

# HOUSE RESEARCH

## Bill Summary

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**Authors:** Abrams and others

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**Analyst:** Joel Michael, 651-296-5057

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### Article 1: Public Finance

#### Overview

This article makes a number of changes in the authority of municipalities to incur debt, as recommended by the Minnesota Institute of Public Finance. It also:

1. Authorizes the Metropolitan Council to issue \$64 million of bonds for transit
2. Increases the bond allocation for the Western Lake Superior Sanitary District
3. Allows the use of abatement for historic preservation and extends the maximum duration of abatements by 5 years
4. Allows the city of Bemidji to extend the duration of an abatement by four years
5. Authorizes school refunding bonds for several schools in the taconite tax relief area
6. Authorizes Town of White to secure bonds in connection with an annexation of territory by the city of Biwabik
7. Allows the city of St. Paul to create a nonprofit corporation to own and operated the RiverCentre facilities
8. Clarifies that the Lakes Area EDA is a special taxing district
9. Increases the levy limit for the Sauk River Watershed district by \$100,000
10. Repeals the Metropolitan Council's program for credit enhanced housing bonds

- 1 City of St. Paul data. Provides special data practices rules for the nonprofit organization created by the city of St. Paul to own and operate the RiverCentre. It classifies data used to prepare responses to RFPs or bids for events as nonpublic or private data under the data practices act until the time provided for release of similar convention center data under the act.
- 2 Guaranteed investment contracts. Allows municipalities to invest in guaranteed investment contracts (GICs) issued by domestic affiliates of companies that qualify under present law. This will allow GICs issued by entities that are not banks or insurance companies to qualify. Present law is limited to U.S. commercial banks, domestic branches of foreign banks, U.S. insurance companies, Canadian subsidiaries of U.S. insurance companies.
- 3 Special levy; storm sewer improvement districts. Adds city levies made for storm sewer improvement districts to the list of special levies under the levy limit law.
- 4 Taconite environmental fund. Requires Iron Range Resources and Rehabilitation Board approval for economic development projects funded with the environmental protection fund.
- 5 Prevention of cruelty to animals. Increases the county spending limit for appropriations to societies for the prevention of cruelty to animals from 50 cents per capita to \$1 per capita.
- 6 Capital notes; counties. Increases the maximum term of capital notes from 5 to 10 years and allows the use of capital notes for computer software, whether or not it is bundled with machinery and equipment.

Present law allows use of capital notes for "original operating system software" and this authority expires on July 1, 2005. This section extends the sunset to July 1, 2007, and applies the exemption to all types of software.

- 7 County CIP bonds. Clarifies that county capital improvement program bonds can be used to acquire conservation easements, but not betterment of them. (It is unclear how a conservation easement could be "improved" with a betterment.)
- 8 Capital notes; home rule charter cities. Increases the maximum term of capital notes from 5 to 10 years and allows the use of capital notes for computer software, whether or not it is bundled with machinery and equipment.

Present law allows use of capital notes for "original operating system software" and this authority expires on July 1, 2005. This section extends the sunset to July 1, 2007, and applies the exemption to all types of software.

- 9 Capital notes; statutory cities. Increases the maximum term of capital notes from 5 to 10 years and allows the use of capital notes for computer software, whether or not it is bundled with machinery and equipment.

Present law allows use of capital notes for "original operating system software" and this authority expires on July 1, 2005. This section extends the sunset to July 1, 2007, and applies the exemption to all types of software.

- 10 Special service districts; sunset extension. Extends the sunset of the special service district law from June 30, 2005, to June 30, 2009. The special service district law permits cities to establish these districts to provide a higher level of services in parts of the city. The costs can be funded with special assessments or ad valorem services charges on non-residential taxable properties.
- 11 Special service district notification. Requires cities to provide copies of special service

district ordinances to the Office of State Auditor by the end of the calendar year in which the ordinance is adopted. Cities with existing special service district are required to file copies of their ordinances by December 31, 2005.

- 12 Housing improvement districts. Extends the sunset date for the authority to establish new housing improvement districts from June 30, 2005, to June 30, 2009. This authority permits a city to fund improvements to a multi-unit housing development by issuing bonds and/or imposing charges on the development.
- 13 Notification. Requires cities to provide copies of housing improvement district ordinances to the Office of State Auditor by the end of the calendar year in which the ordinance is adopted. Cities with existing districts must file copies of their ordinances by December 31, 2005.
- 14 Special assessments for streets and roads outside a city. Authorizes a city to use the special assessment law to assess for streets and roads that it constructs outside of its jurisdiction, when the city later annexes the abutting property. To use this authority, the city must notify the property owner when it orders the improvement (i.e., before it constructs the street or road). After it annexes the property, it must again provide the landowner notice and hearing before actually imposing the assessment on the annexed property.
- 15 Utility joint ventures. Authorizes joint ventures of municipal and cooperative utilities, incorporated before June 30, 2004, to provide gas utility services.
- 16 Competitive bidding exception. Authorizes a housing and redevelopment authority to contract for a public transit facility without using competitive bidding procedures, if:
- The facility is constructed in conjunction with a development and is either directly above or below the development; and
  - Either of the following are met:
    - (1) the work or purchases are financed with the proceeds of parking ramp general obligation or revenue bonds; or
    - (2) the federal government financed at least 60 percent of the construction cost.

This authority can only be used until August 1, 2009.

- 17 HRA general obligation bond projects. Makes two changes.

The first change provides housing and redevelopment authority revenue bonds may have a maximum maturity of 35 years for housing for the elderly and 40 years for other obligations. Present law allows a maximum maturity of 30 years from the estimated completion date of the project (rather than issuance of the bonds).

