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Tax Increment Financing in Missouri: Political Development of the Statute Contextualized with Use and Patterns of Adoption

Cassandra Butler

University of Missouri-St. Louis

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TAX INCREMENT FINANCING IN MISSOURI:
POLITICAL DEVELOPMENT OF THE STATUTE
CONTEXTUALIZED WITH USE AND
PATTERNS OF ADOPTION

by

CASSANDRA J. BUTLER

M.A. Political Science, University of Missouri – St. Louis, 2008
M.B.A., School of Business, University of Missouri – St. Louis, 1985
B.S.B.A., School of Business, University of Missouri – St. Louis, 1978

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Advisory Committee

Kenneth P. Thomas
Chairperson
Andrew Glassberg
Lana Stein
Todd Swanstrom

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Chapter One – Introduction and Literature Review

I. Introduction

A municipality is responsible for generating the funds it uses to provide governance and services to citizens. Municipalities typically raise these funds by charging fees, taxing sales revenues, or taxing property valuation assessments. Therefore, creating an adequate taxable base is an important goal of most municipalities. Also, each level of government wants to have robust economic activity within its jurisdiction because it is beneficial for the economic well-being of its residents/citizens (Cochran et al. 1999, 5). The problem with each government's reliance on the economy for revenue and providing opportunity for its citizens is that in a market economy, most levers of control of the economy are in the hands of private investors. This is even more problematic in today's global environment where there is competition for capital dollars at every level – internationally, inter-states, and inter-municipalities.

Given that the capital investment decisions are made by private investors, governments who desire to increase (or retain) economic activity in their jurisdiction generally are compelled to find ways to make their jurisdiction relatively more attractive to investors than other jurisdictions (Thomas 2000, Anderson & Wassmer 2000). Missouri municipalities and counties are authorized by the state to offer various types of tax incentives as a tool to attract projects that can increase their tax base. Many other states also provide similar authorizations to lower-level governments.

One of the more frequently used tax incentive tools in Missouri (and other states) today is tax increment financing, more commonly called a TIF. This tool, authorized by

Missouri statute in 1982, is designed to be used for redevelopment projects that otherwise would not be done due to some structural issue that makes the project uneconomical, except with the use of a TIF. A TIF allows for most of the *increase* in property tax assessment and sometimes, depending on the state, the increase in other tax revenue to be used to fund the infrastructure improvements to the property, as well as some other costs. In Missouri, some sales tax and utility taxes are available for use (and earning taxes in St. Louis and Kansas City only). In this way, the property is improved with minimal up-front cash flow from the municipality and possibly significantly lower up-front cash outlay from the developer or other capital investor. Instead, some future cash flow that would have gone to pay taxes (due to the improvement) is redirected towards the costs of the improvement. The types of projects that can be funded using TIF financing include office buildings, industrial buildings, retail space, and residential space.

Problem Statement

Policy decisions are seldom simple. Policies generally require trade-offs, and frequently there are winners and losers. The political process of actors with different agendas sometimes creates a statute that once implemented, may not be specified appropriately to achieve the stated outcomes (Wells & Hamilton 1996, 105-107; Cochran et al 1999, 474-477). Also a statute, once enacted, is generally easier to modify than to eliminate altogether. As such, it is important to evaluate policies to determine their actual impact, including possible unintended consequences (Grindle & Thomas 1991, 16).

Changes made to policies such as TIF over time could be meant to: 1) fix problems in the original statute, making it more effective regarding the desired outcome, or 2) change or alter the impact towards a different or even opposite purpose. Concurrently, changes

may occur in the economic, political, or cultural environment, altering the impact of a policy for either better or worse given the intended outcome. Consequently, as the statute ages, what happens to it as it is amended and as the environment changes around it?

The TIF tool reflects a policy designed to help solve the problem of declining levels of private capital investment in developed urban areas. A healthy economic environment is important to all levels of government, and disinvestment in a geographic area which had previously been thriving creates a variety of challenges. These challenges include a reduction in municipal revenue, reduction in revenues to overlapping taxing districts (i.e. school district, library district, etc.), and a possible creation of blight precipitated by vacant and/or neglected buildings. The reduction of revenues to the municipality and overlapping taxing districts are likely to result in a reduction of public services due to budget cuts, which could result in a spiraling situation stimulating further disinvestment (Judd & Swanstrom 1994, 339). On the other hand, a tax incentive improperly used can result in unnecessary assistance to private interests with public funds.

This reliance on the status of the economy is particularly challenging in a capitalistic market economy, where the multi-levels of governments are limited in their ability to “manage” it. Thus governments are generally occupied with trying to create a “friendly business environment” in which to “attract” investments which lead to economic activity, including jobs, wages, products, and services (Thomas 2007, 45; Man 2001, 5). This often takes place in a competitive environment, in which the owners of capital are advantaged (Lindblom 1977). Yet, while governments are trying to make themselves as attractive as possible for capital investments, they are limited in what they

can do. Many state constitutions expressly limit the possibility of public funds being used for private gains. As such, governments are limited in the ways they can partner with private investors to entice them to locate within their boundaries versus another's, thus impacting that economy more favorably.

Tax increment financing was originally conceptualized in California to be a financing option to help make new or continued investment in previously developed areas doable. Designed in 1952, California governments desiring to participate in the new urban renewal programs found it difficult to raise their required matching portion (one-fourth and one-third) with financial instruments that existed then. TIF allowed governments to partner with private investors in a new way (Chapman, 2001, 114).

Already developed areas generally require some degree of demolition before new development can occur, thus increasing building costs. Consequently, developers often preferred undeveloped land for new developments, which tended to result in both urban blight and suburban sprawl. In Missouri, the policy objective of pairing redevelopment projects with an advantageous financing tool such as TIF was expected to make urban redevelopment more cost competitive with new development (Missouri House Bill 1411).

Tax increment financing has become a popular economic development tool in Missouri, and this degree of popularity has many people debating its use. The debate includes questions such as whether TIF is actually being used by (governments of) declining areas in their quest to improve their competitive positioning to attract private investment dollars, and if future tax revenues are being unnecessarily diverted to private development costs. Additionally, the possible financial pressures of municipalities within

close proximity may involve an unhealthy competition for investment that disadvantages all except the developer.

The statute enabling TIF turned 30 years old in 2012. After nearly 30 years of existence, it is therefore appropriate to study the use of TIF in Missouri. Specifically, this study will explore the historical development of the statute and the pattern of adoption and usage of TIF. This study will explore the following questions:

- 1) the political and legislative history/development of the TIF statute, the purpose of the modifications over time, whether these modifications moved the statute closer or farther away from the original intent, and who the political actors and what political coalitions formed or were activated;
- 2) what is the adoption and usage pattern of TIF (specifically who used it when), and how has the political and legal development of TIF statute impacted the adoption and usage of TIF?

Within this study, information will be collected to look at the institutional, political, or other environmental characteristics which either assisted or impeded the use of the statute, particularly in those communities the statute was designed to help.

Significance of Study

The study is intended to increase knowledge regarding the development of a particular economic development tool in the State of Missouri and how it has been impacted by legislative amendments, court decisions, and other environmental conditions over 30 years. Additionally, it will examine whether these institutional impacts have

increased the TIF tool's ability to meet its objective as originally proposed or whether changes to the statute have eroded its intended advantage to targeted areas.

It is important to understand the policy tools created in attempts to find solutions to the different levels of governments' need to influence private sector investment. This is especially important when the policy tool involves any form of government funds such as tax subsidies, tax abatements, or other financial incentives. In Missouri this accounts for a significant amount of dollars. On an annual basis one researcher found in Missouri an average of \$339 million in approved tax increment financing (Thomas 2007, 5). In the four Missouri counties in the St. Louis metropolitan area alone it is estimated that between 1987 and 2008 municipalities approved a total of \$2.1 billion in TIFs (East-West Gateway Council of Governments 2010, 7). Essentially, these types of policy tools have a purpose of creating a market distortion (in favor of the government granting the incentive/subsidization while benefiting private individuals) to compensate for a perceived market failure like disinvestment, by using money that perhaps would go to other public purposes. This requires some dexterity to allow a solution designed for a targeted area with particular needs to be used without this same solution being used in others areas without that need. As such, it is important that incentives and subsidizations be carefully crafted in a market economy in order to monitor and minimize unintended and/or undesired consequences. Even today, it is frequently argued that incentives and subsidies that are granted to private corporations are wasteful solutions funneling money away from vital public services such as education, safety, and infrastructure (LeRoy 1999, Luce 2003, Kelsay 2007, Thomas 2007).

An exceptional feature of this study is its window into the interaction among the institutions over time, especially including the Courts and its decisions. Although it is assumed that this multi-institutional interaction does occur, it is seldom found in case studies following 30 years plus of development. Since Court decisions are particularly sensitive to “path dependency” in the sense of legal jurisprudence and precedence, it is enlightening to observe its actions and impacts on a particular statute over time. It is likely that the opinion of the Courts could be especially relevant in economic development tools designed to encourage capital investment in fixed assets and/or sunk-costs, and this particular institution’s impact on policy change has been under-rated with respect to economic development.

Another unique feature of this study is documenting the development of the economic tool and the usage of the same tool in the same study. Often inferences are made regarding the generic development and potential changes of statutes and applying a generic norm to a specific case, or vice-versa, comparing the development of a specific statute and assuming its practical impact of usage. This study does both, allowing any inferences made to be perhaps more meaningful.

BACKGROUND – Historical Context

History of Tax Increment Financing

The TIF tool was innovated by the state of California in 1952. In 1945 California was also the first state to enact a Community Redevelopment Act (Chapman 2001, 114). California’s underlying need was to convert from a WWII economy to a postwar economy. The state had many urban areas, a number of which were experiencing

decline, especially in housing stock. The Redevelopment Act enabled the creation of redevelopment agencies which could: 1) buy real property (including through the use of eminent domain), 2) develop real property (but not construct buildings), 3) sell real property (without bidding), 4) grant relocation expenses to new tenants, 5) implement land use controls for comprehensive plan development, and 6) finance projects through issuance of bonds or borrowing from federal or state governments. The last activity, financing projects, proved difficult and thus crippled the agency's ability to do anything else. Hence, the TIF tool was devised to resolve some of the financing issues of the redevelopment agencies (Chapman 2001, 114).

