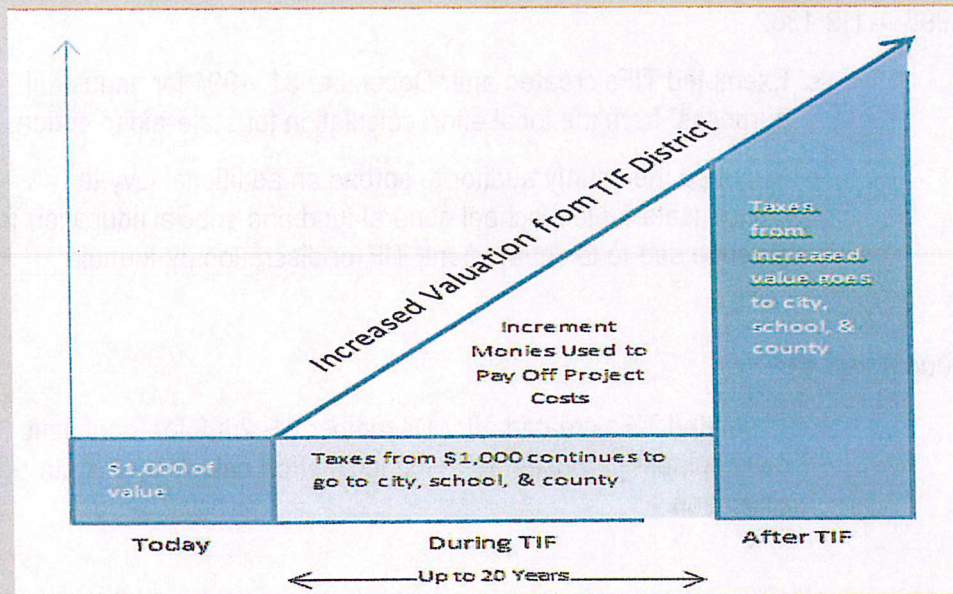


TAX INCREMENT FINANCING IN SOUTH DAKOTA

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WHAT IS TAX INCREMENT FINANCING?



TIF HISTORY IN SD

- 1978 --- SB 17
 - Created the statutory authority for TIF
 - Only available to municipalities
 - Required a finding that not less than 25% of the real property in the TIF district was blighted
 - Defined project costs as “costs of public works or improvements...”
- 1991 --- HB 1174
 - Authorized counties to utilize TIF

TIF HISTORY IN SD

- 1996 --- HB 1362
 - Exempted TIFs created after December 31, 1994 for “industrial purposes” from the local effort calculation for state-aid to education
 - Required the county auditor to spread an additional levy to compensate for lost school general fund and special education fund revenue due to tax abatement, TIF, or discretionary formula
- 2004 --- SB 104
 - Exempted TIFs created after December 31, 2003 for “economic development purposes” from the local effort calculation for state-aid to education

TIF HISTORY IN SD

- 2011 --- SB 90
 - Expanded when TIF could be used to no longer require a finding of blight ("not less than fifty percent, by area, of the real property within the district will stimulate and develop the general economic welfare and prosperity of the state through the promotion and advancement of industrial, commercial, manufacturing, agricultural, or natural resources...")
- 2016 --- SB 112
 - Provided that DOR does not re-determine the tax increment base if the project costs increase by 35% or less over the original project plan

TIF...BY THE NUMBERS

- Since 1978.....
 - 172 active TIFs (as of 07/31/17)
 - 137 dissolved TIFs
 - 6 certification pending
- Active TIFs by type.....
 - 102 "economic development"
 - 20 "industrial"
 - 50 "other"

WHY DOES THE TYPE OF TIF MATTER?

SDCL 13-13-10.2.

The assessed value as determined in § 13-13-10.1 of any property in a tax incremental district formed on or before December 31, 1994, and created pursuant to chapter 11-9 is the tax incremental base, as defined in § 11-9-19 until the tax incremental district ceases to exist as provided in § 11-9-46. **OBSOLETE**

The assessed values, as determined in § 13-13-10.1 of any property in a tax incremental district formed after December 31, 1994, and created pursuant to chapter 11-9, is the total assessed value of the property determined by the Department of Revenue pursuant to § 11-9-24, until the tax incremental district ceases to exist as provided in § 11-9-46. **LOCAL EFFORT**

The provisions of this chapter do not apply to any tax incremental district created after December 31, 1994, for industrial purposes. For the purposes of this chapter, industrial includes only those activities generally recognized as industrial by zoning authorities within the state, including any factory or any business engaged primarily in the manufacturing or assembly of goods, the processing of raw materials, and the wholesale distribution of products for resale. **EXCLUDED FROM LOCAL EFFORT**

