

(1) a statement of objectives of an authority for the improvement of a project;

(2) a statement as to the development program for the project, including the property within the project, if any, that the authority intends to acquire;

(3) a list of any development activities that the plan proposes to take place within the project, for which contracts have been entered into at the time of the preparation of the plan, including the names of the parties to the contract, the activity governed by the contract, the cost stated in the contract, and the expected date of completion of that activity;

(4) identification or description of the type of any other specific development reasonably expected to take place within the project, and the date when the development is likely to occur;

(5) estimates of the following:

(i) cost of the project, including administration expenses;

(ii) amount of bonded indebtedness to be incurred;

(iii) sources of revenue to finance or otherwise pay public costs;

(iv) the most recent net tax capacity of taxable real property within the tax increment financing district;

(v) the estimated captured net tax capacity of the tax increment financing district at completion; and

(vi) the duration of the tax increment financing district's existence;

(6) statements of the authority's alternate estimates of the impact of tax increment financing on the net tax capacities of all taxing jurisdictions in which the tax increment financing district is located in whole or in part. For purposes of one statement, the authority shall assume that the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district, and for purposes of the second statement, the authority shall assume that none of the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district;

(7) identification and description of studies and analyses used to make the determination set forth in subdivision 3, clause (2); and

(8) identification of all parcels to be included in the district or any subdistrict.

(b) For a housing district, redevelopment district, or a hazardous substance subdistrict, the authority may elect in the tax increment financing plan to provide for the identification of a minimum market value in the plan, development agreement, or assessment agreement, and provide that increment is first received by the authority when (1) the market value of the improvements as determined by the assessor reaches or exceeds the minimum market value, or (2) four years has elapsed from the date of certification of the original net tax capacity of the taxable real property in the district or subdistrict by the county auditor, whichever is earlier.

[For text of subds 1a to 2a, see M.S.1994]

Subd. 3. **Municipality approval.** A county auditor shall not certify the original net tax capacity of a tax increment financing district until the tax increment financing plan proposed for that district has been approved by the municipality in which the district is located. If an authority that proposes to establish a tax increment financing district and the municipality are not the same, the authority shall apply to the municipality in which the district is proposed to be located and shall obtain the approval of its tax increment financing plan by the municipality before the authority may use tax increment financing. The municipality shall approve the tax increment financing plan only after a public hearing thereon after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of the hearing. The published notice must include a map of the area of the district from which increments may be collected and, if the project area includes additional area, a map of the project area in which the increments may be expended. The hearing may be held before or after the approval or creation of the project or it may be

held in conjunction with a hearing to approve the project. Before or at the time of approval of the tax increment financing plan, the municipality shall make the following findings, and shall set forth in writing the reasons and supporting facts for each determination:

(1) that the proposed tax increment financing district is a redevelopment district, a renewal or renovation district, a mined underground space development district, a housing district, a soils condition district, or an economic development district; if the proposed district is a redevelopment district or a renewal or renovation district, the reasons and supporting facts for the determination that the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) and (2), or subdivision 10a, must be retained and made available to the public by the authority until the district has been terminated.

(2) that the proposed development or redevelopment, in the opinion of the municipality, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the plan. The requirements of this clause do not apply if the district is a qualified housing district, as defined in section 273.1399, subdivision 1.

(3) that the tax increment financing plan conforms to the general plan for the development or redevelopment of the municipality as a whole.

(4) that the tax increment financing plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the development or redevelopment of the project by private enterprise.

(5) that the municipality elects the method of tax increment computation set forth in section 469.177, subdivision 3, clause (b), if applicable.

When the municipality and the authority are not the same, the municipality shall approve or disapprove the tax increment financing plan within 60 days of submission by the authority, or the plan shall be deemed approved. When the municipality and the authority are not the same, the municipality may not amend or modify a tax increment financing plan except as proposed by the authority pursuant to subdivision 4. Once approved, the determination of the authority to undertake the project through the use of tax increment financing and the resolution of the governing body shall be conclusive of the findings therein and of the public need for the financing.