By 1970 only six other states (Minnesota, Nevada, Ohio, Oregon, Washington, and Wyoming) had discovered and copied the use of the TIF tool (Johnson and Kriz 2001, 31). Federal urban renewal funds flowed to cities during the 1960s and early 1970s, and perhaps stunted the need for creative financing tools. But by the late 1970s, the economy began to stagnate and federal funds began to dry up. The 1980s also found a citizenry that had become resistant to tax increases, and a change in national leadership (the election of President Ronald Reagan) that redirected federal subsidies away from metropolitan areas (Judd & Swanstrom 1994, 337). Consequently, throughout the mid-1970s and 1980s interest in TIF became widespread, and many states adopted TIF statutes. Now all states except Arizona have TIF statutes (including the District of Columbia) and all but a few have used it to varying degrees (Marks 2005, 5; Johnson & Kriz, 2001, 32). All states have passed TIF statutes – but Arizona first passed a TIF in 1977, and later repealed it in 1999 (Purvis, 2003, 6; Crystal & Co. 2003).

Oftentimes states found that enacting TIF legislation first required an amendment to their state constitutions (Johnson and Kriz 2001, 31) because state constitutions generally include clauses designed to prevent private concerns being the primary beneficiary of public funds. This conflict occurs because in a capitalist society such as the United States, the market economy depends on private entities to make investment decisions. In general, private concerns using public money to make investment decisions undermine the public benefit of having a market economy. The use of TIF as a redevelopment tool to remove blight is generally assumed to be a “public purpose” (having public benefit), as supported by the Supreme Court decision of *Berman v Parker* in 1957. Also, although most states allow the TIF to be authorized at the local governmental level, most statutes provide for local citizens input.

Even so, some states’ statutes or provisions of statutes have met with constitutional challenges. Arizona’s statute that was eventually repealed in 1999 had the issuance of bonds legally challenged in 1980, and an Appeals Court ruled this provision of the statute unconstitutional (Goshorn, 1999, fn104). Johnson and Kriz (2001) also mentioned that North Carolina was unable to amend its state constitution in 1982 (31) and West Virginia’s Supreme Court had found their own 1995 TIF law to be unconstitutional (31-32).

Nationally, the traditional staple tax of TIF is the real estate property tax. The reasoning behind this is that redevelopment is expected to increase the assessed valuation of that particular real estate. Since increased valuation is not expected to occur without the *redevelopment*, the tax revenue that results from that increase is *new*. It is this revenue that the TIF tool allows to be used to fund projects that is declared would not

occur otherwise. The benefit to all parties is that the existing tax base is not tapped, and thus no one should be worse-off, yet the TIF is set to expire at some point in time (23 years or less in Missouri) , after which time the new higher assessed valuation would be taxable and thus available to relevant taxing districts. But, this delay in taxability is not always a win for some taxing districts. In fact, the percentage of the captured property tax that would flow to the municipal government (as the entity with authority to decide whether to implement a TIF district) tends to be relatively small compared to the tax that is allocated to overlying taxing districts, especially school districts. Perhaps the operating costs to a fire district will be increased by an industrial redevelopment project or a residential project could increase the costs to a school district, before the additional tax money needed to service the improved development is available (up to 23 years later). This is why affected taxing districts (collectively) are allowed representation on the TIF commission in most states, and why overlapping taxing districts may be opposed to their portion of the property tax being captured.

Some states, such as Missouri, have tapped other tax sources such as sales taxes and earning taxes. The mix of taxes available affects the viability and desirability of potential projects, as well as the potential future funding sources for governing bodies.

The enabling and implementation of TIF statutes across the United States is a demonstration of federalism in action, as states 1) decide to enact variations of TIF statutes tailored for their own state and cities over a 50 year span; and, 2) learn, improve and modify statutes based on their own experiences and experiences observed from other states. By 1997, Johnson and Kriz (2001) had observed that:

While almost all states [48] authorize TIF, there is a substantial variation in its actual use. In 1987, 467 cities in California had operating TIF districts (TIDs). In contrast, Hawaii, Mississippi, and New Jersey all had laws authorizing TIF since at least 1985, but none had an operating TID (Klemanski 1987). There is also a great diversity in the provisions of TIF legislation across states. The laws range from extremely basic (Alaska's law is only one printed page) to very detailed (California's provisions take over three hundred pages). (32)

Johnson and Kriz (2001) describe that the variations among the state statutes can occur in how TIF is initiated, formulated, adopted, implemented, evaluated, and or terminated (32). Over time, practitioner organizations have been able to synthesize the experiences of the "collective" and devise TIF models, such as the joint reference guide published by the Council of Development Finance Agencies and the International Council of Shopping Centers¹ and the Government Finance Officers Association².

Tax Increment Financing in Missouri

The state of Missouri adopted its TIF statutes in 1982, which is officially named The Real Property Tax Increment Allocation Redevelopment Act (RSMo 99.800-99.865). A citizenry resistant to tax rate increases was clearly evident before the TIF statute was passed in 1982. The citizens of Missouri had recently passed a constitutional amendment that limited the state and its authorized sub-governments to raise taxes without voter approval (the Hancock Amendment, passed November 1980).

The TIF Act has been amended several times since 1982 (Gilmore & Bell 2004, section II). As amended, Missouri allows other taxes generated by economic activities, such as sales taxes, earning taxes, and utility taxes, to be available for TIF use. The

¹ Tax Increment Finance Best Practices Reference Guide, 2007

² Best Practice: Tax Increment Financing as a Fiscal Tool (2006) (DEBT and CEDCP)
<http://www.gfoa.org/downloads/tifsjan2006finalclean.pdf>

maximum amount of time allowed to divert these taxes into a TIF account is 23 years. Financing of TIF accounts can be either “pay as you go,” where the TIF account accumulates whatever amount is collected each year in incremental taxes, or debt bonds can be used, where the incremental taxes are used to make bond payments. Reimbursable costs include “all reasonable or necessary costs incurred or estimated to be incurred” and “incidental to a redevelopment plan ore redevelopment costs” (RSMo 99.805). These include actual project costs such as infrastructure improvements, land assembly, demolition of buildings, as well as professional services such as legal, engineering, surveys, and studies (RSMo 99.805).

In Missouri, municipalities (defined as cities, villages, incorporated towns or counties) are eligible to use TIF (Gilmore & Bell 2004, section II). To use this financing instrument, certain guidelines must be followed. A TIF commission must be created (at the municipal level except in St. Charles County, St. Louis County, and Jefferson County, which now also have a county-level commission). These commissions are charged with holding public hearings and making recommendations to the municipality – but the decision-making authority still resides with the municipality³. One of the recommendations the TIF Commission must make is a redevelopment plan which has been explained to the public via public hearings. The municipality must authorize a redevelopment plan before the TIF can be implemented (Gilmore & Bell 2004, section II). The redevelopment plan is required to cover specific information, including category

³ To approve a TIF plan that is not recommended by the TIF commission, the municipal governing board must now meet a higher threshold of 2/3rds.

(blight, conservation area, or economic development), project costs estimates, cost-benefit analysis, and projected time schedule.

Missouri states that the purpose of local TIF is to “financially encourage redevelopment of a designated, economically marginal area” (Missouri Department of Economic Development website). The state also offers a State Supplemental Tax Increment Financing Program (“state TIF”). Again, the stated purpose of the state TIF is to “facilitate the redevelopment of blighted areas by providing essential public infrastructure” (Missouri Department of Economic Development website). The state TIF allows for up to half of the state “incremental” sales or earnings tax to become part of the TIF district under certain circumstances. The state TIF requires an application for this incentive which must first receive approval by state administrators and then the funds must be appropriated by the legislature. This state TIF has seen only limited but increasing use.

A finding of blight is not only a key criterion enabling the use of the TIF tool, but it is also generally a necessary criterion to enable another element that is sometimes crucial to the proposed redevelopment – the power of eminent domain. The “taking” of private property is not allowed under the Fifth and Fourteenth Amendments of the federal constitution (and also disallowed by most if not all state constitutions) unless there is a “public use,” and the property owners are “justly compensated.” A use that has been confirmed by the United States Supreme Court as meeting the “public use” criteria is the removal of blight (*Berman v. Parker*, 1957). This Supreme Court case has stood the test of time (precedent for over fifty years). Thus a finding of “blight” allows the city to offer private enterprises financial assistance in the form of tax relief, such as a TIF, and it

provides a powerful tool for the assemblage of land that may be owned by persons not wanting to sell, or at least not wanting to sell at the price offered to them.

Many states, including Missouri, also allow TIF and eminent domain to be used in “conservation areas.” This is essentially a “pre-blight” designation, and conservation areas by most definitions contain a certain percentage of older buildings. The Missouri Supreme Court has affirmed usage of TIF and eminent domain in a conservation area (*Commission v. Dunn Construction, 1989*).

The criterion of economic development as a public use or “public purpose” has recently been affirmed by the U.S. Supreme Court. In the *Kelo v. City of New London* decision the Supreme Court, in a closely divided decision, allowed for the definition of public use to include economic development, if the city should choose. The Court indicated that the decision of what is or is not a public use should be determined by the governing authority (municipality, county, etc.) unless the state laws had a more a more restrictive definition. This decision has the ability to expand the use of TIF under the economic development designation by lowering the risk of a court challenge of its public purpose. Recently the Missouri legislature made changes to restrict the use of the economic development option on undeveloped land (i.e. “greenfields”) and flood plains (RSMo 99.843 & 99.847) in certain areas in the St. Louis metropolitan area.

II. Literature Review

This research largely taps into the subject areas of both politics and public policy – politics affects policy and policy affects politics (Schattschneider 1935, 288; Lowi 1979, Pierson 1993, 595). Studying the development of the TIF statute and its pattern of usage from inception until the present touches on many subject areas in the literature. An overview of the more relevant areas is outlined in this section, and cover both policy theories and empirical findings from case studies.

Policy Process Literature

There are many theories and theoretical framework about how an issue gets on the agenda and subsequently becomes law. This study starts after this initial process – the point in which the TIF law was enacted in 1982. But the actual enactment of a law does not necessarily result in cessation of all activity from the actors involved in getting the law passed. The actors involved can include politicians, bureaucrats, business persons/entities and interest groups. Understanding that politics and public policy are intertwined, it is possible that the same actors stay involved to influence the implementation of the TIF law. It is also possible that new actors or groups are formed to either help make the implementation more robust to their benefit, or less robust to minimize perceived harm (Skocpol 1995; Pierson 1993, 600).