The provisions of this chapter do not apply to any tax incremental district created after December 31, 2003, for economic development purposes. For the purposes of this chapter, economic development includes any area where there is or will be one or more businesses engaged in any activity defined as commercial or industrial by the governing body that has zoning authority over the land contained within the tax incremental district. **EXCLUDED FROM LOCAL EFFORT**

SDCL 10-12-44

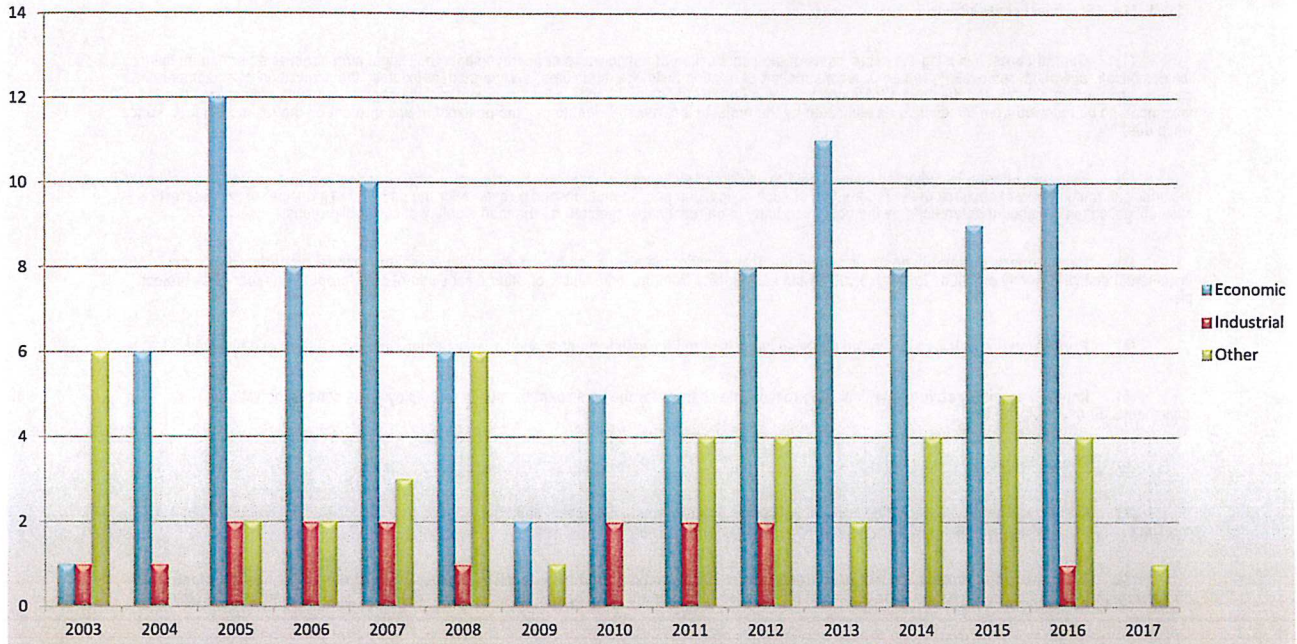
SDCL 10-12-44.

The county auditor in each school district shall raise additional revenue, for the general fund and special education funds, from property taxes to compensate for tax abatement, tax increment financing district, or discretionary formula as follows:

- (1) For tax incremental districts created pursuant to chapter 11-9 and formed after December 31, 1994, the county auditor shall levy an additional tax levy for an amount not to exceed an amount equal to the sum of the levies in §§ 10-12-42 and 13-37-16 times the tax increment valuation as defined in § 11-9-1;
- (2) For property subject to § 10-6-35.2, 10-6-35.24, 10-6-35.25, 10-6-54, 10-6-55, or 10-6-67 the county auditor shall levy an additional tax levy for an amount not to exceed the amount of taxes that were not collected due to the reduction in valuation based on the maximum levies pursuant to §§ 10-12-42 and 13-37-16;
- (3) For abated taxes the county auditor shall levy an additional tax levy for an amount not to exceed the amount of the school district's portion of the taxes that were abated pursuant to chapter 10-18 during the previous tax year.