The second expands the definition of "qualified housing development project." These projects are a permitted use of HRA general obligation bonds. Under present law, the HRA itself must be the owner of the project for the term of the bonds. This section expands the definition to permit the project to be owned by a limited partnership or other entity (e.g., an Limited Liability Company). To qualify, the entity must:

- Have the HRA (or another entity under the control of the HRA) as its sole general partner
- Must have (or likely will receive) an allocation of both tax-exempt bonding and federal low-income housing tax credits

This modification will allow outside investors to become limited partners in the project and to qualify for the federal low-income housing tax credit.

- 18 Revenue bonds, maximum maturity. Extends the maximum maturity of obligations issued under the industrial revenue bond law from 30 years to 40 years.
- 19 Abatement; historic preservation. Allows use of economic development abatement for historic and heritage preservation.
- 20 Duration limit, tax abatement. Increases the duration limits that apply under the tax abatement program from 10 years to 15 years, if all of three of the taxing districts (county, city, and school district) approve abatements, and from 15 years to 20 years, if one or two of the taxing districts approve.
- 21 Met Council, credit enhanced housing bonds. Modifies the levy backup for bonds issued under the Metropolitan Council's credit enhancement housing bond program. Section 0 repeals this program for new bond issues. This section makes conforming changes in the levy which will remain as a backup (along with the dedicated portion of the fund) for the one bond that was issued under the program.
- 22 Prohibition on bonding for LRT. Modifies the prohibition on the Metropolitan Council issuing bonds for the Hiawatha rail transit line so that it only applies to bonds issued for LRT projects other than the Hiawatha line. This will allow the council to issue bonds for rail equipment and improvements, as provided in its capital improvement plan, under the authorization in section 0 for the Hiawatha line.
- 23 Transit bond authorization. Authorizes the Metropolitan Council to issue \$64 million of debt obligations for capital expenditures under its regional transit master plan and transit capital improvement plan, plus the cost of issuance.
- 24 Use of investment income. Restricts the use of investment earnings on transit bond proceeds and debt service accounts of the Met Council. Permitted uses are limited either to the purposes for which the bonds were issued or to pay debt service on the bonds (or to reduce the levy for debt service).
- 25 Bond allocation for Western Lake Superior Sanitary District. Increases the reservation under public facilities pool for the Western Lake Superior Sanitary District from \$3 million to \$5 million. This is part of the state's method of allocating the federal government's cap on Minnesota's authority to issue private activity bonds that are exempt from federal income taxation.
- 26 Bond allocation, notice deadline. Modifies the deadline for filing with the Department of Finance the notice of issuance of bonds under the state's cap on tax-exempt bonds. The section changes this deadline from the last Monday in December to the last business day in December and clarifies that submissions by 4:30 p.m. are timely. (These notices must be filed within 5 days after issuance, if that is earlier.)
- 27 Net debt limit; judgment bonds. Exempts judgment bonds from the net debt limitation.
- 28 Technical change. Adds a semicolon to set off one item in a series listing the types of improvements that may be financed with bonds issued by a statutory city.
- 29 Technical change. Adds a comma to set off one item in a series listing the types of improvements that may be financed with bonds issued by a county.
- 30 Technical change. Adds a comma to set off one item in a series listing the types of improvements that may be financed with bonds issued by a town.

- 31 City CIP bonds. Extends the city capital improvement program (CIP) bond program to metropolitan area towns and allows use for town halls. (Metropolitan area towns are defined as (1) towns with populations of 2,500 or more that are located within 20 miles of the city hall of the city of the first class or (1) a town with a population of 1,000 or more that elects to exercise the powers of a metropolitan area town.) This section also authorizes the use of CIP bonds for libraries and exempts CIP bonds issued by cities and towns with populations of less than 2,500 from the net debt limits.
- 32 City CIP bonds. Makes conforming changes to allow metropolitan area towns to issue CIP bonds.
- 33 City CIP bonds. Makes conforming changes to allow metropolitan area towns to issue CIP bonds.
- 34 City CIP bonds; amount limitation. Modifies the percentage limit on CIP bonds. Present law (as a result of a drafting error in 2003) is tied to the market value of the county, not the city that is issuing the bonds. This section sets the limit at 0.16 percent of the taxable market value of the issuing city or town. It also provides a mechanism for allocating the limit among municipalities for jointly shared projects in proportion to their contributions to financing the facility.
- 35 School refunding bonds; taconite production tax. Extends the authority to use taconite production revenues for refunding bonds issued by the Cook County, Chisholm, Grand Rapids, Greenway-Coleraine, and Lake Superior school districts to refund bonds issued under special laws passed in the 1996 and 2000 legislative session. The requirement to levy and the authority to use other available revenue to pay the original bonds also apply to the refunding bonds.
- 36 Authority to levy taxes. Provides that the Lakes Area Economic Development Authority (EDA) is a special taxing district, which may adopt its own levy and certify the levy to the county auditor. Under current law each member, at the request of the Lakes Area EDA, levies a tax for the benefit of the authority. This proposal would allow the authority to levy the tax itself, and not request the member taxing jurisdictions to do it for them. There is no change in the total amount that can be levied for the Lakes Area EDA.
- Provides that the tax levied under this section shall be separately stated on the property tax statement.
- Effective beginning with taxes levied in 2005, payable in 2006.
- 37 City of Bemidji abatement. Authorizes the city of Bemidji to extend the duration of a tax abatement for the fairgrounds district of the city by four years.
- 38 Town of White bonds. Authorizes the Town of White to pledge its general obligation to pay for local improvements located within an area of the town that was annexed by the city of Biwabik under legislation passed in 2003. These obligations must also be secured by special assessments on the properties. The obligations are exempt from the net debt limitations of the both the city and the town.
- 39 Sauk River Watershed District. Increase the levy limit of the Sauk River Watershed District by \$100,000.
- 40 St. Paul RiverCentre. Defines terms used in the bill.

Subd. 1. Definitions.

- City is the city of St. Paul.

- RiverCentre Complex includes the Roy Wilkins Auditorium, St. Paul RiverCentre, Xcel Energy Center, and RiverCentre Parking Ramp.

Subd. 2. Creation of nonprofit organization. Permits St. Paul to participate in creating a nonprofit organization.

