

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 3377

(SENATE AUTHORS: SIMONSON, Senjem, Eken and Bakk)

DATE	D-PG	OFFICIAL STATUS
03/14/2018	6498	Introduction and first reading
		Referred to Taxes
04/19/2018		Comm report: Amended, No recommendation, re-referred to Jobs and Economic Growth Finance and Policy

1.1 A bill for an act

1.2 relating to taxation; sales tax; tax increment financing; abatements; local

1.3 government aid; authorizing the city of Duluth to create a regional exchange district

1.4 for development purposes; amending Minnesota Statutes 2016, section 297A.71,

1.5 by adding a subdivision; Laws 1980, chapter 511, section 1, subdivision 1;

1.6 proposing coding for new law in Minnesota Statutes, chapter 469.

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

1.8 Section 1. Minnesota Statutes 2016, section 297A.71, is amended by adding a subdivision

1.9 to read:

1.10 Subd. 51. **Construction materials, public infrastructure, and improvements in**

1.11 **regional exchange district.** Materials and supplies used in, and equipment incorporated

1.12 into, the construction and improvement of buildings and infrastructure, whether publicly

1.13 or privately owned, which are located within a regional exchange district established under

1.14 section 469.51, are exempt.

1.15 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June

1.16 30, 2018, and before July 1, 2035.

1.17 Sec. 2. **[469.50] DEFINITIONS.**

1.18 Subdivision 1. **Application.** For the purposes of sections 469.50 to 469.54, the terms

1.19 defined in this section have the meanings given them.

1.20 Subd. 2. **City.** "City" means the city of Duluth.

1.21 Subd. 3. **County.** "County" means St. Louis County.

2.1 Subd. 4. **District.** "District" means the regional exchange district established under
2.2 section 469.51.

2.3 Subd. 5. **Medical business entity west.** "Medical business entity west" means a nonprofit
2.4 integrated health system with two hospitals located within the district.

2.5 Subd. 6. **Medical business entity east.** "Medical business entity east" means a nonprofit
2.6 health system operating one hospital within the district.

2.7 Subd. 7 **Public infrastructure project.** (a) "Public infrastructure project" means a
2.8 project financed in part or in whole with public money in order to support development in
2.9 the district. A public infrastructure project may:

2.10 (1) acquire real property and other assets associated with the real property;

2.11 (2) demolish, repair, or rehabilitate buildings;

2.12 (3) remediate land and buildings as required to prepare the property for acquisition or
2.13 development;

2.14 (4) install, construct, or reconstruct elements of public infrastructure required to support
2.15 the overall development of the district, including but not limited to: streets, roadways,
2.16 highways, and utilities systems and related facilities, including relocations and realignments;
2.17 structural caps or streetscape improvements; bridges or other buildable pads above streets,
2.18 roadways, highways, and other rights-of-way; network and communication systems; drainage
2.19 systems; sewer and water systems; subgrade structures and associated improvements;
2.20 landscaping; façade construction and restoration; wayfinding and signage; and other
2.21 components of community infrastructure;

2.22 (5) acquire, construct or reconstruct, and equip parking facilities, transit stations, and
2.23 other facilities to encourage intermodal transportation and transit;

2.24 (6) install, construct or reconstruct, furnish, and equip parks and trails; cultural,
2.25 community, educational, and recreational facilities; facilities to promote tourism and
2.26 hospitality, conferencing, and conventions; and broadcast and related multimedia
2.27 infrastructure;

2.28 (7) make related site improvements, including, without limitation, excavation, earth
2.29 retention, soil stabilization and correction, foundation and substructure, vertical circulation
2.30 systems, and other site improvements to support a district;

2.31 (8) prepare land for private development and to sell or lease land;

3.1 (9) pay the costs of providing relocation benefits to occupants of acquired properties;
 3.2 and

3.3 (10) construct and equip all or a portion of one or more suitable structures on land owned
 3.4 by the city or the state for sale or lease to private development; provided, however, that the
 3.5 portion of any structure directly financed by the city or the state as a public infrastructure
 3.6 project may not finance inpatient or outpatient hospital facilities within a medical district.