Once a law is enacted through the legislative process, the next step of implementation takes place. The role of implementation was initially taken for granted and its role in policy development underappreciated. Jeffrey L Pressman and Aaron Wildavsky brought this issue to the forefront with their 1973 book *Implementation*. In

this book they chronicle the implementation of a specific program (through case study) and identify many structural, bureaucratic, and political obstacles that impeded the program from achieving its expected goal. Pressman and Wildavsky state that the mere act of implementing a policy changes it, because “implementation is evolutionary” (1984, 176-177).

Policy design goes hand-in-hand with policy implementation, often described in a “policy feedback” type interaction (Schneider and Sidney 2009). In the political phase of enacting a law, the resulting statute can vary in its specificity, giving the implementing agency more or less discretion (Lindblom 1980, 65). Cochran et al. (1999) state that implementation is also impacted by “clarity of the law, the talents and financial resources available to those administering it and a variety of ‘political factors,’ such as public support, media attention, socioeconomic conditions, and the attitudes and resources of groups affected by the policy” (8).

Peter J. May (1991) states that it is important when considering policy design to distinguish between policies that do or do not have “publics.” Assuming that tax incentive policies do have publics (i.e. “well developed coalitions of interest groups” and/or “multiple groups with competing interests and differential resources”– p.192) then he states that the prototypic design would contain some combination of the following: mandates, inducements, capacity-building efforts, or system changes (197). In this scenario, mandates may be challenged or redefined, and inducements are likely to be widely accepted and abused (May 1991, 198-199). He expects that policies with publics

are less prone to be captured than policy designed without publics (May 1991, 198), and policies with publics are also more prone to provide back and forth discussions that result in policy learning (202).

There is a variety of theoretical frameworks that describe the impetus for stability or change of a policy over time. Charles Lindblom observed a tendency for policies to be relatively stable over time, with small incremental changes. This observation is now known as incrementalism, which Lindblom believes to be a normative theory, primarily based on its ability to be less exposed to unknown risks (Lindblom, 1959). Frank R. Baumgartner and Bryan D. Jones (1993) observed policies that were changed significantly in a relatively short time period. This change was usually preceded by a period of stability. They called this phenomenon “punctuated-equilibrium” – disturbing the period of relative stability with “periods of volatile change” (1993, 4) before returning to a “new equilibrium” which again becomes relatively stable. Although this theory was developed to primarily describe agenda-setting, the politics of agenda setting can result in modification and changes to existing policies. Punctuated-equilibrium builds on John Kingdon’s work, in which he describes agenda change as a policy entrepreneur or group being prepared with alternatives when a policy “window” opens – this opportunity could present itself as a result of many types of changes, such as political administration change, economy changes, etc. (1984).

Historical Institutionalists value studying political and policy development over time, and studying the impact of institutions on the subsequent decisions and available options. In this setting, institutions not only refer to organizational structure but also the

“rules of the game”- norms, regimes, and customs within that society, which reduces uncertainty to the decision-maker, as well as frequently reducing the transactional costs of a decision/alternative (North 1990, Pierson 1993, Capoccia and Kelemen 2007). The concepts of path-dependency, sequencing, and critical junctures are prominent concepts in historical institutionalism. Path dependency describes how current and future options are constrained based on previous decisions. Sequencing can be “self-reinforcing,” producing a stability similar to path dependency. It also can be “reactive,” which is likely to lead to change in policy direction. James Mahoney (2000) describes reactive sequencing as “backlash processes that transform and perhaps reverse early events” (526). Critical junctures, similar to the “punctuation” in punctuated-equilibria (Baumgartner and Jones) and “windows of opportunity” (Kingdon) portray a time period in which circumstances allow for loosening of the norms, rules, and customs that usually guide an institution/policy. This opportunity allows for more options to be considered in that particular timeframe (Capoccia and Kelemen 2007).

Jacob S. Hacker discusses policy change based more on the process or “how” it is changed given the barriers to change that exists. Building on Kathleen Thelen’s (1999) concept of policy “conversion” and Eric Schlickler’s (2001) “layering” Hacker conceptualizes a 2 by 2 matrix that categorizes policy change by whether the change is able take place within the existing policy (given the degree of flexibility/discretion allowed in the existing policy and the strength of supporting coalitions), and the degree of difficulty it would take to “change” the policy formally/authoritative (Hacker 2004, 246-249). Including each one in the 2x2 matrix named “Four Modes of Policy Change,” the

independent variables are: 1) status-quo bias of political environment (high/low) and 2) barriers to internal change (high/low) (Hacker 2005, 248).

FIGURE 1. Four Modes of Policy Change

		Barriers to Internal Policy Conversion	
		High (Low levels of policy discretion, strong policy support coalitions)	Low (High levels of discretion, weak support coalitions)
Barriers to Authoritative Policy Change	High (Many veto players)	<p>Drift</p> <p>(Transformation of stable policy due to changing circumstances)</p> <p>Illustrative Example: Erosion of Scope of Protection of Existing Public Social Programs and Private Benefits</p>	<p>Conversion</p> <p>(Internal adaptation of existing policy)</p> <p>Illustrative Example: Employers' Restructuring of Publicly Subsidized Voluntary Workplace Benefits</p>
	Low (Few veto players)	<p>Layering</p> <p>(Creation of new policy without elimination of old)</p> <p>Illustrative Example: Creation and Expansion of Tax Subsidies for Private Retirement Accounts</p>	<p>Revision</p> <p>(Formal reform, replacement, or elimination of existing policy)</p> <p>Illustrative Example: 1996 Welfare Reform</p>

Jacob S. Hacker, 2004

In this matrix, policy change meets the least resistance when the policy is written flexibly and/or the administrator or “street-level bureaucracy” has the most discretion (Hacker, 2004, 247). In this half (right side) of the matrix, Hacker supposes that the policy also has “weak support coalitions.” As such, the tendency would be either to “convert” or “revise” the policy as desired. Conversion (Thelen, 1999) is described in the matrix as “internal adaptation of existing policy” and Hacker states that “in general, the conversion of a policy should be easier when it delegates administration or lacks clear overarching rules or aims, as in decentralized federal-state programs or subsidy arrangements that shape voluntary private benefits” (Hacker, 2004, 247). Conversion

would be the expected method of change if the political environment/authoritative barriers to change were high. If the political environment were conducive (i.e. relatively low barrier) this change might be by “revision,” which would occur as “formal reform, replacement, or elimination of existing policy” (Hacker, 2004, 248).

Within the Four Modes of Policy Change matrix, the other two categories (left side) are cases in which the policy is written such that the bureaucrat has “low levels of policy discretion” and there exists “strong policy support coalitions.” In these situations, Hacker theorizes that the policy change process will unfold as either a “policy layering” or “policy drift” process. Policy “layering” is described by Schlicker as a “path dependent’ policy,” engaged in as “institution-builders often attempt to add new institutions rather than dismantle the old” (Shlicker, 2001, 16). This, again, presupposes that the policy as written or administered is not amenable to “conversion.” If even the political environment is not conducive to layering “new institutions upon the old,” then the policy that is too tightly written or administered to be “converted,” but yet has strong support coalitions, may be allowed to “drift” (Hacker, 2004, 248). This conceptualization is summarized by Hacker as:

“although the prospects for internal policy change are shaped by a policy’s specific characteristics, formal policy change depends principally on whether the basic political structure and partisan context privileges the status quo. When it does, pragmatic advocates of change may find it more attractive to adapt existing policies to their ends than to wage a frontal assault. For this reason, *political settings that militate against authoritative change encourage reformers to seek the conversion or erosion of existing policies*. In these contexts, not only do reformers find it difficult to establish new policies or replace existing policies, but they are also better able to block efforts to close gaps between a policy’s original aims and its actual effects.” (2004, 247).

An aspect of policy change exists when policy innovation occurs. Jack L. Walker (1969) defined innovation as occurring when a government adopts a program it has never used before – although it may have been used by others (881). In their article *Innovation and Diffusion Models in Policy Research*, Frances Stokes Berry and William D. Berry (1999) state that:

“there are two principal forms of explanation for the adoption of a new program by a state: internal determinants and diffusion models. Internal determinants models posit that the factors leading a jurisdiction to innovate are political, economic, or social characteristics internal to the state. In these models, states are not conceived of as being influenced by the actions of other states. In contrast, diffusion models are inherently intergovernmental; they view state adoptions of policies as emulations of previous adoptions by other states” (170).

Berry and Berry (1999) summarize three general reasons for the spread of innovation at the state level: 1) learning from peers, 2) to obtain competitive advantage or avoid competitive disadvantage, and 3) public pressure from constituents (171-172). They also state that although these studies are state-level analysis, they are also “extendable” to local governments.

At the international level there is literature that discusses policy change in the context of the political economy in an effort to create a framework for understanding what happens in developing countries. Merilee Grindle and John Thomas make a case for looking at policy change through many of the lenses already mentioned but with an emphasis on the “role of policy elites in shaping policy agendas, considering available options, and managing the political and bureaucratic challenges of implementation” (1991, 182). They describe the policy process of change as having three critical

junctures, in which the policy elite either has or does not have room in which to maneuver. They state:

at each juncture, the exploration of a series of questions enables us to explain the subsequent course of agenda setting, decision making, and implementation and their interrelationships. Briefly, our framework indicates that environmental context, agenda-setting circumstances, and policy characteristics influence the perceptions and concerns of policy elites and shape the nature and scope of conflict surrounding efforts to introduce change. Analysis of context, circumstance, and policy characteristics can account for a significant amount of variability in the outcome of reform initiatives, as well as variability and continuity across countries, issues, and time (1991, 183).

This description of policy change is reflective of the overlapping qualities present in virtually all of the theories of policy processes and change. It also compatible with the following section on the “who” of governance, the politics of coalitions and power.

Urban Politics – Who Governs?

Robert Dahl (1961) asked the proverbial question of “who governs?” and that question continually impacts the policy process-making. The TIF policy was enabled at the state-level – and the state allows implementation of the TIF policy to occur at the local municipal level of government. Missouri TIF statutes were enacted with redevelopment of the urban areas in mind. Thus, it is appropriate to review certain aspects of urban politics literature – particularly in regards to who governs at the local level, and who has the capacity, who has the power, and who has the motivation to influence and persuade local policy processes.