Subd. 3. Governing board; appointment process. (a) Provides for the mayor to appoint a majority of the nonprofit's governing board, subject to approval by the city council. Permits the mayor to appoint officers and employees of the city.

(b) Directs the mayor to appoint three city council members to the nonprofit's board.

(c) Provides that only the mayor can remove mayoral appointees.

(d) The governing board appoints a president for the nonprofit, subject to approval by the mayor.

(e) The nonprofit board members are exempt from conflicts of interest procedures with regard to contracts and transactions between the nonprofit and the city.

Subd. 4. Management; Authority to contract with nonprofit organization. Permits the city to contract with the nonprofit to equip, maintain, manage, and operate all or a portion of the RiverCentre complex, and to manage and operate a convention and visitors bureau. Permits the nonprofit to use the city attorney's services and the city's purchasing department .

Subd. 5. Bondholders' rights and RiverCentre complex tax exemptions preserved. Requires the city to protect the bondholders' rights under bonds issued for the RiverCentre complex. Provides that the RiverCentre complex retains the same tax exemptions it had when it was the responsibility of the city. Specifically excludes RiverCentre concert ticket sales made by the nonprofit organization from the sales tax exemption for nonprofit arts organizations.

Subd. 6. Applicable general laws. Requires the nonprofit to comply with the open meeting law and the government data practices act the same as the city, to the extent practicable.

Subd. 7. Succession. Makes the nonprofit the successor to the RiverCentre Authority under the laws listed. Provides that the RiverCentre Authority ceases to exist for as long as the city's contract with the nonprofit is in effect.

Subd. 7. Liability. Makes the nonprofit organization a "municipality" for the purposes of the Municipal Tort Liability statute. Requires the city to defend and indemnify the nonprofit against claims arising out of the nonprofit's performance under the contract with the city.

City of Winona bonds. Authorizes the city of Winona to issue \$3.5 million of bonds (plus the cost of issuance) for the Pelzer Street reconstruction project. These bonds are exempt from the election requirements and net debt limits. Winona county is authorized to contribute to payment of the bonds by using the tax abatement law to abate taxes equal the

portion of the increment generated by county taxes on the Riverfront Tax Increment Financing District Number 2 in 2005. This TIF district will be decertified at the end of 2005.

42 IRRRB bonds. Authorizes the commissioner of the Iron Range Resources and Rehabilitation to issue \$15 million of revenue bonds to make grants to iron range school districts for health, safety, and maintenance improvements. To receive a grant, the school district must levy the maximum amount permitted by law. The money to pay these bonds is appropriated in equal amounts from the environmental trust fund and the Douglas J. Johnson economic protection trust fund. (If the economic protection fund distributions are insufficient, the balance is taken from the environmental fund.) The IRRRB is treated as a "district" for purposes of the school district finance laws.

43 Crow Wing county sewer district; pilot project. Authorizes Crow Wing county to grant special powers to a sewer district created under Minnesota Statutes, chapter 116A. These power include the authority to:

- Enter premises and inspect individual sewage treatment systems
- Include noncontiguous areas in the sewer district
- Exercise the county's powers under Minnesota Statutes, chapter 115 (administrative and enforcement obligations with regard to individual sewer systems)
- Modify individual sewage treatment systems to provide reasonable access for inspection and maintenance

The sewer district can exercise these powers without approval of the county board or a district court order, as is required in some instances under chapter 116A.

If it exercises these powers, the county must report to the legislature by 1/15/2009 on its use of the powers and their effectiveness.

44 Metropolitan area application. Provides that the provisions (transit bonding and housing credit program) relating to the Metropolitan Council apply in the seven county metropolitan area.

45 Repealer. Repeals the Metropolitan Council's credit enhanced housing program.

46 Effective date. Provides the article is effective the day following final enactment, except the St. Paul RiverCentre data practices provisions are effective upon local approval by the city of St. Paul.

## Article 2: Tax Increment Financing

### Overview

This article makes a number of technical and minor policy changes in the tax increment financing law. It repeals the 3-year rule and the market value based income limits that apply to housing districts. It provides the income limits for housing districts for rental housing are the same as those under federal law for tax-exempt bond and low-income housing credit projects. It simplifies calculation of the deficit pooling limits and provides an option for calculating the pooling limit.

In addition, it provides special legislation for the following cities:

1. Brooklyn Center (Brookdale district)
2. Fairmont
3. Wabasha
4. Richfield (airport noise mitigation area)
5. Mounds View (Medtronic office campus development)
6. Minneapolis (Sears site)

1. 1 Cleanup grants, special duration limit. Repeals the special duration restriction on TIF districts that receive state cleanup grants. Before repeal of the state aid offset, districts and subdistricts established to meet the local match requirement for these state grants were exempt from the state aid offset. However, they were subject to a special duration restriction that required termination of the district when increments equal to three times the cleanup related costs had been received. The 2001 tax act repealed the state aid offset. In response, the 2003 Revisor's bill eliminated the references to the state aid offset, but retained the special duration limit. Since the special duration limit was likely a condition of the state aid offset exemption, this section repeals the duration limit.
- 2 JOBZ and TIF. Provides that the agricultural processing facilities zone tax exemption does not apply to parcels of property located in a TIF district that was certified before January 1, 2004. This applies to a zone in the city of Brewster in which a TIF district had been established before designation of the district. This will allow the Nobles county (which created the TIF district) to continue collecting increment for the life of the district. Absent this change, property that is located in a JOBZ, including an agricultural processing facilities zone, would be partially tax exempt and no tax increments would be generated.
- 3 Housing districts. Repeals the two-tiered set of income limits that have applied to housing districts since the percentage income limits were enacted in 1989. Under present law, the definition of "housing district" limits the amount of market value of the planned development that may be in "other than low and moderate income housing." Minn. Stat. § 469.174, subd. 11 (2002). Section 469.1761 imposes percentage income tests for rental and owner-occupied housing developments. Development authorities have generally administered the law in a way that treats housing that meets the percentage test (i.e., all of the housing units that were used in the denominator when the percentages were computed for the tests) as being "low and moderate-income housing" for the purposes of the market value test. This section eliminates the market value test altogether. The restriction on providing assistance to commercial property is moved to section 469.1761, which contains the income tests. This change is made retroactive back to the 1989 enactment of the



percentage income limits, since that is the way the law has been applied.