[For text of subd 4, see M.S.1994]

Subd. 5. **Annual disclosure.** For all tax increment financing districts, whether created prior or subsequent to August 1, 1979, on or before July 1 of each year, the authority shall submit to the county board, the county auditor, the school board, state auditor and, if the authority is other than the municipality, the governing body of the municipality, a report of the status of the district. The report shall include the following information: the amount and the source of revenue in the account, the amount and purpose of expenditures from the account, the amount of any pledge of revenues, including principal and interest on any outstanding bonded indebtedness, the original net tax capacity of the district, the captured net tax capacity retained by the authority, the captured net tax capacity shared with other taxing districts, the tax increment received, and any additional information necessary to demonstrate compliance with any applicable tax increment financing plan. An annual statement showing the tax increment received and expended in that year, the original net tax capacity, captured net tax capacity, amount of outstanding bonded indebtedness, the amount of the district's increments paid to other governmental bodies, the amount paid for administrative costs, the sum of increments paid, directly or indirectly, for activities and improvements located outside of the district, and any additional information the authority deems necessary shall be published in a newspaper of general circulation in the municipality. If the fiscal disparities contribution for the district is computed under section 469.177, subdivision 3, paragraph (a), the annual statement must disclose that fact and indicate the amount of increased property tax imposed on other properties in the municipality as a result of the fiscal disparities contribution. The commissioner of revenue shall prescribe the form of this statement and the method for calculating the increased property taxes.

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

(1) provide for full disclosure of the sources and uses of public funds in the district;

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

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

(4) be consistent with generally accepted accounting principles.

(b) The authority must annually submit to the state auditor, on or before July 1, a financial report in compliance with paragraph (a). Copies of the report must also be provided to the county and school district boards and to the governing body of the municipality, if the authority is not the municipality. To the extent necessary to permit compliance with the requirement of financial reporting, the county and any other appropriate local government unit or private entity must provide the necessary records or information to the authority or the state auditor as provided by the system of accounting and financial reporting developed pursuant to paragraph (a).

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

(1) the original net tax capacity of the district;

(2) the captured net tax capacity of the district, including the amount of any captured net tax capacity shared with other taxing districts;

(3) for the reporting period and for the duration of the district, the amount budgeted under the tax increment financing plan, and the actual amount expended for, at least, the following categories:

(i) acquisition of land and buildings through condemnation or purchase;

(ii) site improvements or preparation costs;

(iii) installation of public utilities, parking facilities, streets, roads, sidewalks, or other similar public improvements;

(iv) administrative costs, including the allocated cost of the authority;

(v) public park facilities, facilities for social, recreational, or conference purposes, or other similar public improvements;

(4) for properties sold to developers, the total cost of the property to the authority and the price paid by the developer; and

(5) the amount of increments rebated or paid to developers or property owners for privately financed improvements or other qualifying costs.

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

Subd. 6a. **Reporting requirements.** (a) The municipality must annually report to the state auditor the following amounts for the entire municipality:

(1) the total principal amount of nondefeased tax increment financing bonds that are outstanding at the end of the previous calendar year; and

(2) the total annual amount of principal and interest payments that are due for the current calendar year on (i) general obligation tax increment financing bonds, and (ii) other tax increment financing bonds.

(b) The municipality must annually report to the state auditor the following amounts for each tax increment financing district located in the municipality:

(1) the type of district, whether economic development, redevelopment, housing, soils condition, mined underground space, or hazardous substance site;

(2) the date on which the district is required to be decertified;

(3) the amount of any payments and the value of in–kind benefits, such as physical improvements and the use of building space, that are financed with revenues derived from increments and are provided to another governmental unit (other than the municipality) during the preceding calendar year;

(4) the tax increment revenues for taxes payable in the current calendar year;

(5) whether the tax increment financing plan or other governing document permits increment revenues to be expended (i) to pay bonds, the proceeds of which were or may be expended on activities located outside of the district, (ii) for deposit into a common fund from which money may be expended on activities located outside of the district, or (iii) to otherwise finance activities located outside of the tax increment financing district; and

(6) any additional information that the state auditor may require.

(c) The report required by this subdivision must be filed with the state auditor on or before July 1 of each year.

(d) The state auditor may provide for combining the reports required by this subdivision and subdivisions 5 and 6 so that only one report is made for each year to the auditor.

(e) This section applies to districts certified before, on, and after August 1, 1979.

[For text of subd 7, see M.S.1994]

Subd. 7a. [Repealed, 1995 c 264 art 5 s 48]

[For text of subd 8, see M.S.1994]

History: *1995 c 264 art 5 s 17–21*

469.176 LIMITATIONS.

[For text of subds 1 to 1f, see M.S.1994]

Subd. 1g. **Extension to recover cleanup costs.** (a) The authority, with the approval of the municipality, may extend the duration of a district beyond the limit that otherwise applies under this section, if the following circumstances apply:

(1) after the district is established, contamination, hazardous substances, pollution, or other materials requiring removal or remediation are found in the district;

(2) the authority elects not to create a hazardous substance subdistrict; and

(3) the municipality pays for the cost of removal, cleanup, or remediation out of its general fund or other money of the municipality, except revenues from tax increments.