Harvey Molotch (1976) wrote a seminal article noting that the business class and land-owners are keenly interested in politics at the local level. These members

collaborate with public officials, often helping particular ones win elections. Other common collaborators in the "growth machine" coalition includes members of the media and labor leaders (Molotch 1976). These individuals have a common interest in economic growth and increased land valuation, and thus are motivated to work together to keep their interests in the forefront. These interests include policies/regulation that lower the cost of doing business (i.e. low taxes, subsidized transportation systems, etc.) and they believe it appropriate that increased "utility and government costs caused by new development should be borne ... by the public at large, rather than by those responsible for the 'excess' demand on the urban infrastructure" (Molotch 1976, 313-314). Additionally, Molotch (1976) states that the unchallenged priority of local governments is the desire or need to continually grow (313). This "nondecision" (Bachrach & Baratz 1962) resulting in growth being the unopposed priority over all other policy is a distinct advantage for the "growth machine" coalition – particularly to the engine that drives growth - business.

In expounding the "limitations" cities have in controlling their destinies, Paul Peterson (1981) said "each city competes with other cities; if the leaders of any particular city are slow to discern city interests or miscalculate the best techniques for achieving them, the city will lose to other contestants" (144) and "developmental policies come at the expense of other communities, and the local leadership can secure the benefit only if it wins a competition for resources" (148). Not only are cities limited in controlling their own economies, but can be highly impacted by the actions of their peers.

Economic Development and TIF Literature

TIF, as a tool, falls within the family of tax incentives made available by states for municipalities to use in their economic development efforts. Jack R. Huddleston began to study the TIF tool in the early 1980's as the enabling legislation for it became popular across the nation. He looked at TIF from a state policy level and questioned if this policy served the state's goal, particularly the goals of promoting urban redevelopment and lessening fiscal disparities among cities. Using Wisconsin as his case study, he concluded the following: TIF was unimpressive as a redevelopment tool, TIF was a much more useful tool for communities experiencing growth, TIF had the prospect of increasing municipal competition, and TIF was likely to lead to increased disparities among communities (Huddleston, 1984, 16).

Debate surrounding which type of municipalities (urban or rural, wealthy or poor, large or small, etc.) benefit from TIF statutes and whether unhealthy competition is facilitated by the TIF statutes is common even twenty plus years after Huddleston's observations (Peters & Fisher 2004; Markusen & Nesse 2007, 26). Peters and Fisher (2004) did a meta-analysis review of business incentive literature and found very few settled issues. They found literature indicating business incentives did seem to correlate positively (yet small) with subsequent growth (Newman & Sullivan 1988, Bartik 1991, Wasylenko 1997), and literature indicating ambiguous, little or no, or slightly negative correlation with growth (Due 1961, Oakland 1978, Eisinger 1988, Man 2001, and Peters & Fisher 2002) (Peters & Fisher 2004, 30).

Peters and Fisher also considered which communities were using incentives based on the financial condition of the community and also found mixed conclusions –

although from a smaller availability of studies (Peters and Fisher, 2004, 32). Within this section they note the following: 1) “poorer places have less money to spend on recruitment and incentives,” 2) “most cities and cities in the U.S. appear to believe that they are competing with each other for new investment” and 3) “wealthier places may be induced to make use of the fiscal advantage they have.” Acknowledging that many incentives are meant to target poorer cities, Peters and Fisher (2004) theorize that this targeted “equalizer” cannot remain over time due to political pressure. They state:

Politically it is difficult to maintain a truly focused program without acceding to the demands of other areas to be granted similar policy instruments. As targeting erodes, one is more and more likely to end up simply giving a wide range of localities the tools to better compete with one another for new investment; in other words, one is simply subsidizing mobility. And the older, more distressed areas are likely to be the losers in a contest between Greenfield sites with incentives and small, congested brownfield sites with similar incentives. (Peter and Fischer 2004, 34).

Fred A. Forgey (1993) surveyed 300 municipalities and observed among respondents that cities with over 10,000 residents had a higher TIF usage rate (92% vs. 48%). Susan Mason and Kenneth Thomas (2010) also found a higher correlation of TIF usage among larger cities in Missouri (176). John Anderson (1990) found a positive correlation between cities experiencing population growth and TIF adoption (160). Since Anderson found in his 1990 study growth preceding TIF adoption, both Anderson (1990) and Joyce Y. Man (2001) speculated that TIF is used by growing communities to fund increased infrastructure needs. When used in this way, Man (2001) describes TIF use as a “budget manipulation instrument” (5).

Man (1999) also looked at TIF adoption among cities in Indiana and did not confirm Anderson's finding of higher TIF adoption in cities experiencing growth. Her findings found higher TIF adoption in cities with lower per capita incomes. In this same study Man also found cities were more likely to adopt TIF if they experienced either 1) a reduction in state aid or 2) had recently increased property tax rates (1164-1165). These findings lead Man to believe that municipal fiscal stress is a determinant of TIF adoption, a conjecture supported by Jeffrey Chapman's (2001) observation of TIF use in California (131). Richard Dye's (1997) study of Illinois cities also found higher TIF adoption rates among lower per capita income cities. He also noted that they tended to experience a slow rate of growth and have a higher percentage of non-residential property in its tax base (17).

Some studies have investigated the propensity of a government to adopt TIF or business incentives based on its usage by neighboring governments (McHone 1987, Anderson & Wassmer 1995, Man 1999, Mason & Thomas 2010). Man (1999) found support for increased TIF usage among governments bordering other governments that use TIF within the state of Indiana, and Mason and Thomas (2010) similarly found this relation in Missouri. There are two common theories about why a community may be more likely to adopt TIF if a neighboring community has done so. The dominant theory is that a community will adopt to become or remain competitive with its neighbors (Morgan & Hackbert 1974, Harrison & Kantor 1978). Another theory is related to emulating neighboring behavior (Anderson & Wassmer 1995, 755-756; Man 1999, 1165). This mimicking behavior could be a result of competition (strategic response) or

policy learning (a community could learn about how to use it by observing a neighboring community in its use) (Walker 1969, 897-898).

An important literature underlying this intergovernmental competition for capital investment is the “mobility” of capital and the related subsidies given to influence this movement. This phenomenon has been studied at the international level (i.e. competition among nations for corporate investment) and more recently much of this literature has been compared to mobility at a more local level. Kenneth Thomas described the efforts of national governments to have some “control” by offering subsidies to influence location decisions (1997). Thomas (2007) has observed that these government efforts of “control” are stymied during bargaining with corporations because corporations have the advantage of access to governmental public information (vs. government’s lack of access to corporate private information) and corporations employ consultants or developers, that have repeated experience with such negotiations (vs. relatively few situations on the part of each distinct government).

Possession of relevant information is a key element in bargaining or negotiations. The unequal acquisition of relevant information as stated above is called “information asymmetries,” which allows corporations and business consultants to “bluff” regarding the true amount of “competition” a government faces with respect to attracting a particular investment (Bachelor 1997; Thomas 2000; Weber 2004; Reid & Gatrell 2003). Accordingly, Weber states that governments tend to be “excessively accommodating and assume many of the costs of private land development and infrastructure” (Weber 2004, 144).

Closely related to information asymmetries is knowledge capacity. In addition to the structural asymmetry of accessing public versus private information, there is often an asymmetry in access to resources, including “knowledge workers” (Drucker 1973). Neil Reid and Jay D. Gatrell note that it is often corporations with lower need and better resources that are able to get public subsidies (Reid & Gatrell 2003, 111). Peter and Fisher (2004) state that the targeted poorer communities are not necessarily the prime users of business incentives (32-33). This could be because poorer communities are less able to obtain adequate (much less equal) “human capital” to strategize, negotiate, and implement possible options (Reese 1997, 148). Another resource that advantages better resourced communities is of course money (Peters & Fisher 2004, 32-33). Laura A. Reese observed in her study of Michigan and Ontario cities that “cities with more robust economies are significantly more likely to devote greater resources to economic development” (Reese 1997, 105). Both Reese’s study and the research of Richard C. Feiock and Jae-Hoon Kim (2001) show that the administrative structure of the government (mayor-council or council-city manager) seem to influence the type and/or amount of economic development activity.

A development that exacerbates both the inequities experienced between municipalities and business in the acquisition of relevant information and/or accumulation of relevant knowledge (i.e., experience) is the creation of location and site specialists, frequently called site consultants (Thomas 2000, 31; Markusen & Neese 2007, 11-12). Corporations frequently use their superior “resources” to buy “experience” in the desired marketplace through the retention of these consultants. Site consultants are

frequently employed or retained by developers. In fact it is questionable how frequently TIF adoption is initiated by the municipality versus the developer.

Nicholas P. Guehlstorf and Andrew J. Thiesing (2005) noted that “the abilities of public administrators ... vary greatly from locale to locale.” They included a variable to measure the impact of “administrative capacity” along with state political culture and other complicating factors while looking at TIF usage in the St. Louis metropolitan area, with an emphasis on Illinois cities. Although the sample was too small to be significant, the cities categorized as having “moderate capacity” were more represented by TIF users, and cities with “high complicating factors” were more represented (25).

There seems to be a trend towards a significant lag time between passage of the enabling legislation at the state level and usage of TIF at the local level. California (as inventor of the tool) only had 27 projects in its first 15 years (Davidson 1979), but once it reached that point, it “mushroomed” and was a major redevelopment tool used by more than 100 California cities and counties within a few more years (Davidson 1979, 423 & note 136). A similar adoption curve was noted in Indiana. Although Indiana’s statute was passed in 1975, it was 1979 before the first local government attempted to use it (county-level). This TIF district was challenged in the courts, and it remained the only TIF district until Indiana’s Supreme Court affirmed the constitutionality of the legislation in 1985, fully ten years after the enabling legislation. By 1995 there were 53 cities and 12 counties that had established one or more TIFs (Klacik, 2001, 179-180).