4 **Definition of increment.** Modifies the definition of increment in three ways:

- Clarifies that the proceeds from the sale or lease of property, purchased in part with increments and in part with other moneys, are tax increments only in the proportion to which the original property tax was purchased with increments.
- Provides that returns or repayments of increment by developers or others are increments. Present law provides this under the developer payment provision (applicable to districts to which the request for certification was made after August 1, 1993). Minn. Stat. § 469.1766. Section 0 repeals the developer payment provision. The effective date is tied to the effective date of the original developer payment restrictions (i.e., post-1993 districts).
- Clarifies that market value homestead credit payments are increment. This credit was enacted in the 2001 tax bill and was first paid for taxes payable in 2002. Treating these credits as increments reflects administrative practice and the practice under the old homestead credit (in placed in the 1970s and 1980s). In addition, it is consistent with the economic character of these credits, as essentially a substitute for property taxes.

5 **TIF plan.** Modifies the TIF plan requirement to make it clear that identification of properties to be acquired can be done in a number of different ways. This is intended to give authorities flexibility to identify an area in which properties may be acquired without specifically listing each parcel number or property ID. Effective for plans and amendments approved after June 30, 2005.

6 **TIF plan filing.** Requires TIF and development plans to be filed with the Office of the State Auditor in addition to the requirement under present law to file them with the Department of Revenue. Effective for plans and amendments approved after June 30, 2005.

7 **Cross-reference.** Changes cross-references to correspond to the elimination of clauses in section 0.

8 **Annual financial reports.** Modifies the required contents of the annual TIF report to the Office of State Auditor by requiring reporting of the amount of homestead market value credit received by the district and by deleting the following items:

- Cost and sale price information on properties sold to developers
- Amount of increments provided to other governmental units
- Whether the TIF plan allows various mechanisms for pooling of increments (the full TIF plan must be provided to OSA under section 0.

Effective beginning for the 2006 reports.

9 **Excess increments.** Makes a number of clarifying changes in the excess increment statute.

- Establishes a deadline of nine months after the end of the calendar year for the authority to take action in spending or returning excess increments. Present law is unclear as to how long authorities have to act.

- Transfers under the pooling to eliminate deficits are added to the calculation of excess of increments, so the payments reduce the amount of excess increments. These transfers are permitted uses of increment and, therefore, should be taken into account before determining the amount of excess increments.
- Provides explicit rules for application of the statute to pre-1979 districts. These districts do not have TIF plans or budgets. (The effective date of the 2003 changes to the excess increment statute applied them to pre-1979 districts.) The section treats the permitted expenditures under section 469.176, subdivision 1c, as the district's de facto budget. Amounts of increments that exceed the remaining payments on those bonds are treated as excess.
- Defines "outstanding bonds" to make it clear that excess increments can only be used to pay bonds that are secured by the district's increments. If present law were construed to mean any outstanding bonds, it would negate the other limits on spending increments (e.g., the pooling rules) when there are excess increments. This was not intended by the 2003 changes in the excess increment statute.

10       **Housing districts, use of increments.** Adds a cross-reference in the statute that specifies the permitted use of housing district increments to the statute establishing the income limits.

11       **Housing districts, commercial properties.** Limits the size of related commercial developments that may be assisted with housing district increments. Present law imposes a percentage of market value test, described above under section 0. This section substitutes a square footage test, as a simpler and clearer test that avoids the difficulties involved with appraisal or cost accounting under the market value test. Thus, housing district increments may be used to assist both the housing development that meets the income tests under section 469.1761 (i.e., the entire development, not just the income qualified units) and the related commercial or other developments meeting the 20 percent square footage test. Other properties (e.g., market rate housing units or commercial properties) could be included in the district, if they are not assisted with tax increments (i.e., the authority documents that these properties paid for their full cost of development and did not receive a "bargain" on site acquisition, infrastructure or similar costs).

12       **Rental property; income limits.** Eliminates the 50-80 income test for rental properties. Only properties that meet the income test under federal law would qualify (i.e., the 20-50 and 40-60 tests). The 50-80 test allows a development to qualify if 50 percent of the units are occupied by individuals with incomes at or below 80 percent of the area median. For 2004, 80 percent of the area median is \$61,360 for a family of four in the Twins Cities (and various other counties) and \$41,760 in the rural counties that are subject to the lowest income limits.

13       **Pooling for deficits.** Makes three changes in the deficit pooling rules to simplify and clarify the calculations.

**Optional calculation.** The section allows the authority to elect an alternative for computing the limits under rules permitting pooling to eliminate deficits. Present law allows a city to pool (transfer) surplus increments from one district to another district with a deficit that was caused by the 1997-2001 property tax changes. The amount of the pooling authority is limited to the *lesser* of:

- The district's "deficit" - this is defined as its increments and available increments from other districts under the regular pooling rules are insufficient to pay its bonds issued and contracts incurred before August 1, 2001) or
- The reduction in the district's increments caused by the 1997-2001 changes in the property tax class rates and the repeal of the general education tax levy.

The election under this section would allow the authority to calculate the pooling limit without regard to the second restriction (the reduction in increments caused by property tax changes), if the authority pledges irrevocably to use the district's increments and any pooled increments only to pay pre-existing obligations - bonds and contracts incurred before August 1, 2001. This is intended to simplify the deficit pooling rules - calculation of the reduction in increment caused by the property tax changes is very complex and difficult to do. This will allow the city and authority to by-pass that calculation, if they limit their use of increments to paying off the old bonds and contracts.