(b) The maximum duration extension permitted by this subdivision is the lesser of (1) ten years after the district otherwise would have terminated or (2) the number of additional years necessary to collect increment equal to the cleanup costs paid by the municipality out of funds other than tax increments. Cleanup costs are limited to the actual costs of removal and remediation, and do not include financing or interest costs. Cleanup costs do include testing and engineering costs. Cleanup costs must be reduced by any reimbursements or amounts recovered from private parties or other responsible parties.

Subd. 2. **Excess tax increments.** (a) In any year in which the tax increment exceeds the amount necessary to pay the costs authorized by the tax increment financing plan, including the amount necessary to cancel any tax levy as provided in section 475.61, subdivision 3, the authority shall use the excess amount to do any of the following: (1) prepay any outstanding bonds, (2) discharge the pledge of tax increment therefor, (3) pay into an escrow account dedicated to the payment of such bond, or (4) return the excess amount to the county auditor who shall distribute the excess amount to the municipality, county, and school district in which the tax increment financing district is located in direct proportion to their respective local tax rates. The county auditor must report to the commissioner of children, families, and learning the amount of any excess tax increment distributed to a school district within 30 days of the distribution.

(b) The amounts distributed to a city or county must be deducted from the levy limits of the governmental unit for the following year. In calculating the levy limit base for later years, the amount deducted must be treated as a local government aid payment.

[For text of subds 3 to 4a, see M.S.1994]

Subd. 4b. **Soils condition districts.** Revenue derived from tax increment from a soils condition district may be used only to (1) acquire parcels on which the improvements de-

scribed in clause (2) will occur; (2) pay for the cost of removal or remedial action; and (3) pay for the administrative expenses of the authority allocable to the district, including the cost of preparation of the development action response plan.

Subd. 4c. **Economic development districts.** (a) Revenue derived from tax increment from an economic development district may not be used to provide improvements, loans, subsidies, grants, interest rate subsidies, or assistance in any form to developments consisting of buildings and ancillary facilities, if more than 15 percent of the buildings and facilities (determined on the basis of square footage) are used for a purpose other than:

(1) the manufacturing or production of tangible personal property, including processing resulting in the change in condition of the property;

(2) warehousing, storage, and distribution of tangible personal property, excluding retail sales;

(3) research and development related to the activities listed in clause (1) or (2);

(4) telemarketing if that activity is the exclusive use of the property;

(5) tourism facilities; or

(6) space necessary for and related to the activities listed in clauses (1) to (5).

(b) Notwithstanding the provisions of this subdivision, revenue derived from tax increment from an economic development district may be used to pay for site preparation and public improvements, if the following conditions are met:

(1) bedrock soils conditions are present in 80 percent or more of the acreage of the district;

(2) the estimated cost of physical preparation of the site exceeds the fair market value of the land before completion of the preparation; and

(3) revenues from tax increments are expended only for the additional costs of preparing the site because of unstable soils and the bedrock soils condition, the additional cost of installing public improvements because of unstable soils or the bedrock soils condition, and reasonable administrative costs.

[For text of subds 4d to 6, see M.S.1994]

Subd. 7. **Parcels not includable in districts.** (a) The authority may not request inclusion in a tax increment financing district and the county auditor may not certify the original tax capacity of the following:

(1) a parcel or a part of a parcel that qualified under the provisions of section 273.111 or 273.112 or chapter 473H for taxes payable in any of the five calendar years before the filing of the request for certification, if the parcel is located in the metropolitan area, as defined in section 473.121; or

(2) a parcel or a part of a parcel, located outside of the metropolitan area, as defined in section 473.121, that qualified under the provisions of section 273.111 or 273.112 for taxes payable in any of the five calendar years before the request for certification, if the district is not a district in which 85 percent or more of the planned buildings and facilities (determined on the basis of square footage) are for manufacturing or production of tangible personal property, including processing resulting in the change in condition of the property.

History: *1995 c 264 art 5 s 22–25; 1Sp1995 c 3 art 16 s 13*

469.1763 RESTRICTIONS ON POOLING; FIVE–YEAR LIMIT.

[For text of subd 1, see M.S.1994]

Subd. 2. **Expenditures outside district.** (a) For each tax increment financing district, an amount equal to at least 75 percent of the revenue derived from tax increments paid by properties in the district must be expended on activities in the district or to pay bonds, to the extent that the proceeds of the bonds were used to finance activities in the district or to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the in–district percentage for purposes of the preceding sentence is 80 percent. Not more than 25 percent of the revenue derived from tax increments paid by properties in the district may be

expended, through a development fund or otherwise, on activities outside of the district but within the defined geographic area of the project except to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the pooling percentage for purposes of the preceding sentence is 20 percent. The revenue derived from tax increments for the district that are expended on costs under section 469.176, subdivision 4h, paragraph (b), may be deducted first before calculating the percentages that must be expended within and without the district.