Missouri-Specific Literature

The earliest Missouri-specific TIF literature/studies were in law review journals. Christina G. Dudley wrote a critique of the as of then unused statute for the 1985-1986 edition of the UMKC Law Review (vol. 91) titled “Tax Increment Financing for Redevelopment in Missouri: Beauty and the Beast.” In it Dudley (1985-1986) identifies the first court action as being in the interest of bonding agencies desiring to gain certainty regarding the validity of the statute’s provisions, and the Court’s position of refusing to continue encouragement of this behavior (pre-issue bond decisions by quo warranto instead of declaratory judgment) (79-81). She also reviews the state of blight jurisprudence in the state as well as compares some of the provisions of Missouri’s TIF to other states such as California, Illinois, Wisconsin, Michigan, and Minnesota. Dudley (1985-1986) identifies that Missouri’s “conservation” provision closely resembles Illinois’ provision (82). She (1985-1986) also identifies some evolutions in TIF development in other states that Missouri did not copy, such as California’s inclusion of housing for instance (86). She related that the TIF tool favored high-density projects and that housing usually was a low-density project, thus not generating enough funding. She expected that Missouri’s statute would be found valid.

Richard King (1995), a prominent economic development lawyer and former mayor of Independence, Missouri, wrote an article about economic activities taxes (EATs) as a recently (1990) allowed source of revenue for TIFs. Although the essence of the article is about how EATs differs from the property tax source of funding, this article makes arguments about technical aspects of the new provision, making a case for it to be

interpreted in a broader sense, thus making TIF more flexible. As such, he applauds the General Assembly for providing “a rich source for additional innovations in obtaining funds for the purpose of encouraging redevelopment in areas where it is desperately needed” (1995, 7).

In 1999, Julie A. Gorshorn suggested reforms for Missouri’s TIF in the *Washington University Law Quarterly*, primarily suggesting that the definition of blight be restricted by restructuring “the ‘but-for’ finding with respect to blight conditions on a particular parcel of land” (944), and by requiring TIF bonds to be including in a municipality’s statutory debt limitations (946). J.D. Candidate Josh Reinert (2001) also focused on the blight and the “but-for” requirement as needing reform in his *St. Louis University Law Journal* article (13). He noted the legislature had already made attempts and were unsuccessful to date, stating:

These proposals have focused on limiting TIF to deteriorating, inner-city areas. However, such proposals have failed to garner the requisite majority of lawmakers, in part because they would limit TIF to only the most deteriorated areas within the state. (13)

In the next group of papers, studies began to turn from more or less a technical critique of the statutes to the practical use of it. In a discussion paper for the Brookings Institution, Thomas Luce (2003) looked at the two major metropolitan areas of Missouri and noticed a trend of TIF being used by “high-tax-base Missouri suburban areas with little need for assistance in the competition for tax base” (v). He identified what he perceived to be flaws in the statute that led to TIFs being used by others besides its targeted group, stating: 1) “vague definitions of the allowable use of TIF; 2) “weak limits on its use for inefficient inter-local competition for tax base,” and the “inclusion of sales

tax base in the program [which] tilts it toward lower-wage jobs and retail projects” (v). He also noted that this “misuse” was more pronounced in the St. Louis metropolitan area, especially St. Louis County. In a study commissioned by the Reclaim Democracy Kansas City’s Chapter, Michael P. Kelsay (2007) looked at TIF use in the Kansas City area and called it an “uneven patchwork,” and he noted that the advantage seemed to be with better-off areas within Kansas City and that the amount of tax revenue being redirected had grown significantly from 2000 to 2004. He was concerned that the TIF law was too “vague” and this led to its overuse, especially with the availability of EATs (Executive Summary).

The Public Policy Research Center of the University of Missouri-St. Louis (2005) did a case study of 13 cities in different regions of Missouri for the Department of Economic Development in 2005. This study noted the following four factors as having influence on the use of incentives: 1) city size, 2) geographic location within state, 3) accessibility to the Department of Economic Development’s staff due to recent relocation of most staff to Jefferson City, and 4) whether the city had an economic development plan (2005, 2-3). City size was associated with a budget size, which in some case allowed for more or less options to use in partnering with private capital and larger cities were found to have a more professional staff, possibly including an economic development person. The employment of an economic development person lessened the negative impact of not having a Department of Economic Development staffer locally. Geographic location influencers include potential bordering states competition, especially near Arkansas, and nearness to highways and major thoroughfares. Having a economic plan helped municipalities be proactive regarding economic development.

The East-West Gateway Council of Government⁴ sponsored an in-house study and two local university studies (St. Louis University⁵; and the University of Missouri-St. Louis and Southern Illinois University⁶) in 2009. An interim release of the in-house study was published in January 2009. The studies were limited to the St. Louis metropolitan area (including St. Louis City, and the counties of St. Louis, St. Charles, Franklin, and Jefferson in Missouri and Madison, St. Clair, and Monroe in Illinois). The in-house study aimed to inventory all incentives in the area and quantify the amount and costs to area governments and to assess benefit. This study found that area governments had granted over \$2 billion in TIFs and special taxing districts (transportation development district or business development district) (iii). Preliminary findings were that uniform reporting of inputs (incentives, expenditures, etc.) and outputs (jobs, property assessed valuations, etc.) was sorely lacking and although the total amount of incentives granted was large, it did not seem to be accompanied by real growth (iv). Also, it noted the association of many incentives with retail projects appeared to be a “losing economic development strategy for the region” (v).

The St. Louis University study by Sarah L. Coffin and Robert W. Ryan attempted to build on the initial findings of the interim-release study to determine how TIF was used at the neighborhood level, looking for possible socioeconomic well-being factors and impact. The study tried to answer the questions such as: does the type of TIF project

⁴ Quasi-governmental agency providing coordinated planning for the St. Louis metropolitan area’s 8 counties in Missouri (St. Louis City, St. Louis County, Franklin, Jefferson, St. Charles) and Illinois (St. Clair, Madison, Monroe).

⁵ Authors Sarah Coffin and Robert Ryan

⁶ Authors Public Policy Research Center (PPRC) at the University of Missouri—St. Louis and the Institute for Urban Research at Southern Illinois University.

vary with economic or racial disparities of neighborhoods, and do neighborhoods seem to be improved after a TIF has been fully implemented or not – i.e. do blight factors seem to be mitigated or to continue to spread? The study did find a variation of type of TIF (residential, retail, industrial, mixed, etc.) by socioeconomic status, and “wealthier communities initially use TIF as a tool to preempt distress or creeping blight” (2009, 22). They also noted a distinct pattern for St. Louis city, noting their predominant use of TIF for residential housing relative to its suburban neighbors – and the authors stated a concern that “the city of St. Louis is not competing with the surrounding municipalities in Missouri for TIF projects and that there is an opportunity for regional cooperation” (Coffin and Ryan, 2009, 23).

The third 2009 study commissioned by the East-West Council of Governments was jointly done by the Public Policy Research Center (UM-St. Louis) and the Institute for Urban Research (SIU-E) was essentially described a few TIF cases in St. Louis city and St. Louis county in Missouri and Madison and St. Clair counties in Illinois. The St. Louis Marketplace was the TIF discussed from the city of St. Louis. Particular TIF cases illustrated in St. Louis County were in different geographical areas, and included the municipalities of Jennings, St. John, Olivette, Maplewood, Brentwood, Richmond Heights, Crestwood, Sunset Hills, and Fenton. Specific TIF cases were explored to either find support or lack of support for commonly stated suppositions regarding TIFs. The main question asked by the researchers was “can municipalities use development incentives to manipulate the location of retail business to achieve their own financial objectives?” (3). In the resulting discussion section, the researcher noted that within these

cases “the structure of sales tax collection in St. Louis County⁷ does motivate municipalities to pursue real estate development/redevelopment.... Consideration of what and how to change regulation of TIF might best consider change in the structure of sales and tax distribution” (34). The cases did not show evidence of TIF use for to relief fiscal stress, and that developers seem to clearly know where they wanted to locate before negotiating began (33). They also noted that “businesses need to grow and expand regularly, about every ten years. Many incentive districts have life spans of fifteen or twenty years, which is incongruent with market needs (34).

Susan Mason and Kenneth P. Thomas (2010) also looked at TIF across Missouri, using reported data and returned survey results from 92% (#171) of the municipalities of population size of 2500 or more. Looking at municipalities that had gone through the process and actual approved a TIF, Mason and Thomas found an increased likelihood that an adjacent city had also approved a TIF. They also found that a lower poverty rate increased the likelihood of a municipality having an approved TIF, and in some models they found a significance with unemployment rates and TIF usage. They did not find significance regarding government structure or growth in assessed valuation. This study underpins an underlying concern for the path-dependent dynamics of inter-municipal competition, and the authors summarize their findings as “strengthening the case for better targeting of incentives.”

⁷ St. Louis county has a county sales tax distribution/sharing system which designates municipalities as either point-of-sale (or A) cities or pool (or B) cities. “A” cities retain most of the sales tax they collect, while “B” cities collectively share sales tax collected in their area (and a small portion of that collected in the “A” cities area) based on each cities population.

No study has been done on the impact of the interaction among the major political institutions of the legislature, courts, and bureaucracy (administration) on the development and adoption of TIF statute, or other economic development tools in Missouri, or possibly any other state. Various studies have looked at various aspects of the TIF statute, alone or in conjunction with other economic development tools. Some studies have looked at the impact of TIF and subsequent growth in assessed valuation, some have looked at the type of municipalities and their financial condition, and some have looked at municipal size. More recent studies have look at the possible impact of inter-municipality competition. These studies generally look at the impact of the TIF statute at a point in time – a snapshot. They do not go behind the “scene” to notice the actors behind the curtains, perhaps changing the statute to be more or less friendly, or more or less usable to certain groups of users/potential users. Until this study, the study of TIFs in Missouri that also fully addressed the impact of the Courts and corresponding legislation had been left only to legal scholars.

This study will add the element of time to the literature from a longitudinal case study perspective as well as a quantitative analysis. It is possible that the TIF statute may essential be a different statute over time. It will also bring from behind the curtains the “sausage-making” aspects of modifications to the statute of over time, and the actors orchestrating changes or resisting such.