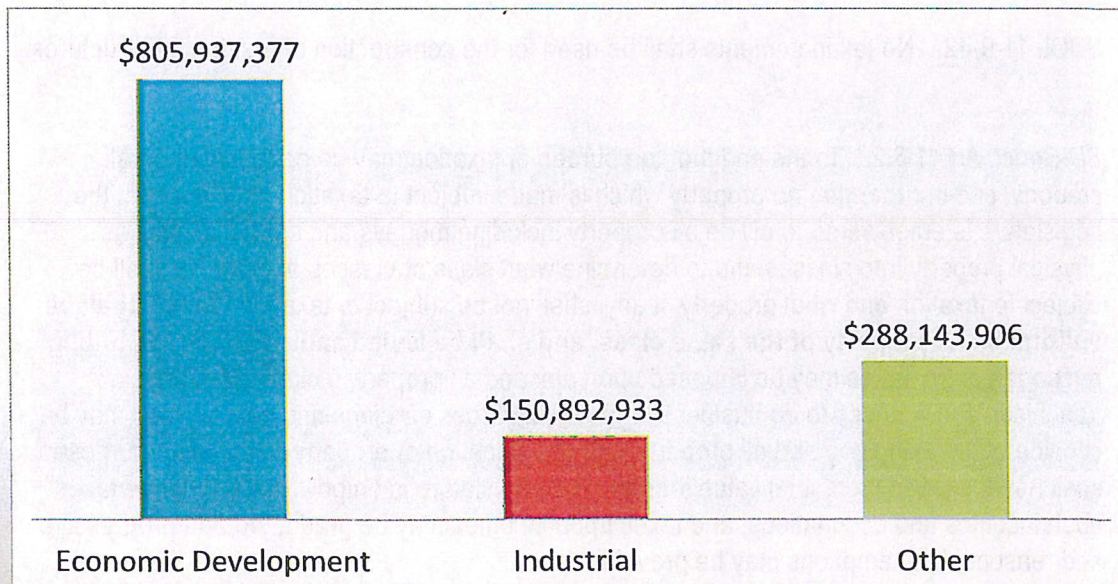
The levies in this section are not subject to the referendum provision of § 10-12-43 and these levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies pursuant to § 10-12-42.

TYPES OF TIF CREATED SINCE 2003



9

2016 TIF Increment Value



10

WHAT CAN A TIF BE USED FOR?

SDCL 11-9-15. Project costs include:

- (1) **Capital costs**, including the actual costs of the construction of public works or improvements, buildings, structures, and permanent fixtures; the demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and permanent fixtures; the acquisition of equipment; the clearing and grading of land; and the amount of interest payable on tax incremental bonds issued pursuant to this chapter until such time as positive tax increments to be received from the district, as estimated by the project plan, are sufficient to pay the principal of and interest on the tax incremental bonds when due;
- (2) **Financing costs**, including all interest paid to holders of evidences of indebtedness issued to pay for project costs, any premium paid over the principal amount thereof because of the redemption of such obligations prior to maturity and a reserve for the payment of principal of and interest on such obligations in an amount determined by the governing body to be reasonably required for the marketability of such obligations;
- (3) **Real property assembly costs**, including the actual cost of the acquisition by a municipality of real or personal property within a tax incremental district less any proceeds to be received by the municipality from the sale, lease, or other disposition of such property pursuant to a project plan;
- (4) **Professional service costs**, including those costs incurred for architectural, planning, engineering, and legal advice and services;
- (5) **Imputed administrative costs**, including reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan;
- (6) **Relocation costs**;
- (7) **Organizational costs**, including the costs of conducting environmental impact and other studies and the costs of informing the public of the creation of tax incremental districts and the implementation of project plans; and
- (8) **Payments and grants made**, at the discretion of the governing body, which are found to be necessary or convenient to the creation of tax incremental districts, the implementation of project plans, or to stimulate and develop the general economic welfare and prosperity of the state.

WHAT CAN A TIF NOT BE USED FOR?

SDCL 11-9-42. No tax increments shall be used for the construction of residential structures.

SD Const. Art. 11 § 2. To the end that the burden of taxation may be equitable upon all property, and in order that no property which is made subject to taxation shall escape, the Legislature is empowered to divide all property including moneys and credits as well as physical property into classes and to determine what class or classes of property shall be subject to taxation and what property, if any, shall not be subject to taxation. **Taxes shall be uniform on all property of the same class, and shall be levied and collected for public purposes only.** Taxes may be imposed upon any and all property including privileges, franchises and licenses to do business in the state. Gross earnings and net incomes may be considered in taxing any and all property, and the valuation of property for taxation purposes shall never exceed the actual value thereof. The Legislature is empowered to impose taxes upon incomes and occupations, and taxes upon incomes may be graduated and progressive and reasonable exemptions may be provided.

GOVERNOR DAUGAARD'S WORKGROUP ON TAX INCREMENT FINANCING

On March 6, 2017, Governor Dugaard issued an "Executive Directive Pertaining to Tax Incremental Finance Districts" to Revenue Secretary Andy Gerlach. The directive required the Department of Revenue to do the following:

- Develop guidelines for local authorities to eliminate inconsistencies in the TIF project process and classification;
- Review the relevant statutory provisions and provide recommendations for any necessary legislative changes;
- Compile an annual report of all TIFs in the state, including project descriptions, project timelines, financial overviews, and the fiscal impact of TIF classification on the state aid to education formula; and
- Consult with representatives of the municipalities, counties, schools, GOED, legislators, and other stakeholders regarding the development of the guidelines.

Questions?

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