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

(c) All administrative expenses are for activities outside of the district.

[For text of subd 3, see M.S.1994]

Subd. 4. **Use of revenues for decertification.** (a) Beginning with the sixth year following certification of the district, the applicable in-district percent of the revenues derived from tax increments paid by properties in the district that remain after the expenditures permitted under subdivision 3 must be used only to pay:

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

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

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

(b) When the outstanding bonds have been defeased and when sufficient money has been set aside to pay contractual obligations as defined in subdivision 3, paragraph (a), clauses (3) and (4), the district must be decertified and the pledge of tax increment discharged.

[For text of subd 5, see M.S.1994]

History: *1995 c 264 art 5 s 26,27*

469.177 COMPUTATION OF TAX INCREMENT.

Subdivision 1. **Original net tax capacity.** (a) Upon or after adoption of a tax increment financing plan, the auditor of any county in which the district is situated shall, upon request of the authority, certify the original net tax capacity of the tax increment financing district and that portion of the district overlying any subdistrict as described in the tax increment financing plan and shall certify in each year thereafter the amount by which the original net tax capacity has increased or decreased as a result of a change in tax exempt status of property within the district and any subdistrict, reduction or enlargement of the district or changes pursuant to subdivision 4.

(b) In the case of a mined underground space development district the county auditor shall certify the original net tax capacity as zero, plus the net tax capacity, if any, previously assigned to any subsurface area included in the mined underground space development district pursuant to section 272.04.

(c) For districts approved under section 469.175, subdivision 3, or parcels added to existing districts after May 1, 1988, if the classification under section 273.13 of property located in a district changes to a classification that has a different assessment ratio, the original net tax capacity of that property must be redetermined at the time when its use is changed as if the property had originally been classified in the same class in which it is classified after its use is changed.

(d) The amount to be added to the original net tax capacity of the district as a result of previously tax exempt real property within the district becoming taxable equals the net tax capacity of the real property as most recently assessed pursuant to section 273.18 or, if that assessment was made more than one year prior to the date of title transfer rendering the property taxable, the net tax capacity assessed by the assessor at the time of the transfer. If sub-

stantial taxable improvements were made to a parcel after certification of the district and if the property later becomes tax exempt, in whole or part, as a result of the authority acquiring the property through foreclosure or exercise of remedies under a lease or other revenue agreement or as a result of tax forfeiture, the amount to be added to the original net tax capacity of the district as a result of the property again becoming taxable is the amount of the parcel's value that was included in original net tax capacity when the parcel was first certified. The amount to be added to the original net tax capacity of the district as a result of enlargements equals the net tax capacity of the added real property as most recently certified by the commissioner of revenue as of the date of modification of the tax increment financing plan pursuant to section 469.175, subdivision 4.

(e) For districts approved under section 469.175, subdivision 3, or parcels added to existing districts after May 1, 1988, if the net tax capacity of a property increases because the property no longer qualifies under the Minnesota agricultural property tax law, section 273.111; the Minnesota open space property tax law, section 273.112; or the metropolitan agricultural preserves act, chapter 473H, or because platted, unimproved property is improved or three years pass after approval of the plat under section 273.11, subdivision 1, the increase in net tax capacity must be added to the original net tax capacity.

(f) Each year the auditor shall also add to the original net tax capacity of each economic development district an amount equal to the original net tax capacity for the preceding year multiplied by the average percentage increase in the market value of all property included in the economic development district during the five years prior to certification of the district.

(g) The amount to be subtracted from the original net tax capacity of the district as a result of previously taxable real property within the district becoming tax exempt, or a reduction in the geographic area of the district, shall be the amount of original net tax capacity initially attributed to the property becoming tax exempt or being removed from the district. If the net tax capacity of property located within the tax increment financing district is reduced by reason of a court–ordered abatement, stipulation agreement, voluntary abatement made by the assessor or auditor or by order of the commissioner of revenue, the reduction shall be applied to the original net tax capacity of the district when the property upon which the abatement is made has not been improved since the date of certification of the district and to the captured net tax capacity of the district in each year thereafter when the abatement relates to improvements made after the date of certification. The county auditor may specify reasonable form and content of the request for certification of the authority and any modification thereof pursuant to section 469.175, subdivision 4.