3.7 (b) A public infrastructure project is not a business subsidy under section 116J.993.

3.8 Subd. 8. **Regional Exchange District Advisory Board; advisory board; REDAB.**
 3.9 "Regional Exchange District Advisory Board," "advisory board," or "REDAB" means the
 3.10 advisory board established under section 469.51, subdivision 3.

3.11 **EFFECTIVE DATE.** This section is effective the day after the governing body of the
 3.12 city of Duluth and its chief clerical officer timely comply with Minnesota Statutes, section
 3.13 645.021, subdivisions 2 and 3.

3.14 Sec. 3. **[469.51] REGIONAL EXCHANGE DISTRICT; REGIONAL EXCHANGE**
 3.15 **DISTRICT ADVISORY BOARD.**

3.16 Subdivision 1. **Creation; boundaries.** There is established in the city a regional exchange
 3.17 district, largely within the area of the city commonly referred to as the medical district. The
 3.18 regional exchange district is bounded by: East 6th Street from North 3rd Avenue East to
 3.19 North 7th Avenue East; North 7th Avenue East from East 6th Street to East 3rd Street; East
 3.20 3rd Street from North 7th Avenue East to North 12th Avenue East; North 12th Avenue East
 3.21 from East 3rd Street straight through the Duluth Rose Garden to the Lake Superior waterfront;
 3.22 the Lake Superior waterfront from the Duluth Rose Garden at North 12th Avenue East to
 3.23 Lake Place Park at North 3rd Avenue East; North 3rd Avenue East from Lake Place Park
 3.24 at the Lake Superior waterfront to East 6th Street, excluding any property operated as a
 3.25 hotel on the corner of Superior Street and North 3rd Avenue East.

3.26 Subd. 2. **Purpose; findings.** The public purposes of the district are to facilitate:

3.27 (1) repurposing vacant or underutilized public land, or unutilized property interests such
 3.28 as air rights, for development or redevelopment and to incent significant private investment;

3.29 (2) redeveloping vacant or underutilized private land to increase its tax-generating and
 3.30 job-creating potential or to provide housing or meet other community needs; and

3.31 (3) encouraging development by the anchoring institutions in the community, such as
 3.32 health care organizations and institutions of higher education, to create opportunities to

4.1 improve the economy of the city and greater Minnesota regions and attract and retain a
4.2 workforce.

4.3 Subd. 3. **Advisory board.** (a) The Regional Exchange District Advisory Board is created
4.4 to provide the city with advice and guidance in developing an overall development plan for
4.5 the regional exchange district. The advisory council terminates when funds from all
4.6 appropriation support payments made to the city under section 469.54 are committed to
4.7 approved public infrastructure projects.

4.8 (b) REDAB will consist of eight members appointed as follows:

4.9 (1) the mayor of the city or the mayor's designee who cannot be employed by or affiliated
4.10 with either medical business entity;

4.11 (2) a city council member, appointed by the council;

4.12 (3) one member of the county board, appointed by the county board;

4.13 (4) three representatives of the medical business entity west, appointed by and serving
4.14 at the pleasure of the medical business entity west;

4.15 (5) one representative of the medical business entity east, appointed by and serving at
4.16 the pleasure of the medical business entity east; and

4.17 (6) one member appointed by the Duluth Greater Downtown Council, who cannot be
4.18 affiliated with any entity, city, or county represented under clauses (1) to (5).

4.19 (c) The appointing authorities must make their respective appointments as soon as
4.20 practicable after May 31, 2018, but no later than June 30, 2018. A member first appointed
4.21 after June 22, 2013, under paragraph (b), clauses (1), (2), (3), and (4), serves for a term
4.22 coterminous with the term of the elected office, but may be reappointed. A vacancy occurs
4.23 as provided in section 351.02 and must be filled by the appointing authority for the balance
4.24 of a term in the same manner as a regular appointment. The member selected under paragraph
4.25 (b), clause (6), serves a term coterminous with the member appointed under paragraph (b),
4.26 clause (2), but may be reselected.