Preview of Findings

The following bullet points are highlights of the findings to come:

1. Path dependency counts. The legal definition of blight is technical in nature and differs significantly from the common usage of the word. This is the result of more than 50 years of legal jurisprudence, starting at the U.S. Supreme Court's determination of blight and what constitutes a public purpose (*Berman v. Parker* 1954 and *Hawaii Housing Authority v. Midkiff* 1984). Legislators' initial intent of enabling TIF to assist with blight and pre-blight conditions inadvertently allowed TIF to be used in broader areas and in broader ways than the original intent would endorse. The mismatch between the common use of blight as intended by legislators and the legal definition of blight as known by developers, consultants, lawyers, and as understood by the Courts allow for much broader uses than the original intent. The implementation of the original intent would require that usage of blight have additional qualifiers to restrict its usage – these qualifiers were not included in the original statute. The actual translation of the TIF enabling bill into legal language was done by development lawyers, experts who have developers and municipalities as clients, who likely took advantage of this mismatch in blight definition to allow TIF to be used in a broader way. As customary, it is always harder to take something away once granted (albeit inadvertently, perhaps) than if it were never granted in the first place.
2. Expertise counts and different levels of expertise can be seen in the different patterns of TIF use and adoption.
3. The expertise of the Kansas City growth machine was vital to the implementation of TIF and to the support of and retention of its broader use. The Kansas City area professionals have also been crucial in sharing information about TIF and how to use

- TIF to others across Missouri state. They were important players in the creation of the Missouri Tax Increment Financing Association (now known as the Missouri Economic Development Financing Association).
4. There is an indication that in some geographical areas that TIF is used by urban areas experiencing decline. A logistic regression analysis supports that at least in one important geographical area, TIF-users are municipalities with tendencies of higher poverty rates⁸.
 5. Logistic regressions again support previous findings of others that population size matter in both whether a municipality is a TIF-user and if they are an earlier or later adopter (Mason and Thomas 2010).

Preview of Chapters Two, Three, Four, and Five.

Chapter Two is the Research Methodology Chapter. It will review the overall aim of this research and identify the approach to be taken in an attempt to gain knowledge and to answer specific questions and hypothesis. The methodology will be mixed methods, using both a qualitative case study, quantitative analysis of a dataset, and primary interviews.

Chapter Three is essentially a qualitative, historical development of the statute. It covers 27 years (1982-2009), and includes legislative activity, Court activity, political actors, and other events that shaped the development of the statute. It briefly starts with an introduction and a preview of the findings. The next section is a physical description

⁸ Mason and Thomas also found significance with TIF adoption and poverty rates, as well as unemployment rate and adjacency

of the statute and amendments. This is followed by two sections that highlight either the legislative activity or the judicial activity in isolation. This is done in order to get a better focus and understanding on how each (legislative and courts) developed without the distraction of the other. This also allows for a fuller discussion of the important aspects contained in each. With this “overview” of the statute itself and highlights of the legislative and court activities independently, it is hoped that it will be easy to be engaged and follow the next section. The next section chronicles the development of the statute, attempting to include in real-time the relationship or occurrence of events, legislative activity, court decisions, municipal and state officials, and other political actors in a process-tracing format. An analysis follows the narrative of the historical development of the statute, answering the questions and hypothesis posed and making other observations resulting from the narrative.

The Fourth Chapter includes both quantitative and qualitative research.. The quantitative section studies patterns of usage and adoption of TIF in Missouri. Municipal characteristics such as population size and location are considered as well as number of TIFs adopted, and at what point in time (i.e. “adoption wave”) a type of municipality began using the tool. Also other descriptive statistics about TIF use in Missouri are recorded. The second section is a qualitative segment which includes interviews of a small sampling of municipalities and a small number of professionals in the field. This information provides further insight, confirmation, or caution.to the other research information.

The Fifth Chapter is a concluding chapter and that integrates observations and information stemming from all the previous chapters. It revisits major themes and issues presented and/or uncovered in this research and illuminate the process of policy change and notes institutional and other types of barriers to effective solutions.

Chapter Two -- Methodology

Research Questions and Hypotheses

The study is a basic analysis of TIF law evolution, and its adoption and use in Missouri. Aspects examined include: 1) the need/circumstances during its inception, 2) development of the statute over time by legislative changes, legal decisions, and political coalitions, 3) characteristics of users of TIF over time, and 4) contextualization of other features that seem to be associated with the pattern of usage/usage of TIFs. This statute has been in effect for 30 years. As the research shows, in twenty-seven years a fair amount of activity has resulted from this statute. TIF use is near its historical peak – additionally, the opposition and level of awareness of TIF usage seems to be equal to or near its peak.

Specifically, the research questions devolve as follows:

1. What is the political and legislative history/development of the TIF statute? What was the purpose of these modifications over time? Did changes result in improvement to statute (to carry out original intent) or were changes a result of special interest capture?
2. What is the pattern of adoption and usage of TIF over its first 27 years of life and how did this pattern correlate with legislative changes or legal decisions, including:
 - a. who is using TIF (municipal characteristics), and
 - b. when each began to use TIF.

3. To assist in contextualizing the historical development and pattern of use, what are some of the other factors that seem to influence TIF use?

Each question is important individually. Due to the complex nature of group decision making inherent in policy development and lawmaking in a pluralistic democracy, it is quite possible for a statute not to perform as desired. As laws are modified over time, it is not assured that those changes are designed to make a law more effective, particularly with respect to the statute's original intent. Changes may be a result of other interests trying to "capture" the statute, and modify it to suite a different goal or to weaken it. Using Peters and Fisher's (2004) erosion of targeting theory, one would expect a statute designed with a narrow target as beneficiary to be expanded over time, eroding the planned benefit to the originally targeted recipient.

The first question regards the historical development of the TIF statute. It is qualitative research. It follows the historical development of the TIF statute through iterations of legislative amendments, legislative committee reports, and court decisions. It documents the political or economic environment, the "stated" reasons for the changes or decisions, and who the expected beneficiaries were or were expected to be. While documenting the historical development, special attention is paid to whether this statute's evolution supports Peter's and Fisher's erosion of targeting theory.

The second question is primarily quantitative but also takes advantage of some of the qualitative information ascertained by the first question. It will address the number of municipalities who use TIF and when they began to use it. It will look for common characteristics of early municipal adopters versus later adopters, and for subsequent patterns or waves of new users, especially with different municipal characteristics, if any.

Overlying the qualitative data (when and what changes were made to the TIF statute including court decisions) on the quantitative data (patterns of usage of TIF by whom and when) sheds some light on how the legislative and judicial institutions interposed to help or thwart the adoption and/or usefulness of the statute and to whom.

The third question is mostly qualitative in nature, adding personal interviews of a sampling of municipal staff persons regarding their municipalities' experience with TIF adoption and use, personal interviews of a selection of professionals in the field, and personal interviews with a few involved legislators. This information is expected to enrich the information obtained in the other section. Information collected from municipal interviews include information about how their first TIF came to be in existence, their internal staffing and use of external professionals, and whether other economic development tools are used either alone or in combination with TIFs. The professionals (lawyer, bondsman, and consultants) were asked similar questions but from their perspectives, and also they were asked about their general observations regarding TIF use and problems they have noticed or the need for their services in general. Lastly, some legislators that had various roles in TIF legislation or on TIF committees were also interviewed about their own experiences and views.

The following hypotheses correspond to the research questions itemized above:

- I. Major changes to the TIF statute broadened the availability of its use by local governments, especially to local governments that did not fit the original "targeted" definition.
- II. TIF using municipalities are more likely to have a higher poverty rate.

- III. Waves of adoption of TIFs by particular types of municipalities followed court decisions and statute amendments that lowered risks for that particular type of user/usage/investment.
- IV. Use of TIF by a municipality is limited by a municipality's ability to hire or retain outside assistance.

Research Design

The study will consist of both qualitative and quantitative data and analysis.

The Quantitative Research Design

A quantitative design is employed to ascertain who is using TIF (by municipality and municipality characteristics), and when each began using TIF. From this information a pattern of usage can also be constructed. Specific data collected include:

- The number of TIFs used by municipality by year
- Characteristics/independent variables gathered include: population size 1990 and 2000, year of incorporation, poverty rate, municipal classification, county location, size of county 2000, county classification, county assessed valuation, urban/rural classification.

The base of the municipal characteristics information is from Missouri state sources, including the Missouri Bluebook for municipal characteristic data. Most of the data regarding TIFs is from the Annual Report published by the Economic Development Department of the State of Missouri. The number of TIFs reported for the 2009 period was 474. This data source is supplemented by other readily available and reliable sources. They include a St. Louis County document (Tom Curran's database of TIF users), Kenneth P. Thomas' database. This is done to have a more accurate analysis (i.e.

not to categorize a TIF user as a non-TIF user by that municipality's failure to file a TIF report or because the TIF has been dissolved or no longer active).

Regression is performed to discover statistical significance between independent and dependent variables. A binary regression model is used to determine under which conditions a municipality is more likely to have used TIF. Non-TIF using governments (population size of 1000 or more) are used as a comparison. Additionally, summary statistics are used to answer who is using TIF and when they started using the tool.

The Qualitative Design

Qualitative data is used alone and in conjunction with the quantitative research to add context to it, thus allowing for a fuller understanding of TIF usage in Missouri. The bulk of the qualitative research is used to construct a narrative, process-tracing of the historical development of the statute. This segment concentrates heavily on secondary sources, although occasionally some primary sources are included. The secondary sources used are to:

- document the stated original purpose of the Act and note the circumstances leading to changes to the Act over 1982-2009 (27 years), and
- comprehend the interaction of the parts of governing in the development of this statute, with an eye particularly on if and how erosion of targeting occurred.
- (in conjunction with the quantitative) to add context in analyzing the pattern of adoption and apparent enabling circumstances that seem to encourage the use of TIF.

The secondary sources used include the following: state documents (statutes, legislative committee reports), legal research reports, newspaper articles, and other secondary research sources

The primary research provides information and context that is difficult to acquire through secondary sources alone. Also, events discovered in the secondary sources may not necessarily have evolved as they seemed. It is useful to get first-hand information and opinions from legislators and practitioners “in the trenches,” to verify or otherwise clarify what seems to have occurred or be occurring. Additionally, the primary research will attempt to get a better perspective regarding the role of consultants and other anecdotal information that can possibly add insight to the circumstances surrounding the development of the first TIF district in a municipality. Discussion Guides were developed and tailored for the following interviewees to gather the following information:

- Legislators: perspective of TIF purpose, legislation, and use (intended and actual); unsuccessful amendment attempts and amendments yet needed;
- Experts – Consultants, Lawyers, Bondsmen: their role in the decision-making process; the need for their services and how they work with developers and municipalities; who generally initiates TIFs from their perspectives; barriers and problems they see with TIF implementations;
- Municipalities: their staffing, internal capacity and need for outside assistance; who initiated their first TIF (developer, municipality), why, and the degree of risk involved; lobbying representation; and use of other economic development tools.