(h) If a parcel of property contained a substandard building that was demolished or removed and if the authority elects to treat the parcel as occupied by a substandard building under section 469.174, subdivision 10, paragraph (b), the auditor shall certify the original net tax capacity of the parcel using the greater of (1) the current net tax capacity of the parcel, or (2) the estimated market value of the parcel for the year in which the building was demolished or removed, but applying the class rates for the current year.

Subd. 1a. **Original local tax rate.** At the time of the initial certification of the original net tax capacity for a tax increment financing district or a subdistrict, the county auditor shall certify the original local tax rate that applies to the district or subdistrict. The original local tax rate is the sum of all the local tax rates that apply to a property in the district or subdistrict. The local tax rate to be certified is the rate in effect for the same taxes payable year applicable to the tax capacity values certified as the district's or subdistrict's original tax capacity. The resulting tax capacity rate is the original local tax rate for the life of the district or subdistrict.

Subd. 2. **Captured net tax capacity.** The county auditor shall certify the amount of the captured net tax capacity to the authority each year, together with the proportion that the captured net tax capacity bears to the total net tax capacity of the real property within the tax increment financing district and any subdistrict for that year.

(a) An authority may choose to retain any part or all of the captured net tax capacity for purposes of tax increment financing according to one of the following options:

(1) If the plan provides that all the captured net tax capacity is necessary to finance or otherwise make permissible expenditures under section 469.176, subdivision 4, the authority may retain the full captured net tax capacity.

(2) If the plan provides that only a portion of the captured net tax capacity is necessary to finance or otherwise make permissible expenditures under section 469.176, subdivision 4, only that portion shall be set aside and the remainder shall be distributed among the affected taxing districts by the county auditor.

(b) The portion of captured net tax capacity that an authority intends to use for purposes of tax increment financing must be clearly stated in the tax increment financing plan.

[For text of subds 3 to 5, see M.S.1994]

Subd. 6. **Request for certification of new tax increment financing district.** A request for certification of a new tax increment financing district pursuant to subdivision 1 or of a modification to an existing tax increment financing district pursuant to section 469.175, subdivision 4, received by the county auditor on or before June 30 of the calendar year shall be recognized by the county auditor in determining local tax rates for the current and subsequent levy years. Requests received by the county auditor after June 30 of the calendar year shall not be recognized by the county auditor in determining local tax rates for the current levy year but shall be recognized by the county auditor in determining local tax rates for subsequent levy years.

[For text of subds 7 and 8, see M.S.1994]

Subd. 9. **Distributions of excess taxes on captured net tax capacity.** (a) If the amount of tax paid on captured net tax capacity exceeds the amount of tax increment, the county auditor shall distribute the excess to the municipality, county, and school district as follows: each governmental unit's share of the excess equals

(1) the total amount of the excess for the tax increment financing district, multiplied by

(2) a fraction, the numerator of which is the current local tax rate of the governmental unit less the governmental unit's local tax rate for the year the original local tax rate for the district was certified (in no case may this amount be less than zero) and the denominator of which is the sum of the numerators for the municipality, county, and school district.

If the entire increase in the local tax rate is attributable to a taxing district, other than the municipality, county, or school district, then the excess must be distributed to the municipality, county, and school district in proportion to their respective local tax rates.

The school district's tax rate must be divided into the portion of the tax rate attributable (1) to state equalized levies, and (2) unequalized levies. As used in this subdivision, "equalized levies" means the sum of the maximum amounts that may be levied for: (i) general education under section 124A.23, subdivision 2; (ii) supplemental revenue under section 124A.22, subdivision 8a; (iii) capital expenditure facilities revenue under section 124.243, subdivision 3; (iv) capital expenditure equipment revenue under section 124.244, subdivision 2; and (v) basic transportation under section 124.226, subdivision 1. Unequalized levies mean the rest of the school district's levies. The calculations under clause (2) must determine the amount of excess taxes attributable to each portion of the school district's tax rate. If one of the portions of the change in the school district tax rate is less than zero and the combined change is greater than zero, the combined rate must be used and all the school district's share of excess taxes allocated to that portion of the tax rate.

(b) The amounts distributed shall be deducted in computing the levy limits of the taxing district for the succeeding taxable year. In the case of a school district, only the proportion of the excess taxes attributable to unequalized levies that are subject to a fixed dollar amount levy limit shall be deducted from the levy limit.