4.27 (d) The duties of the advisory board are to prepare a proposed development plan for the
4.28 district for approval by the city council; propose modifications to the development plan for
4.29 city council approval; and recommend to the city council proposed public infrastructure
4.30 projects not specifically listed in the plan that the board designates as consistent with the
4.31 development plan adopted by the city.

5.1 (e) The advisory board and committee or subcommittee of the advisory board is subject
5.2 to the Open Meeting Law in chapter 13D and is a government entity for purposes of chapter
5.3 13.

5.4 Subd. 4. **Development plan.** (a) REDAB must prepare a proposed development plan
5.5 for the district and submit the plan to the city by January 1, 2019. The plan must provide
5.6 the following:

5.7 (1) an outline for the development of the district to meet the purpose and findings in
5.8 subdivision 2;

5.9 (2) discussion of how the development plans will increase economic activity in the city
5.10 and fit into the city's long term comprehensive development plans;

5.11 (3) a specific list of public infrastructure projects that meet the purposes and findings
5.12 listed in subdivision 2; and

5.13 (4) the criteria that will be used by the advisory board in evaluating whether a public
5.14 infrastructure project, not specifically listed in the plan under clause (3), is consistent with
5.15 the proposed development plan.

5.16 (b) The development plan must be approved by six members of the advisory board prior
5.17 to submitting the plan to the city council for consideration. The development plan for the
5.18 district is not adopted until approved by the city council. If the city council rejects the initial
5.19 development plan proposed by the advisory board, the board may revise the development
5.20 plan and resubmit the plan. Section 15.99 does not apply to review and approval of the
5.21 development plan. The city must not spend any appropriation support payments from the
5.22 state until it has approved a development plan proposed by the advisory board.

5.23 (c) REDAB may propose modifications to the development plan at anytime, however
5.24 all changes are subject to approval by the city council.

5.25 Subd. 5. **Project approval; notice; hearing.** Public infrastructure projects may be
5.26 undertaken within the district by the city if the project is listed in the development plan or
5.27 is recommended to the city by REDAB. The city must hold a public hearing before approving
5.28 a public infrastructure project for local or state funding provided pursuant to section 469.53
5.29 or 469.54. At least ten days before the hearing, the city must publish notice of the hearing
5.30 in the official newspaper of the city.

5.31 **EFFECTIVE DATE.** This section is effective the day after the governing body of the
5.32 city of Duluth and its chief clerical officer timely comply with Minnesota Statutes, section
5.33 645.021, subdivisions 2 and 3.

6.1 Sec. 4. **[469.52] CITY POWERS; DUTIES; AUTHORITY TO ISSUE BONDS.**

6.2 Subdivision 1. **Port authority powers.** The city may exercise the powers of a port
6.3 authority under sections 469.048 to 469.068 for purposes of implementing sections 469.50
6.4 to 469.54.

6.5 Subd. 2. **City may issue debt.** The city may issue general obligation bonds, revenue
6.6 bonds, or other obligations, as it determines appropriate, to finance public infrastructure
6.7 projects, as provided by chapter 475. Notwithstanding section 475.53, obligations issued
6.8 under this section are not subject to the limits on net debt, regardless of their source of
6.9 security or payment. Notwithstanding section 475.58 or any other law or charter provision
6.10 to the contrary, issuance of obligations under the provisions of this section are not subject
6.11 to approval of the electors. The city may pledge local revenues under section 469.53, the
6.12 appropriation support payments under section 469.54, and any of the city's unrestricted
6.13 revenues as security for and to pay the obligations.

6.14 Subd. 3. **Steel products.** The city must require that a public infrastructure project use
6.15 steel products made from iron ore mined from the taconite assistance area as defined in
6.16 section 273.1341 to the extent practicable. In determining whether it is practicable, the city
6.17 may consider the exceptions to the requirement by Public Law 111-5, section 1605.

6.18 Subd. 4. **City contracts; construction requirements.** For all public infrastructure
6.19 projects, the city must make reasonable efforts to hire and cause the construction manager
6.20 and any subcontractors to employ women and members of minority communities. Goals
6.21 for construction contracts must be established in the manner required under the city's
6.22 disadvantaged business enterprises plan.