. This primary research for legislators and professionals was accomplished by telephone interviews or personal surveys of selected individuals (legislative committee members, consultants, municipal officials, etc.). The following persons were interviewed:

- 1) Legislators (4): John E. Griesheimer (chair of 2009 Senate Interim Committee on Tax Increment Financing, and member on previous House of Representative committees); Henry C. Rizzo (former House of Representative member and chair of the 1997 and co-chair of the 2000 House Interim Committee Studying Tax Increment Financing); Timothy Green (Senator of the 13th District, former co-chair of the 2000 House Interim Committee Studying Tax Increment Financing and member of the Senate Interim Committee on Tax Increment Financing); and Carl Vogel (former Senator 6th district, member of 1996 and 2000 House Interim Committee Studying Tax Increment Financing)
- 2) State Bureaucrats (2): Hal Van Slyck (Missouri Dept. of Economic Development Incentives Specialist), Sallie Hemenway (Dept. of Economic Development Director, Business and Community Resources
- 3) Consultants (3): John Bancaglione, Peckham Guyton Albers & Viets; Larry Marks, Development Strategies; Gene Norber, Economic Development Resources;
- 4) Bonds banker and Lawyer (2): Laura Radcliff, public finance bond banker; Mark Grimm, public finance lawyer.

The Discussion Guides for each are included in the appendix.

The surveys for the municipalities included an online survey in order to take less time on the subsequent telephone survey segment. Once a municipal official agreed to participate they were sent an online survey. Once that information was returned, a more tailored telephone conversation based on the online survey was completed.

The population is municipal and county governments within the state of Missouri. Because the Act is usually implemented at the municipal level, the focus is on units at this level. In occasional instances, the Act is implemented at the county level. Since this happens so seldom, this level will not be a focus of the study. The state of Missouri has approximately 861 municipalities (Missouri Bluebook 2007, p. 869) and 115 counties (Missouri Bluebook 2007, p.968).

The Act requires that municipalities report to the State any active TIFs on an annual basis. For the 2006 year, 38 municipalities and 2 counties reported use of a TIF to the state. Amendments have been made to the municipal reporting requirements, and 2009 (reported in 2010) has seen a marked increase in reporting, with 115 municipalities (112 cities, 3 counties) filing TIF reports. The state manager (Van Slyck) who receives and compiles the report has observed that this increased reporting does not appear to be from first-time reporting of TIFs, but from filings of previously reported TIFs (Van Slyck 2011, interview). Thus, for the quantitative analysis, the sample will include the entire set of municipalities contained in the 2009 TIF Report. These governments have a total of 477 reported TIFs in 2009. The reported information will be used and this data is enhanced by additional information gleaned from other sources in order to have as accurate a database as possible. Sources used are: 1) Kenneth Thomas' database of Missouri TIFs from 1987-2004, 2) Thomas Curran's database of TIFs in St. Louis

County from 1991 to 2006, and 3) East-West Gateway database of TIF districts in their service area.

From this group of municipalities, 40 were randomly selected (computer generated) to be interviewed. An attempt was made to contact the person identified on the TIF Annual report by phone or email. Of these 40 municipalities contacted, 20 municipalities agreed to participate, and were sent the online survey. Of the online surveys, 17 were returned, and 15 follow-up phone surveys were completed on the 17 returned surveys.

The research will be used to test the each hypothesis as follows:

HI: Changes to the TIF statute broadened the availability of its use by local governments, especially to local governments that did not fit the original “targeted” definition.

The null hypothesis:

HI₀: There were no amendments to the TIF statute that broadened the availability of TIF use beyond the targeted group (as defined/indicated in the original bill)

Predicted value: There are amendments that widen the availability of TIFs to other than the original user or type of use.

The null hypothesis will be accepted only if no amendment to the statute can be found that is judged to have expressly broadened the availability of TIF to be used by new users (municipalities) or new uses (purposes/type of projects).

HII – TIF using municipalities are more likely to have a higher poverty rate.

The null hypothesis:

HII₀: There is no relationship between municipal poverty rate (percent persons below poverty) and whether the municipality has adopted a TIF.

Predicted value: There is a positive relationship between whether a municipality has adopted a TIF and the municipality's poverty rate. In other words, the higher the municipality's poverty rate, the more likely the municipality has used a TIF.

The null hypothesis will be rejected if a binomial regression of TIF-using versus non-TIF-using municipalities, which includes the percent persons below poverty independent variable, finds statistically significant relationship at the 95% confidence level.

HIII. Waves of adoption of TIFs by particular types of municipalities followed court decisions and statute amendments that lowered risks for that particular type of user/usage/investment. In other words, An adoption wave pattern by type of municipality (size of population, growth of population, percent poverty) can be observed in an ordered logit regression.

HIII₀ – No “adoption of wave” by type of municipality (size of population, growth of population, percent poverty) is observed in an ordered logit regression.

(If no pattern is discerned, then there is no reason to look at what amendment or court decision could have impacted the ordered regression result. If there is significance, then court decisions or legislative amendments will be perused for possible association.)

Predicted Value: Rural municipalities are more likely to use TIF in a later wave than municipalities in urban or urbanized areas.

This null hypothesis will be rejected if there is an independent variable shows significance at the 95% confidence level, or if a significant difference can be seen in the summary statistics.

HIV – Use of TIF by a municipality is limited by a municipality's ability to hire particular internal staff or retain specialized outside assistance.

HIV₀ – A municipality's particular internal staffing or ability to retain particular outside assistance does not impact their ability to use TIF.

Predicted Value: -- Municipalities are more likely to use TIF if they have adequate capacity, i.e. in-house expertise, of a city manager, assistance city manager, economic development staffer, etc.

What is meant by “particular internal staff” or “retain specialized outside assistance” is the capacity of the municipality to hire, permanently or by project, the expertise needed to recognize and understand the potential for projects and to follow through with that information. This hypothesis will not be tested quantitative since this information will not be collected at a number high enough to be statistically significant. Additionally, no interviews will include non-TIF municipalities by which to compare. But a summary of the results of the interviewed municipalities and professionals will be used to better contextualize this municipal trait, to ascertain whether further research in this area is warranted.

Limitations

- This data is specific to Missouri, although many lessons are transferrable.
- The data published in the TIF Annual Report are not necessarily accurate and to some degree incomplete. This could impact the results. Additionally, the standards of reporting are not uniform.
- Sometimes actual motives are hard to uncover and distinguish from stated “politically correct” motives.

Chapter Three – Historical Development of the Real Property Tax Increment Allocation Redevelopment Act

This chapter is designed to answer the first research question, which is:

What is the political and legislative history/development of the TIF statute? What was the purpose of these modifications over time? Did changes result in improvement to statute (to carry out original intent) or were changes a result of special interest capture?

These three questions will be the essence of the two major subheading titles in the research findings section within this chapter. Although the basic information of this chapter involves tracking how the statute evolved, which in essence is a legislative function, these changes will necessarily be contextualized by the activities of the courts and the activities of other actors during the twenty-seven years under study. The literature review does contain some theoretical and empirical suggestions of how the statute may develop, policy wise and politically, and reconstructing the historical development has the possibility of shedding further light on these theories and other empirical findings. As is sometimes found in narrative research, it may shed enough insight that new theories may be postulated. In particular, much has been written of the impact of interest groups on politicians and bureaucrats and how this impacts policy/legislation. Much less has been written about the mechanism of Court interaction with lawmakers, bureaucrats, and interest groups on policy development. It is likely that within policies/statutes that impact economic investment activity, Court decisions have significant impact on the development and eventual success of the statute fulfilling its

original intent. This style of historical tracing will hopefully allow this interaction to be further fleshed out.

Closely related to the second and third questions (purpose of changes and did changes result in improvement or special interest capture) is the theory of “erosion of targeting,” posited by Peters and Fisher (2004.) Thus, within tracing the historical development of the statute, an answer to whether this statute’ evolution included erosion away from its intended beneficiary should become evident. Peters and Fisher expect that those not “included” would lobby for changes that would allow them to participate, and over time, the targeted advantage would erode. The specifics of what type of local government and for which type of uses the TIF legislation was designed to assist is commonly assumed to be the following – urban governments with redevelopment of areas that are experiencing decline. This research will include investigating whether this is in fact the original purpose of this statute. Given that this assumption is indeed the case, then the targeting erosion theory will predict that the statute will eventually be used by non-urban areas, and/or for purpose other than “redevelopment.” Given that the intended audience is as expected, the following hypothesis can be tested:

Ho1: Changes to the TIF statute broadened the availability of its use by local governments to include local governments that did not fit the original “targeted” definition.

This chapter will follow the following format: first a preview section will be presented, with a short review of the anticipated findings based on the literature review, and then a preview of the actual findings. Next the actual research will be presented.

This research will be discussed in chronological, story-telling format. It will be presented this way in a chronological narrative format versus a “thematic” format because a single event may have bearings on more than one theme mentioned in the literature review – thus it could be too redundant in addition to breaking the flow of events to describe each event in a “thematic” style. Lastly, after the reader has followed the intricate web of twenty-seven years of historical development, the chapter will analyze the finding and again put in into context of the literature and research hypothesis.

I. Preview

Preview – Findings Related to Literature

From a policy process, much of the theories in the literature review of chapter one center around policy change. These theories suggest that a study of the historical development of the TIF statute may find that the policy changes over time due to: 1) policy feedback/policy implementation; 2) policy drift/conversion/layering/revision; 3) incrementalism/critical junctures/punctuated-equilibrium; 4) path dependency/sequencing; and 5) policy innovation/diffusion.

Urban politics and “growth machine” theories mentioned in the literature review would have us pay more attention to the political actors involved with legislative change. These actors have varying levels of the following: 1) capacity, 2) power, and 3) motivation. These characteristics are used or not to influence the local and state-level policy processes. Urban regime theory state that landowners are advantaged, and often have influence with politicians and have favor among the press and labor leaders (Molotch 1976). The common motivating factor involves the intersecting relationship

between increased land valuation (landowner/developers and city officials) and economic activities (labor, media, city officials, developers). City officials depend on developers/landowners to bring investments to drive the economic activity in their towns. All of the “collaborators” bring different forms of power to the table.

