

**Property Tax
Tax Increment Financing
Pre-1990 Pooling and Audit Time Limits**

March 21, 2001

	Yes	No
Separate Official Fiscal Note Requested		X
Fiscal Impact		
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of H.F. 1505 (Lenczewski) / S.F. 1798 (Scheid)

	Revenue Gain or (Loss)			
	<u>F.Y. 2002</u>	<u>F.Y. 2003</u>	<u>F.Y. 2004</u>	<u>F.Y. 2005</u>
		(000's)		
General Fund	\$0	\$0	\$0	\$0

Section 1 is effective for districts with a request for certification made after June 30, 1982.
Section 2 is effective January 1, 2002, and applies to all districts regardless of when the request for certification was made, and to actions commenced after January 1, 2002.

EXPLANATION OF THE BILL

Current Law: Minnesota Statutes, sections 469.174 to 469.179 provide authority for tax increment financing (TIF) and make provisions that govern its use. A couple of the provisions within these sections are affected by the proposal.

M.S. 469.1763 provides several restrictions on the amount of increments that may be “pooled” or spent outside a tax increment financing district. Subd. 1 defines “activities” and “third party.” Subd. 2 sets the percentage of increments that must be spent inside the district. Subd. 3, which is referred to as the “five-year rule,” states that expenditures are considered to be spent within the district only if they are paid within five years after certification, or they relate to bonds, obligations, or reimbursements that were issued, entered into, or made within the five years. Subd. 4 requires that, starting with the sixth year, in-district increments must pay expenditures allowed under subd. 3, with the goal of moving toward decertification. Subd. 5 addresses credit enhanced bonds. Subd. 6 allows pooling to cover deficits in other districts resulting from tax reform. These provisions generally apply to districts with a request for certification made after April 30, 1990.

M.S. 469.1771 contains enforcement provisions for violations of TIF law.

Proposed Law: Section 1 of the proposal extends M.S. 469.1763, subd. 1, 3, 4, and 5 to districts with a request for certification made before May 1, 1990, but after June 30, 1982, (the date pooling was authorized). This effectively extends the five-year rule to older districts, deeming July 1, 2001, to be the certification date, which starts the five year clock. The proposal does not apply to housing districts, soils

EXPLANATION OF THE BILL (CONTINUED)

condition or redevelopment districts authorized by special law, or districts receiving county board approval of an exemption to the proposal. The proposal does not extend the requirements of subd. 2, requiring a certain percentage of increments be spent within the district, to these districts. This means any percentage may continue to be spent outside the district for the first five years, but beginning in the sixth year all increments must be spent towards decertifying the pledges made during the first five years.

Section 2 of the proposal adds a subdivision to the enforcement provisions of M.S. 469.1771 that sets time limits for the state auditor's authority to examine or audit TIF activities. The authority ends three and one-half years after the district ends. No action may be commenced beyond one year after the audit authority ends.

REVENUE ANALYSIS DETAIL

- The proposal's pooling provisions may affect the amount of increments captured or spent in the future by limiting new increment pledges beginning in the sixth year. However, no impact on the general fund is anticipated.
- The imposition of a time limit for audits and enforcement actions may result in some violations going undetected that would otherwise result in repayments of expenditures made in violation of TIF law. Repayments are returned to overlapping jurisdictions, and repayments to school districts can lead to state savings for reimbursed aids. The proposal could potentially eliminate such savings, but this estimate, given no evidence to the contrary, must assume general compliance with TIF law.
- This estimate assumes that the proposal's language will be clarified with respect to the interdependence of subd. 3 (the five-year rule) on subd. 2 (establishing the in-district percentage), and assumes that the intent is not to impose the in-district percentages of subd. 2 on the pre-1990 districts.

Number of Taxpayers Affected: Taxpayers in jurisdictions affected by the roughly 750 TIF districts with requests for certification before May 1, 1990, may be affected by the proposal's pooling provisions, and all taxpayers in jurisdictions with TIF districts may be affected by the audit time limits.

ADMINISTRATIVE/OPERATIONAL IMPACT

There will be no significant administrative or operational costs or savings to DOR in administration of this bill.

Source: Minnesota Department of Revenue
Tax Research Division
<http://www.taxes.state.mn.us/polic.html#analyses>