6.23 Subd. 5. **Public bidding exemption.** Notwithstanding section 469.068 or any other law
6.24 to the contrary, the city need not require competitive bidding with respect to a parking
6.25 facility or other public improvements constructed in conjunction with, and directly above
6.26 or below, or adjacent and integrally related to, a private development within a district.

6.27 Subd. 6. **Parking structure revenue.** Parking facilities or structures constructed pursuant
6.28 to the development plan must charge market rate parking fees.

6.29 Subd. 7. **City utility fund contribution.** The city must use the city utility fund to finance
6.30 improvements made within the district for sanitary sewer, storm sewer, and water systems
6.31 and other related utility improvements. The improvements must be included in the
6.32 development plan approved by the board. The total expenditures required under this
6.33 subdivision and under section 7, subdivision 1, paragraph (d), must equal at least
6.34 \$20,000,000.

7.1 **EFFECTIVE DATE.** This section is effective the day after the governing body of the
7.2 city of Duluth and its chief clerical officer timely comply with Minnesota Statutes, section
7.3 645.021, subdivisions 2 and 3.

7.4 Sec. 5. **[469.53] LOCAL VALUE CAPTURE AUTHORITY.**

7.5 Subdivision 1. **Special abatement rules.** (a) If the city or county elects to use tax
7.6 abatement under sections 469.1812 to 469.1815 to finance costs of public infrastructure
7.7 projects, or to finance the costs of a joint project between the city and county, including all
7.8 financing costs, the special rules under this subdivision apply.

7.9 (b) The limitations under section 469.1813, subdivision 6, do not apply.

7.10 (c) The limitations under section 469.1813, subdivision 8, do not apply, and property
7.11 taxes abated by the city or county to finance costs of public infrastructure projects are not
7.12 included for purposes of applying section 469.1813, subdivision 8, to the use of tax abatement
7.13 for other purposes.

7.14 Subd. 2. **Special tax increment financing rules.** If the city elects to establish one or
7.15 more redevelopment tax increment financing districts within a regional exchange district
7.16 to fund public infrastructure projects, the requirements, definitions, limitations, or restrictions
7.17 in the following statutes do not apply: sections 469.174, subdivisions 10 and 25, clause (2);
7.18 469.176, subdivisions 4j, 4l, and 5; and 469.1763, subdivisions 2, 3, and 4. The provisions
7.19 of this subdivision expire effective for tax increments expended after December 31, 2054.
7.20 After that date, the provisions of section 469.1763, subdivision 4, apply to any remaining
7.21 unspent or unobligated increments.

7.22 **EFFECTIVE DATE.** This section is effective the day after the governing body of the
7.23 city of Duluth and its chief clerical officer timely comply with Minnesota Statutes, section
7.24 645.021, subdivisions 2 and 3.

7.25 Sec. 6. **[469.54] STATE VALUE CAPTURE.**

7.26 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
7.27 the meanings given them.

7.28 (b) "Appropriation support payments" means payment from the state to the city pursuant
7.29 to subdivision 3.

7.30 (c) "Commissioner" means the commissioner of employment and economic development.

8.1 (d) "Construction projects" means expenditures for the constructing, furnishing,
8.2 commissioning, and equipping of buildings, ancillary facilities, utilities, parking, and other
8.3 improvements, whether private or public, that are located within a district.

8.4 (e) "Expenditures" means expenditures made, or to be made, by any entity on construction
8.5 projects for the capital and financing costs of the construction project, including but not
8.6 limited to:

8.7 (1) planning, predesign, and design, including architectural, engineering, project
8.8 management, and similar services;

8.9 (2) legal, regulatory, and other compliance costs of the project;

8.10 (3) land acquisition, demolition of existing improvements, and other site preparation
8.11 costs;

8.12 (4) construction costs, including all materials and supplies of the project; and

8.13 (5) equipment, furnishings, and fixtures.

8.14 Expenditures excludes supplies and other items with a useful life of less than a year that
8.15 are not used or consumed in constructing improvements to real property or are otherwise
8.16 chargeable to capital costs.