(c) In the case of distributions to a school district that are attributable to state equalized levies, the county auditor shall report amounts distributed to the commissioner of children, families, and learning in the same manner as provided for excess increments under section 469.176, subdivision 2, and the distribution shall be deducted from the school district's state aid payments.

[For text of subd 10, see M.S.1994]

Subd. 11. **Deduction for enforcement costs; appropriation.** (a) The county treasurer shall deduct an amount equal to 0.1 percent of any increment distributed to an authority or

municipality. The county treasurer shall pay the amount deducted to the state treasurer for deposit in the state general fund.

(b) The amounts deducted and paid under paragraph (a) are appropriated to the state auditor for the cost of (1) the financial reporting of tax increment financing information and (2) the cost of examining and auditing of authorities' use of tax increment financing as provided under section 469.1771, subdivision 1. Notwithstanding section 16A.28 or any other law to the contrary, this appropriation does not cancel and remains available until spent.

History: *1995 c 264 art 5 s 28–33; 1Sp1995 c 3 art 16 s 13*

469.1771 VIOLATIONS.

Subdivision 1. **Enforcement.** (a) The owner of taxable property located in the city, town, school district, or county in which the tax increment financing district is located may bring suit for equitable relief or for damages, as provided in subdivisions 3 and 4, arising out of a failure of a municipality or authority to comply with the provisions of sections 469.174 to 469.179, or related provisions of this chapter. The prevailing party in a suit filed under the preceding sentence is entitled to costs, including reasonable attorney fees.

(b) The state auditor may examine and audit political subdivisions' use of tax increment financing. Without previous notice, the state auditor may examine or audit accounts and records on a random basis as the auditor deems to be in the public interest. If the state auditor finds evidence that an authority or municipality has violated a provision of the law for which a remedy is provided under this section, the state auditor shall forward the relevant information to the county attorney. The county attorney may bring an action to enforce the provisions of sections 469.174 to 469.179 or related provisions of this chapter, for matters referred by the state auditor or on behalf of the county.

(c) If the state auditor finds an authority is not in compliance with sections 469.174 to 469.179 or related provisions of law, the auditor shall notify the governing body of the municipality that approved the tax increment financing district of its findings. The governing body of the municipality must respond in writing to the state auditor within 60 days after receiving the notification. Its written response must state whether the municipality accepts, in whole or part, the auditor's findings. If the municipality does not accept the findings, the statement must indicate the basis for its disagreement. The state auditor shall annually summarize the responses it receives under this section and send the summary and copies of the responses to the chairs of the committees of the legislature with jurisdiction over tax increment financing.

[For text of subds 2 to 6, see M.S.1994]

History: *1995 c 264 art 5 s 34*

469.1782 SPECIAL LAW PROVISIONS.

Subdivision 1. **Election.** If a special law allows an extension of the duration limit of an existing tax increment financing district under section 469.176 or allows establishment of a new district with a longer duration limit than permitted by general law, the municipality must elect, by resolution, that the district is subject to either:

(1) the adjustment to adjusted net tax capacity for the school district under section 124.2131, subdivision 3a; or

(2) the reduction in state tax increment financing aid under section 273.1399, subdivision 8.

This election is irrevocable and must be made before the extension is submitted by the municipality to the school district for approval under subdivision 2. If the municipality fails to make an election before submitting the matter to the school district, the municipality is deemed to have elected clause (2).

Subd. 2. **Local approval of special laws.** (a) If a special law allows an extension of the duration limit of an existing tax increment financing district under section 469.176 or allows establishment of a new district with a longer duration limit than that permitted by general law, the "affected local government units," for purposes of section 645.021 and article XII,

section 2, of the Minnesota Constitution, include the city or town, the school district, and the county in which the tax increment district is located. The town board may act to approve the special law.

(b) The chief clerical officer of the municipality must, as soon after the affected local units have approved the special law allowing an extension, file with the secretary of state a certificate stating the essential facts necessary to valid approval, including a copy of each of the resolutions of approval by the city or town, the school district, and the county. The attorney general shall prescribe the form of the certificate and the secretary of state shall furnish copies. If the municipality fails to file a certificate of approval before the first day of the next regular session of the legislature, the extension of the duration is deemed to be disapproved, unless the special law allows a longer period for approval. If the law contains other provisions besides an extension of the duration and the municipality otherwise complies with section 645.021, the rest of the law takes effect.