**Expenditure limits applicable to transferring districts.** The section also clarifies that transfers under the rules permitting pooling to eliminate deficits are not restricted by the district specific spending restrictions. This will permit increments from a redevelopment district, for example, to be used to eliminate a deficit in an economic development district. This confirms a memorandum issued by the Office of the State Auditor. Effective retroactive to the original effective date of the pooling authority (1997).

**General education levy.** Finally, the section specifies how to calculate the effect of the general education tax levy repeal. This calculation applies under the limit restricting transfers to the reduction in increment caused by tax reform (the second bullet noted above). The school district's general education tax levy rate (referenced to the repealed homestead education credit statute) is multiplied by the district's current captured tax capacity. This is intended to clarify and simplify calculation of the limit. The Department of Revenue will be able to provide cities with these tax rates for each of the school districts in the state.

- 14 **Cross-reference correction.** Corrects a cross-reference to the valuation adjustments that result from platting of properties. The erroneous references resulted from legislative changes that moved this language to new subdivisions and changed the time periods for phasing in value increases resulting from platting. The effective date is retroactive to those changes.
- 15 **Cross-reference correction.** Corrects a cross-reference in the enforcement statute to the excess increment statute. Legislation enacted in 2003 divided the excess increment statute into additional paragraphs and the cross-reference in section 469.1771, subdivision 5, was not changed. Effective retroactive to the underlying 2003 change.
- 16 **Cross-reference correction.** Corrects a cross-reference in the TIF bonding statute. Legislation enacted in 1988 divided the subdivision limiting the spending of increments into a general subdivision and separate subdivisions by district type. The cross-reference in the limit on the use of bonds proceeds was not changed to reflect the separate subdivisions. Effective retroactive to the underlying changes in the cross-referenced statutes.
- 17 **Brooklyn Center, TIF.** Authorizes the city of Brooklyn Center to extend the time to comply with the 5-year rule to 13 years for its TIF district number 3. The 5-year rule requires the development authority to complete the district's development activities within 5 years after approval of the TIF plan. The 1997 Legislature extended the 5-year rule for this

district to 10 years. 1997 Minn. Laws 2569, ch. 231, art. 10, § 14. This period expires in December of 2004. Thus, this bill adds three additional years to the period the city has to comply. Effective upon local approval by the city of Brooklyn Center.

18 **Fairmont abatement authority.** Authorizes the city of Fairmont, Martin County, and Independent School District No. 2752, to abate the taxes on the original tax capacity of TIF district No. 20 in Fairmont. This will permit the city to reimburse the developer for TIF that he expected to receive because the county represented that exempt property (a U.S. Post Office) would be included in the TIF district with an original value of zero. Allows the abatement to benefit a local elected official if the official discloses his interest and potential benefit and abstains from voting on the abatement. Effective the day following final enactment.

19 TIF, city of Wabasha. Authorizes four exceptions to general law TIF rules for redevelopment district No. 3 in the city of Wabasha:

- Duration extension. The city may extend the duration of the district by three years. Redevelopment districts are subject to a 25-year duration limit.
- 5-year rule. The bill extends the 5-year rule to 10 years. The 5-year rule requires the development authority to complete the district's activities within 5 years after approval of the TIF plan. (This can be extended by a reasonable period for expending bond proceeds.)
- Use of increment. The bill permits the city to expend the proceeds of bonds issued before January 1, 2000, for the National Eagle Center and to use increments from the district to pay the bonds. General law prohibits the use of increments to build municipal buildings, community centers, a commons area of a public park, or facilities used for social and recreational areas (except privately owned conference and meeting facilities). These restrictions were enacted in 1999, but expenditures made under binding contracts or letters of intent entered into before January 1, 2000, were "grandfathered" or exempted from the restrictions.
- Pooling rules. No increments from the district may be spent outside of the district.

Effective upon local approval by the city of Wabasha; the duration extension requires approval by the county and school, as well as the city.

20 TIF district, city of Richfield. Authorizes Richfield or its housing and redevelopment authority to establish a redevelopment TIF district in a defined geographic area that is affected by low frequency noise from the new North-South runway at the Minneapolis-St. Paul airport. This authority deviates from general law rules in three ways:

- The district is deemed to be a redevelopment district without meeting the "blight test" (requiring 50 percent or more of the buildings to be substandard).
- Spending of the district's increment are not limited to "blight correction" purposes, if they are spent within defined geographic area under the bill.
- The 5-year rule does not apply. The 5-year rule requires the development

authority to complete the district's development activities within 5 years after approval of the TIF plan.

Effective upon local approval by the city of Richfield.

- 21 **Mounds View.** Authorizes the city of Mounds View to establish one or more economic development districts that are subject to special rules in a defined area of the city. These districts must be created on property exempt from taxation (the property is a municipal golf course).

**Special rules.** The following special rules apply to the TIF district:

- The duration limit is extended to 25 years.
- The five-year rule is extended to a ten years.
- The limits on spending increments outside of the district do not apply, but increments must be spent on activities within the defined geographic area, whether or not the area was included in the TIF district or is located in the city.
- The limits on uses of increments (i.e., that they must be spent for specific types of businesses) do not apply.
- Increments may only be spent on activities related to the development in the defined area for:
  - o acquisition and removal of billboards
    - o acquisition of land and easement, if the parcel contains a building built before 1990
  - o sewer and water improvements (these may be outside of the defined area)
    - o roads (improvements to 6 designated roads or highways may be outside of the defined area)
  - o parking lots and ramps
    - o wetland mitigation
  - o soils correction
    - o environmental cleanup
- The city may elect either method of computing the fiscal disparities contribution. (Under general law, the fiscal disparities contribution for economic development districts must be paid by the district.)

The authority to create new districts under this section expires on 12/31/2015.