8.17 (f) "Finance" means to pay all costs, including the costs of debt financing, which includes
8.18 principal, interest, and premium.

8.19 (g) "Qualified expenditures" means the total certified expenditures since June 30, 2018,
8.20 for construction projects that have applied for and received building permits from the city,
8.21 or that have actually been constructed, based upon actual costs or, if construction is not
8.22 complete, budgeted costs.

8.23 Subd. 2. **Certification of expenditures.** By March 1 of each year, the city must certify
8.24 to the commissioner the amount of qualified expenditures made through the end of the
8.25 preceding year. The certification must be made in the form that the commissioner prescribes
8.26 and include any documentation of and supporting information regarding the qualified
8.27 expenditures that the commissioner requires. By July 1 of each year, the commissioner must
8.28 confirm or revise the amount of the qualified expenditures.

8.29 Subd. 3. **Appropriation support payments.** (a) No appropriation support payments
8.30 from the state to the city may be made under this section until total qualified expenditures
8.31 equal at least \$360,000,000.

8.32 (b) The amount of the appropriation support payments for a year equals:

9.1 (1) for qualified expenditures, as certified by the commissioner, of \$360,000,000, the
9.2 amount of \$360,000,000 multiplied by 0.02; plus

9.3 (2) for qualified expenditures, as certified by the commissioner, if any, between
9.4 \$360,000,000 and \$540,000,000, the amount of such certified qualified expenditures
9.5 multiplied by 0.015; plus

9.6 (3) for qualified expenditures, as certified by the commissioner, if any, between
9.7 \$540,000,000 and \$720,000,000, the amount of such certified qualified expenditures
9.8 multiplied by 0.0125; plus

9.9 (4) for qualified expenditures, as certified by the commissioner, if any, between
9.10 \$720,000,000 and \$1,000,000,000, the amount of such certified qualified expenditures
9.11 multiplied by 0.01.

9.12 (c) The maximum amount of appropriation support payments in any year is limited to
9.13 no more than \$15,000,000. The total amount of appropriation support payments made under
9.14 this subdivision is limited to \$184,000,000.

9.15 (d) The city must use the appropriation support payments it receives under this subdivision
9.16 for public infrastructure projects, including the cost to finance such projects. The city must
9.17 maintain appropriate records to document the use of the funds under this requirement. For
9.18 purposes of this subdivision, "public infrastructure projects" must include the following:

9.19 (1) 6th Avenue E, extension primary street improvements, and related structural and
9.20 safety improvements;

9.21 (2) construction of parking structures that provide space for 1,100 vehicles for the medical
9.22 business entity west, and space for 600 vehicles for the medical business entity east; and

9.23 (3) to the extent practicable, subgrade structures and design and completion of the
9.24 structural frame cap over marked Interstate Highway 35.

9.25 (e) The commissioner must pay to the city the amount of appropriation support payments
9.26 determined under this section for the year by September 1.

9.27 Subd. 4. **Appropriation support payment; parking revenue reduction.** By March 1
9.28 of the year following the year in which the parking facilities or structures are constructed
9.29 within the district pursuant to the development plan, the city must certify to the commissioner:

9.30 (1) the total amount of revenue generated by the parking facilities and structures in the
9.31 preceding year; and

10.1 (2) the total amount necessary for operational and maintenance expenses of the facilities
 10.2 or structures in the current year.

10.3 By July 1 of each year, the commissioner must confirm or revise the amounts as reported.
 10.4 The commissioner shall reduce the total amount of appropriation support payments made
 10.5 to the city in the current year under subdivision 3 by an amount equal to 50 percent of the
 10.6 amount of revenue received by the city by the parking structures and facilities in the previous
 10.7 year that is greater than the amount necessary for operational and maintenance expenses of
 10.8 the facilities or structures in the current year.

10.9 Subd. 5. **Prevailing wage requirement.** During the construction, installation, remodeling,
 10.10 and repairs of any public infrastructure project funded by appropriation support payments,
 10.11 laborers and mechanics at the site must be paid the prevailing wage rate as defined in section
 10.12 177.42, subdivision 6, and the public infrastructure project is subject to the requirements
 10.13 of sections 177.30 and 177.41 to 177.44.