History: *1995 c 264 art 5 s 35*

469.1831 NEIGHBORHOOD REVITALIZATION PROGRAMS; FIRST CLASS CITIES.

[For text of subds 1 to 3, see M.S.1994]

Subd. 4. **Program money; distribution and restrictions.** (a) Neighborhood revitalization program money may only be expended in accordance with the program for a purpose listed in subdivision 3 or this subdivision. Program money may not be used in those project areas of the city where the city determines that private investment will be sufficient to provide for development and redevelopment of the project area without public sector assistance, except in cases where program money is being used to remove or rehabilitate structurally substandard or obsolete buildings. Revenues derived from tax increments may only be expended for the purposes otherwise permitted by law, except that notwithstanding any law to the contrary, the city must pay at least the following amount of program money, including revenues derived from tax increments: (1) 15 percent to the school district, (2) 7.5 percent to the county, and (3) 7.5 percent for social services. Payment must be made to the county and school district within 15 days after the city receives the distribution of increment revenues, provided that the payment for calendar year 1990 may be made at any time during the year. Payment to the county for social services delivery shall be paid only after approval of program and spending plans under paragraph (b). Payment to the school district for education programs and services shall be paid only after approval of program and spending plans under paragraph (b).

(b) The money distributed to the county in a calendar year must be deducted from the county's levy limit for the following calendar year. In calculating the county's levy limit base for later years, the amount deducted must be treated as a local government aid payment.

The city must notify the commissioner of children, families, and learning of the amount of the payment made to the school district for the year. The commissioner shall deduct from the school district's state education aid payments one–half of the amount received by the school district.

The program money paid to the school district by the city less any amount of state aid deducted by the commissioner must be expended for additional education programs and services in accordance with the program. The amounts expended by the school district may not replace existing services.

The money for social services must be paid to the county for the cost of the provision of social services under the plan, as approved by the policy board and the county board.

(c) The city must expend on housing programs and related purposes as provided by the program at least 75 percent of the program money, after deducting the payments to the school district and county.

(d) Notwithstanding any other provisions of law to the contrary, for a city of the first class qualifying under section 469.1781, paragraph (a), program money and money described in Laws 1990, chapter 604, article 7, section 29, as amended, may be expended anywhere within the city by the authority for a purpose permitted by this section for any political

subdivision without compliance with section 469.175, subdivision 4, and such money shall be deemed to be expended for a purpose that is a permitted project under section 469.176 and for a purpose that is permitted under section 469.176 for the district from which the increment was received.

[For text of subds 5 to 8, see M.S.1994]

History: *1Sp1995 c 3 art 1 s 54; art 16 s 13*

469.305 ENTERPRISE ZONE CREDITS.

Subdivision 1. **Incentive grants.** An incentive grant is available to businesses located in an enterprise zone that meet the conditions of this section. Each city designated as an enterprise zone is allocated $3,000,000 to be used to provide grants under this section for the duration of the program. Each city of the second class designated as an economically depressed area by the United States Department of Commerce is allocated $300,000 to be used to provide grants under this section for the duration of the program. For fiscal year 1998 and subsequent years, the proration in section 469.31 shall continue to apply until the amount designated in this subdivision is expended.

The incentive grant is in an amount equal to 20 percent of the wages paid to an employee, not to exceed $5,000 per employee per calendar year. The incentive grant is available to an employer for a zone resident employed in the zone at full–time wage levels of not less than 170 percent of minimum wage. The incentive grant is not available to workers employed in construction or employees of financial institutions, gambling enterprises, public utilities, sports, fitness, and health facilities, or racetracks. The employee must be employed at that rate at the time the business applies for a grant, and must have been employed for at least one year at the business. A grant may be provided only for new jobs; for purposes of this section, a "new job" is a job that did not exist in Minnesota before May 6, 1994. The incentive grant authority is available for the five calendar years after the application has been approved to the extent the allocation to the city remains available to fund the grants, and if the city certifies to the commissioner on an annual basis that the business is in compliance with the plan to recruit, hire, train, and retain zone residents.

Subd. 2. [Repealed, 1995 c 256 s 33]

Subd. 3. **Review and analysis.** The city must submit the incentive grant proposal to the commissioner for approval. The proposal shall include a plan to recruit, hire, train, and retain zone residents. The proposal shall be approved unless the commissioner finds that the proposal is not in conformity with the provisions of sections 469.301 to 469.308.

If the city submits the incentive grant proposal to the commissioner before the expiration of the zone designation under section 469.302, subdivision 2, the authority of the commissioner to approve the proposal continues until the commissioner acts on the proposal.