- 22 **Conveyance of state interest; Mounds View.** Directs the commissioner of transportation (MnDOT) to convey a parcel of property to the city of Mounds View. MnDOT acquired this parcel in connection with construction of trunk highway 10. It was not needed for the

highway right of way and is surplus property. It was conveyed to the city of Mounds View with a restriction that it be used for public purposes and has been used as part of a municipal golf course. The city now plans to convey it to Medtronic Inc. for use as part of a large office and research facility campus. The provision requires the city to pay \$1 million for the conveyance and that it be in a form approved by the Attorney General. The city must enter a development agreement to redevelop the land by January 1, 2007, or the land reverts to MnDOT, unless it continues to be used for a public purpose.

23 **St. Paul, TIF.** Authorizes the Housing and Redevelopment Authority of St. Paul to divide three of its tax increments financing districts into subdistricts: (1) district No. 224/233 into 6 subdistricts, (2) district No. 225 into 6 subdistricts, and (3) district No. 234 into 2 subdistricts. Each subdistrict is treated as a separate TIF district for purposes of determining tax increments. This may affect the total amount of increment collected from the district (e.g., if one subdistrict's original net tax capacity drops below its certified amount, it will not affect the increment of other subdistricts). The provision is unclear as to whether the duration limit of each subdistrict (which is triggered by initial receipt of increment) will be calculated separately, allowing individual subdistricts to end at different times than other subdistricts in the same district.

24 **Repealer.** This section repeals the 3-year rule and the restrictions on developer payments.

- The developer payments provision has effectively been superseded by the definition of increment enacted in 1997 and the changes made in section 0. This change is effective retroactive to enactment of the developer payment provision, since the changes in the definition of increment now cover this.
- The 3-year rule requires bonds to be issued, property to be acquired, or public infrastructure to be constructed in the district within 3 years of certification of the district. This restriction can be satisfied in a technical manner (e.g., by issuing a small amount of bonds) and is a trap for the unwary city or development authority. The rule technically requires the activity to occur after the certification, so activity occurring after the request for certification but before the district is actually certified does not qualify. The 4-year rule requires development to occur on each parcel in the district and provides a stronger guarantee of development activity in the district. Therefore, it seemed superfluous to impose both rules. (The 3-year rule was contained in the original 1979 Act, while the 4-year rule was added by the 1982 amendments.) This change is effective the day following final enactment. In addition, the effective date provides that under the 3-year rule any qualifying activity undertaken before certification of the district satisfies the rule for any district.

In addition, it repeals a special law duration limit that applies to the Sears district in Minneapolis. Under this special law, the district's duration limit is set at the shorter of (1) 30 years after approval of the TIF plan or (2) 18 years after receipt of first increment from the final phase of the district. General law provides that redevelopment districts may collect increments for 25 years after receipt of the first increment. This will allow the city to collect increments for the full limit under general law, if the special law limit would be shorter. Effective upon local approval by the city of Minneapolis.

## Article 3: International Economic Development Zone

### Overview

This article authorizes designation of an international economic development zone within 60 miles (or 90 minutes of driving time) from the Minneapolis-St. Paul International Airport. This zone is intended to stimulate development of a regional distribution center that will increase the capacity and capability to handle international air freight. Qualifying businesses operating in the zones are exempt from sales, income, and property taxes and a refundable jobs credit is available for the portion of increased payroll that exceeds \$30,000 per FTE. Individuals who invest in zone businesses would be exempt on their business income attributable to activity in the zone, as well as capital gain taxes on zone investments. The zone (and the tax incentives) would have a maximum duration of 12 years. The tax incentives are very similar to those available under the JOBZ program.

1. 1 Property tax exemption. Provides that commercial and industrial property (both real and personal) in an international economic development zone is exempt from property taxation. This exemption does not apply, however, to the following:
  - Land
  - Commercial-industrial property where neither the owner nor the lessee is a qualified business (See the summary of section 0 for the definition of a qualified business.)

The exemption applies to the first assessment year after designation of the zone by the commissioner of employment and economic development and to each year the zone is designated. The qualified business must have a signed business subsidy agreement by July 1 of the assessment year to qualify.

Effective beginning for property taxes payable in 2008.

- 2 Individual income tax exemption. Provides that income derived from investing in or operating a qualified business in an international economic development zone is exempt from individual income taxation. The qualifying rules for these exemptions are described in section 0.

Effective for tax years beginning after December 31, 2006.

- 3 Corporation franchise tax exemption. Provides income from operating a qualified business in an international economic development zone is deductible in calculating taxable income under the corporate franchise tax. The details of this exemption are described in the summary of section 0.

Effective for tax years beginning after December 31, 2006.

- 4 Individual income tax exemption, nonresidents. Provides that in calculating the Minnesota tax for a nonresident, international economic development zone income is excluded from both the numerator and denominator of the ratio. Nonresidents calculate their Minnesota tax by determining the Minnesota tax on their total income (both Minnesota and non-Minnesota). The Minnesota liability is, then, determined by multiplying this amount by a

fraction, the numerator of which is Minnesota source income and the denominator of which is total income.

Effective for tax years beginning after December 31, 2006.

- 5 Jobs credit. Provides that the jobs credit applies against chapter 290 taxes (regular and alternative minimum tax under both the individual income and corporate franchise taxes). A summary of the rules for this credit is found in section 0.

Effective the day following final enactment, but no credits will be allowed until tax year 2007.

- 6 Dependent care credit. Clarifies that tax-exempt international economic development zone income reduces the amount of the dependent care credit that is allowed. For example, if one-quarter of the taxpayer's income were tax-exempt international economic development income, the otherwise applicable dependent care credit would be reduced by 25 percent. This is same treatment that applies to tax-exempt reservation income of American Indians and to part year residents.

Effective for tax years beginning after December 31, 2006.

- 7 Working family credit. Clarifies that tax-exempt international economic development zone income reduces the amount of the working family credit that is allowed. This is the same treatment described in section 0 for the dependent care credit and is consistent with the treatment of other forms of tax-exempt income.

Effective for tax years beginning after December 31, 2006.