10.14 Subd. 6. **Termination.** No aid may be paid under this section after fiscal year 2054.

10.15 Subd. 7. **Appropriation.** An amount sufficient to pay the appropriation support payments
 10.16 authorized under this section to the city is appropriated to the commissioner from the general
 10.17 fund.

10.18 **EFFECTIVE DATE.** This section is effective the day after the governing body of the
 10.19 city of Duluth and its chief clerical officer timely comply with Minnesota Statutes, section
 10.20 645.021, subdivisions 2 and 3.

10.21 Sec. 7. Laws 1980, chapter 511, section 1, subdivision 1, is amended to read:

10.22 Subdivision 1. (a) Minnesota Statutes, section 477A.01, ~~Subdivision 18~~ 477A.016, shall
 10.23 not be deemed to prohibit the city of Duluth from amending its sales and use tax ordinances
 10.24 so as to impose a sales ~~or~~ and use tax at the rate of one percent upon any or all sales or uses
 10.25 which are taxed by the state of Minnesota pursuant to Minnesota Statutes, chapter 297A ~~or~~
 10.26 297B.

10.27 (b) Notwithstanding Minnesota Statutes, section 477A.016, or any ordinance, city charter,
 10.28 or other provision of law, pursuant to the approval of the voters at the election on November
 10.29 7, 2017, the city of Duluth may impose by ordinance an additional sales and use tax of
 10.30 one-half of one percent for the purposes specified in paragraphs (c) and (d). The provisions
 10.31 of Minnesota Statutes, section 297A.99, govern the imposition, administration, collection,
 10.32 and enforcement of the taxes authorized under this paragraph.

11.1 (c) Revenues received from the tax authorized by paragraph (b) must be used to pay all
11.2 or part of the capital and administrative costs of street, curb, gutter, sidewalk, and bridge
11.3 improvements including related lighting and signals in the city of Duluth as outlined in the
11.4 Duluth Street Improvement Program 2017 as designated August 8, 2017, including any
11.5 subsequent amendments approved by the city.

11.6 (d) Revenues from the tax authorized by paragraph (b) must be used to pay all or part
11.7 of the improvements listed in paragraph (c) that are located within the district established
11.8 under Minnesota Statutes, section 469.51. The total expenditures required under this
11.9 paragraph and under Minnesota Statutes, section 469.52, subdivision 7, must equal at least
11.10 \$20,000,000. The allocation required under this paragraph expires seven years after the date
11.11 of initial imposition of the tax. Projects authorized under this paragraph must be included
11.12 in the development plan approved by the Regional Exchange District Advisory Board in
11.13 consultation with the medical business entity east and medical business entity west.

11.14 (e) The city of Duluth, pursuant to the approval of the voters at the November 7, 2017,
11.15 referendum authorizing the imposition of the taxes in this section, may issue bonds under
11.16 Minnesota Statutes, chapter 475, to pay capital and administrative expenses for the projects
11.17 described in paragraphs (c) and (d), until the tax terminates as provided in paragraph (f). A
11.18 separate election to approve the bonds under Minnesota Statutes, section 475.58, is not
11.19 required.

11.20 (f) The tax authorized under paragraph (b) terminates at the earlier of: (1) 25 years after
11.21 the date of initial imposition of the tax; or (2) when the city council determines that sufficient
11.22 funds have been raised from the tax to finance the capital and administrative costs of the
11.23 improvements described in paragraphs (c) and (d), plus the additional amount needed to
11.24 pay the costs related to issuance of bonds under paragraph (e), including interest bonds.
11.25 Any funds remaining after completion of the projects specified in paragraphs (c) and (d)
11.26 and retirement or redemption of bonds in paragraph (e) shall be placed in the general fund
11.27 of the city. The tax imposed under paragraph (b) may expire at an earlier time if the city so
11.28 determines by ordinance.

11.29 **EFFECTIVE DATE.** This section is effective the day after the governing body of the
11.30 city of Duluth and its chief clerical officer timely comply with Minnesota Statutes, section
11.31 645.021, subdivisions 2 and 3.