History: *1995 c 256 s 10,11*

469.306 REVOCATION.

The commissioner may revoke a business' incentive grant if the applicant has not proceeded in good faith with its operations in a manner which is consistent with the purpose of sections 469.301 to 469.308 and is possible under circumstances reasonably within the control of the applicant.

The commissioner may reconsider the revocation of the incentive grant if the business provides evidence that circumstances of its failure to proceed were beyond its control or that it did not act in bad faith.

History: *1995 c 256 s 12*

469.307 RECAPTURE.

Subdivision 1. **Termination of operations; other violations.** Any business that receives an incentive grant under section 469.305 and ceases to operate or otherwise violates the criteria for obtaining the grant for its facility located within the enterprise zone within seven years after the first receipt of a grant by the business shall repay the portion of the grant received as provided in the following schedule:

Termination of Operations or Other Violations	Repayment of Portion
Less than two years	100 percent
Between two years and four years	75 percent
Between four years and seven years	50 percent
More than seven years	0 percent

Subd. 2. **Repayment.** The repayment must be paid to the state. The amount repaid must be credited to the amount certified as available for incentive grants in the zone under section 469.305.

Subd. 3. **Lien.** If an event occurs that creates an obligation under subdivision 1 to repay all or part of the incentive grant, the repayment obligation immediately becomes a lien against the business' real and personal property located in Minnesota, including the property of subsidiaries, parents, and related corporations. A lien against real property under this subdivision has the same legal effect and must be collected in the same manner as unpaid real property taxes.

History: *1995 c 256 s 13*

469.309 RURAL JOB CREATION GRANTS.

Subdivision 1. **Job creation grants.** The commissioner of trade and economic development may approve an incentive grant for an eligible business beginning with calendar year 1995. The maximum grant is $5,000 per eligible employee. The actual grant is based on the following schedule:

$2,000 for each eligible employee with wages greater than or equal to 170 percent and less than 200 percent of the minimum wage;

$3,000 for each eligible employee with wages greater than or equal to 200 percent and less than 250 percent of the minimum wage;

$4,000 for each eligible employee with wages greater than or equal to 250 percent and less than 300 percent of the minimum wage; and

$5,000 for each eligible employee with wages greater than or equal to 300 percent of the minimum wage.

The total grant for an employer is equal to the actual grant multiplied by the number of employees eligible for that grant. For purposes of this section "minimum wage" means the minimum wage that is required by federal law. An eligible business may apply for a rural job creation grant only once for each new job.

Subd. 2. **Eligible business.** An employer eligible for a job creation incentive grant under this section must (1) be located outside the metropolitan area as defined under section 473.121 (2) create at least ten qualifying new jobs in a two–year period, and (3) consist of a for–profit business. For the purposes of this section, a "qualifying new job" is a job that did not exist in Minnesota before May 6, 1994.

Subd. 3. **Eligible employee.** To be eligible for a grant, the employee must be employed full time by an eligible business at a wage level of not less than 170 percent of the minimum wage at the time the eligible business applies for the grant and must have been employed there at that wage level for a minimum of 12 months. The grant applies only to new jobs created at the eligible business after May 6, 1994.

Subd. 4. **Restrictions.** The incentive grants provided by this section do not apply to racetracks, financial institutions, gambling enterprises, public utilities, or sports, fitness, and health facilities. An employer is not eligible for an incentive grant if the commissioner determines that the position held by the employee for which the business is seeking a grant was transferred from an enterprise conducted by substantially the same business enterprise at another site in the state.

History: *1995 c 256 s 14*

469.31 LIMIT ON GRANTS; APPROPRIATION.

The maximum amount of incentive grants payable under sections 469.305 and 469.309 is $900,000 for fiscal year 1997. Of that amount, one–third must be allocated to the city of

Minneapolis, one–third to the city of St. Paul, and one–third to the remaining cities. Of the amounts allocated to the cities of Minneapolis and St. Paul, $25,000 must be subtracted from each city's allocation and is appropriated to the commissioner of economic security for administration of this program, provided that $25,000 of the appropriation is for fiscal year 1996 and $25,000 is for fiscal year 1997. Of the amount allocated to the remaining cities, a minimum of $60,000 must be allocated to the city of South St. Paul. No incentive grants may be paid before fiscal year 1997. If the commissioner of economic security estimates by March 1, 1996, that incentive grants for fiscal year 1997 will exceed $900,000, the commissioner shall proportionately reduce each city's allocation to remain within the limit. The amount necessary to pay the allocations for grants under this section are appropriated to the commissioner of trade and economic development and the commissioner of economic security.

History: *1995 c 256 s 15*