- 8 Individual alternative minimum taxable income. Allows a subtraction from individual alternative minimum taxable income for tax-exempt International Economic Development Zone income.

Effective for tax years beginning after December 31, 2006.

- 9 Corporate alternative minimum taxable income. Allows a subtraction from corporate alternative minimum taxable income for tax-exempt International Economic Development Zone income.

Effective for tax years beginning after December 31, 2006.

- 10 Minimum fee exemption. Exempts any qualified business with all of its Minnesota payroll and property in the international economic development zone from the minimum fees that applies to businesses.

Effective for tax years beginning after December 31, 2006.

- 11 Minimum fee modification. Excludes zone payroll and zone property of a qualified business from the calculation of the minimum fee.

Effective for tax years beginning after December 31, 2006.

- 12 Sales tax exemptions. Provides a sales tax exemptions for businesses located in an international economic development zone. To qualify for this exemption, the goods or taxable services must be primarily used in the zone and purchased during the duration of the zone. The exemption extends to contractor purchases (if the final use of the property is in the zone) and to local sales taxes. The sale and delivery must be made after the business has signed a business subsidy agreement.



The exemption for purchases by the qualified business takes effect on July 1, 2007. The exemption for purchases of building materials takes effect on July 1, 2006, but for purchases made before July 1, 2007, the tax must be paid and a refund applied for under the capital equipment refund procedure. Refunds cannot be paid under fiscal year 2008.

13

Definitions. Defines terms for purposes of the international economic development zone statute.

- Foreign trade zone means a foreign trade zone designated under federal law or an authorized subzone.
- Foreign trade zone authority is Greater Metropolitan Foreign Trade Zone Commission number 119. This is a joint powers organization formed by Hennepin County, Bloomington, Minneapolis, and the Metropolitan Airports Commission. The definition permits other local governments to join the agreement later.
- International economic development zone means a zone designated designed under section 0.
- Person includes individual, corporations, partnerships, limited liability companies, and any other entity.
- Qualified business means a person that is an international import or export business and that is certified by the authority as furthering the purpose of developing international distribution capacity and capabilities as a freight forwarder. To qualify, a business must sign a business subsidy agreement. Businesses must pay their employees a wage equal to 110 percent of the federal poverty level for a family of four. For CY2005 this is an annual income of \$21,285 (or an hourly rate of \$10.25). Unlike the JOBZ program, businesses that relocate from elsewhere in Minnesota (without increasing investment or jobs) can qualify for the tax incentives.
- Regional distribution center is a distribution center developed within a foreign trade zone. The center's primary purpose must be to centralize functions necessary to ship freight in international commerce, such as custom and security functions.
- International economic development zone percentage is a fraction used to apportion income to zone for business operating both within and outside of the zone. The percentage is the average of the zone payrolls and property over total Minnesota payrolls and property.
- International economic development zone payroll factor is the wage and salaries paid to employees for services performed in the zone or to employees working from offices in a zone, if the work outside the zone is incidental to that in the zone.
- Freight forwarder is a business that transports goods made by another business.

14

Application for designation. Authorizes a local government unit or units, or a joint powers

board, to apply to the Foreign Trade Zone Authority for international economic development zone status. A local government unit, however, cannot submit more than one application. The zone must be located within the boundaries of the applying units.

The application must include a resolution or ordinance from each city, town or county in which the zone is located, agreeing to provide the property tax and local option sales tax benefits provided by the international economic development zone law. It must also include an agreement to treat international economic development zone tax benefits as business subsidies under the Minnesota business subsidy law, as well as supporting evidence necessary for the Foreign Trade Zone Authority to evaluate the application.

The applications must be submitted by December 31, 2005.

Effective the day following final enactment.

15 Designation of international economic development zone. Authorizes the foreign trade zone authority to designate one foreign trade zone that contains a regional distribution center as an international economic development zone. The zone must be between 500 and 1,000 acres in size and must consist of contiguous area (i.e., unlike JOBZ it cannot have noncontiguous subzones). The zone can be no more than 60 miles (or 90 minutes driving time) from the Minneapolis-St. Paul International Airport. In designating the zone, the authority is to consider :

- access to major transportation routes,
- consistency with current state transportation and air cargo planning,
- adequacy of the size of the site,
- access to airport facilities,
- present and future capacity at the designated airport,
- the capability to meet integrated present and future air cargo, security, and inspection services, and
- access to other infrastructure and financial incentives.

In applying these criteria, the goal is to maximize the security, efficiency and volume of Minnesota's export shipments.

Before designation, the Foreign Trade Zone Authority, in consultation with the applicant local government unit, must conduct a transportation impact study based on the regional model and utilizing traffic forecasting and assignments. The results must be used to evaluate the effects of the proposed use on the transportation system and identify any needed improvements. If the site is in the metropolitan area the study must also evaluate the effect of the transportation impacts on the Metropolitan Transportation System plan as well as the comprehensive plans of the municipalities that would be affected. The applicant must pay for the study.

Effective the day following final enactment

- 16 Foreign trade zone authority powers. Directs the Authority to develop a development plan for the regional distribution center with a goal of expanding international distribution capacity for the region. The authority must consult with municipalities that are interested in being the site for the zone and with businesses and federal and state agencies.

Requires the Authority to prepare a business plan for the international economic development zone. The plan must establish the amount of investment, the number of jobs, and the amount of freight handled at the end of three-, five-, and 10-year periods by the Zone. It must also include an analysis of the economic feasibility of the regional distribution center once it becomes operational and of the operations of freight forwarders and other businesses that choose to locate within the boundaries of the zone. If the Authority determines that the analysis does not establish the economic feasibility of the regional distribution center, a zone cannot be designated.

The foreign trade zone authority may establish a port authority and may exercise any city powers. This implies that the Authority will have property taxing authority, but presumably only within the area of the zone.

Tax incentives under the section are treated as being paid by the local government for purposes of the Minnesota prevailing wage and business subsidy laws.

Effective the day following final enactment.

- 17 Available tax incentives. The following tax incentives are available in international economic development zones:

- Business owners are exempt from the individual income tax on income from business operations and investments in an international economic development zone
- The corporate franchise tax does not apply to corporate income generated by zone operations
- State and local sales taxes do not apply to purchases used by businesses in an international economic development zone
- Property taxes do not apply to improvements in the zone
- A refundable jobs credit is available for higher paying jobs

- 18 Individual income tax exemption. Provides income tax exemptions for individuals operating businesses in zones or investing in zones. These exemptions only apply if the income would otherwise be taxable.

Rents. Rents received for both real and tangible personal property used by a qualified business (i.e., a freight forwarder) located in the zone are exempt. Rents from personal property that is used both within and outside of the zone must be apportioned based on the

number of days the property was used in the zone.

**Business income.** Income from operating a qualified business in an international economic development zone is exempt. If the business operates both within and outside of the zone, the income must be apportioned using the share of property and payroll located in the zone to the total property and payroll of the taxpayer. The exemption is limited so that the exempt income (determined by using the apportionment mechanism) cannot exceed 20 percent of the sum of the zone payroll and original adjusted basis of the investment in the zone.

**Capital gains.** Capital gains on real and tangible personal property used by a qualified business in an international economic development zone or sale of a qualified business operated in the zone are exempt from taxation. Different rules apply to determine the amount of the exemption:

- **Real property.** Capital gains on real property located in an international economic development zone are exempt from taxation based on the share of the holding period that took place while the area was designated an international economic development zone. To illustrate, assume A purchased a piece of real property for \$1,000 and held the property for 10 years. A, then, sold the property for \$5,000. For 6 years of the 10-year holding period, the property was located in an international economic development zone. Of A's \$4,000 capital gain (\$5,000 sale price - \$1,000 purchase price = \$4,000), 60 percent or \$2,400 would be exempt from taxation ( $\$4,000 * 60 \text{ percent} = \$2,400$ ), since 6 years out of the 10-year holding period occurred while the zone was designated an international economic development zone.
- **Tangible personal property.** Capital gains on tangible personal property located in an international economic development zone are exempt from taxation based on the share of the holding period that took place while the zone was designated an international economic development zone and the usage of the property in the zone. This calculation is essentially the same as that for real property. However, if the personal property was used both within and without the zone, the exemption amount must also be multiplied by a fraction. The numerator of the fraction is the number of days the property was used in the zone while it was designated as an international economic development zone and the denominator is the total number of days the taxpayer held the property.

**Ownership in qualified business.** Capital gain on an ownership interest (e.g., stock or a partnership interest) in a qualified business is exempt from taxation. This exemption equals the international economic development zone percentage for the business multiplied by the capital gain. The zone percentage is calculated using as its denominator the total property and payroll (not just the Minnesota payroll and property). This exemption does not apply if the zone percentage is less than 25 percent. The business entity is responsible for notifying the owner of its qualification for the capital gain exemption.

Effective for tax years beginning after December 31, 2006.

business. If the entire business operates in the zone, the corporation is fully exempt from taxation under the corporate franchise tax and would not be required to file a return. If the corporation does business both within and outside of the zone, the following rules apply:

- Regular tax. The corporation's taxable net income is multiplied by its zone percentage (average property and payroll in the zone divided by total Minnesota property and payroll) and subtracted from its taxable income.
- AMT. The corporation's alternative minimum taxable income is multiplied by the zone percentage and this amount is subtracted from the taxable income.
- Minimum fee. Its zone property and payroll are excluded from calculating the minimum fee.

The maximum exemption is 20 percent of the (1) corporation's international economic development zone payroll and (2) the adjusted basis of property when the property was first used by the corporation in the zone.

Effective for tax years beginning after December 31, 2006.

20 **Jobs credit.** Provides a job credit to a qualified business operating in a zone equal to 7 percent of:

- The lesser of either:
  - The increase in the business payroll (but excluding amounts paid to an employee in excess of \$100,000 per year) in the zone since the year of designation or
- The increases in total Minnesota payroll since the year of designation; minus
  - The increase in the number of FTEs in the zone since designation multiplied by \$30,000

**Inflation adjustment.** Starting for tax year 2006, the \$30,000 amount will adjusted for inflation.

Refundable. The credit is refundable.

Effective for tax years beginning after December 31, 2006.

21 **Repayment of tax benefits.** Requires a business to repay tax benefits, if the business ceases to operate in the zone or ceases to be a qualified business.

The provision requires repayment of the last two years of benefits received before the business ceased its zone operations or failed to meet its agreed goals.

Disposition of repayments. Repayments of state tax reductions are paid to the state and deposited in the general fund. Repayments of property taxes are distributed to local governments in the same manner as delinquent property taxes. Repayments of local sales taxes are made to the unit imposing the tax.

Authority to collect. The commissioner of revenue is authorized to collect repayments in the

same manner as unpaid taxes and the same interest and penalty rules apply. For individual income and corporate franchise taxes and state and local sales taxes, the taxpayer files an amended return and must repay within 30 days after the triggering event. For property taxes, the county auditor is to prepare a tax statement using the otherwise applicable tax rates. If the amounts are not paid, they become liens against the property in the same way as any other unpaid property tax. Motor vehicle sales taxes are repaid to the motor vehicle registrar.

Waiver authority. The commissioner of revenue, after consulting with the foreign trade zone authority and the local units of government, may waive all or part of a repayment if it is deemed to be in the best interest of the state and the business ceased operations for reasons beyond its control, such as a natural disaster, unforeseen industry trends, or loss of a major supplier or customer.

Effective the day following final enactment.

22

Zone performance reporting. Requires the local government unit(s) receiving a zone designation to annually report to the commissioner of employment and economic development on its progress in meeting the zone performance goals under, and the applicant's compliance with, the business subsidy law.

Effective the day following final enactment.