Evidence of many if not all of these policy process and political theories are present in the historical development of the statute. There is evidence of policy feedback and/or policy drift/conversion/layering/revision as the statute is modified and/or adjusted due to committee hearings, court decisions, problem solving, and windows of opportunities being opened. Examples of policy feedback would be the many smaller “clarifying” amendments to the statute such as a 1993 amendment stating by which year the base assessed valuation would be calculated (“the most recent”), and a 2003 amendment to explicitly state a “conflict of interest” clause (which allowed elected officials to publicly state their preferences/opinions about potential TIF projects in their areas, but could not profit financially from those projects). An example of policy feedback rooted in political motivation would be the amendments specifying the makeup of the TIF commissions in 1991, 1997, and 2007.

Incrementalism can be seen throughout the historical development of the statute, as well as policy change that can be described as punctuated-equilibrium or critical junctures. For instance, sections of the statutes describing what constituted a valid redevelopment plan were frequently amended, but generally the modifications were incremental in nature. It is possible that this incremental change has resulted in a fundamental change, based on the court ruling in Shelby County. A prominent example critical juncture/punctuated-equilibrium can be seen with in the validation of the TIF

statute by the Missouri Supreme Court. Usage of the statute languished until a Missouri Supreme Court decision confirmed the validity of the statute (this will become more evident in the research in the next chapter as well). Additionally, the policy feedback loop example in the paragraph above regarding TIF commission composition could have been characterized as a critical juncture in 1991, followed by an incremental change in 1997, which led to another critical juncture or punctuated event in 2007 (but which only applied to a certain geographical subset).

Policy conversion could be said to overlap the erosion of targeting as the statute targeted for urban areas was “discovered” by legislators as having a use among more rural municipalities. This use was embraced by many legislators who did not have urban areas in their districts. The TIF statute has also been converted into use by well-to-do suburban areas such as Des Peres and to new development areas such as Hazelwood’s Missouri Bottoms area. These uses of the statute proved to be controversial, but yet, they exist today.

Evidence of path dependency/sequencing is also present, as well as policy innovation/ diffusion. An example of path dependency/sequencing is the infrequency of use of economic development as one of the three allowable purposes, likely a result of an early Court decision (1992 in Pettis County) invalidating its use. A demonstration of policy innovation is the Dream Initiative, a program the state implemented to help smaller and/or rural areas gain capacity and knowledge to use appropriate economic development tools in their own municipalities.

The urban politics and the politics of growth (i.e. “growth machine”) were also evident is the fairly strong coalitions between municipalities, developers, and politicians.

Court cases mostly always included a municipality as one of the parties (plaintiff or respondent), but seldom was a developer the municipality's adversary. The usual plaintiff against the municipality/county govt. was another governmental body (county, municipality, or other taxing district such as a school district), the landowner (facing eminent domain), or a citizen's group (that sometimes masked an opposing developer). As plaintiff, the municipality was usually opposing the county-level of government about releasing collected funds into their TIF district accounts. The coalition containing the municipality usually won the court case, and over time, this coalition has been able to retain most of the advantages available to them initially (as included in the original intent or not).

It has been observed in Chapter 1 that it was many years after the TIF legislation became law that it began to be used by municipalities. A similar lag between instituting legislation and actual usage was also noted in California (Davidson 1979) and Indiana (Klacik 2001). In Missouri and Indiana, the missing piece seemed to be some degree of certainty that the Courts would not find the potential investment unconstitutional or illegal in some way, thus making the investment wasteful (and unprofitable). The importance of validation of the Court before investment is confirmed in this study. The TIF statute is initially challenged fairly comprehensively, and subsequently challenged more specifically on more narrow aspects of the law. The relationship between the lower and higher courts is evident, with the lower Court showing tendency to give deference to municipalities (as legal initiator of the TIF) that the TIF is legally constituted and within its legal boundaries to condemn property and collect/divert taxes.

Evidence of the problems of municipal competition was stated in public forums such as the media and legislative hearings. Modifications to the statute to resolve this issue often required geographical specification in order to garner enough legislative votes.

This chapter's research did show that the TIF was used by a broader audience than originally intended. Erosion of targeting did occur resulting in the TIF statute now being freely used in non-urban areas, and the statute has been and continues to be used on new development as well as redevelopment projects. Yet, this being a study of a single statute, the erosion targeting theory is not fully supported because although the statute as originally constituted did have a targeted user-type, its use by the non-target group did not require much in the way of statute modifications.

Preview – Circumstances that Shaped Statute's Development

There are pre-conditions and circumstances that help shaped how the statute developed. They include the declining financial condition of municipalities, the shifting priority of federal aid away from cities, the fairly recent availability of sales taxes authorization at the municipal and county levels, the rural-urban structural composition of the state, and the state of blight jurisprudence in Missouri. Other factors to note are the early involvement of very capable leadership in “the right places at the right times.” One set of pertinent leaders would be the involvement of lawyers in the Kansas City area with experience in government administration and land-use/economic development in Missouri. Another set would be the involvement of the Clayton School District superintendent, and subsequently, the Missouri School Board Association in the

redevelopment of the former Cross Roads Shopping Center (now called St. Louis Galleria).

II. Research Findings – The Political and Legislative History and Development of the TIF Statute

This section begins with documentation from the original state bill, a description of the statute and summary statistics of the changes to the statute over the time period studied, an overview of the legislative changes, and an overview of the of judicial jurisprudence. Next it tells the story of the development of the statute, with the intent of getting a sense of possible interplay among the legislative and judicial activities, along with other events and activities that occurred in that time space. After the storytelling, a synopsis and observations of relevant points are made.

The Statute

The Real Property Tax Increment Allocation Redevelopment Act was enacted in 1982, and resulted from House Bill 1411. The Summary of Truly Agreed To and Finally Passed Bills (1982, p.15) states:

This bill creates the “Real Property Tax Increment Allocation Redevelopment Act” and deals with the redevelopment of blighted areas and conservation areas in municipalities. The powers of municipalities under the act are specified, including the power to adopt redevelopment plans, acquire or lease real property, renovate or construct improvements, and create a supervisory commission. A municipality may issue obligations to pay redevelopment costs. The obligations are to be secured by those payments made in lieu of taxes, attributable to the current equalized assessed valuation of property in the redevelopment project area being placed in a “Special Allocation Fund.” The bill permits value increment allocation financing by which the payment of property tax in the redevelopment area will be based on the pre-development assessment of the property until financial obligations incurred in the redevelopment are retired. The bill is not to be construed as relieving the property in the project from paying the constitutionally required uniform rate of taxes.

House Bill 1411 was also combined with House Bill 1587, which made a few changes to the Land Clearance for Redevelopment Authority Law which pertained to St. Louis City and Kansas City. These changes gave the Land Clearance for Redevelopment Authority (LCRA) permission to issue bonds privately if under \$10 million (previous limit was \$2.5 million) and also increased accountability regarding redevelopment plans, completion schedules, and public participation. Within House Bill 1411 it was determined that municipalities would by definition include counties—and if a county wanted to “implement a value increment financing project” that was wholly or partial within the boundaries of a city or village, it would need the permission of that city or village.

Statute Description

The 1982 Real Property Tax Increment Allocation Redevelopment Act was composed of 11 sections, which subsequently were renamed into 14 subchapters numbered 99.800 – 99.865 of the Missouri State Statutes. The statutes covered the standard name, citation, and its own definitions, as well as outlining the circumstances in which this economic development tool could be used and how. It granted the municipality permission to issue financial obligations, and outlined the scope of allowable redevelopment areas that could qualify and specified a role for public participation.

The original 14 subchapters still exist although a few titles may be slightly adjusted. Since 1982, four more subchapters have been added. They are 99.843, added in 2007 to restrict usage of the Act for the development of greenfields in the East-West Gateway Council of Governments service area; 99.847 added in 1996 and later

renumbered 99.848, which allows emergency services to get reimbursed in certain circumstances, and a different 99.847, added in 2004 to limit Act usage in certain floodplain areas in St. Charles County. Table 1 lists the components of the Act as it was enacted in 1982 and its present form as of 2008 by subchapter headings.

Table 1 – TIF ACT SUBCHAPTERS – THEN and NOW

Sub Chap. #	Title of Subchapter – 1982 (Section # in parentheses)	Title of Subchapter -- 2008
800	Law, how cited (Section 1)	Law, how cited
805	Definitions (Section 2)	Definitions
810	Redevelopment plan, contents – adoption of plan, required findings – commission appointment and powers (Section 3)	Redevelopment plan, contents, adoption of plan, required findings—time limitations
815	(included in Section 3 above)	County implementing project within boundaries of municipality, permission required—definition of municipality to include county
820	(included in Section 3 above)	Municipalities’ powers and duties—commission appointment and powers—public disclosure requirements—officials’ conflict of interests, prohibited
825	Adoption of ordinance for redevelopment, public hearing required—objection procedure—hearing and notices not required, when—restrictions on certain projects (Section 4)	Adoption of ordinance for redevelopment, public hearing required—objection procedure—hearing and notices not required, when—restrictions on certain projects
830	Notice of public hearings, publication and mailing requirements, contents (Section 5)	Notice of public hearings, publication and mailing requirements, contents
835	Secured obligations authorized—interest rates—how retired—sale—approval by electors not required—surplus fund distribution—county collectors’ and municipal treasurers’ duties (Section 6)	Secured obligations authorized—interest rates—how retired—sale—approval by electors not required—surplus fund distribution—county collectors’ and municipal treasurers’ duties—no personal liability for commission, municipality or state
840	Obligation, refunded to pay redevelopment costs, requirements—other obligations of municipality pledged to redevelopment may qualify (Section 7)	Obligation, refunded to pay redevelopment costs, requirements—other obligations of municipality pledged to redevelopment may qualify
843	n/a	Tax increment finance projects, greenfield areas with counties not subject to authority of East-West Gateway Council of Governments
845	Tax increment financing adoption—division of ad valorem taxes—payments in lieu of tax, deposit—evaluation not to be used in calculating state school aid formula, when—surplus funds in special allocation fund, distribution – dissolution of fund and project area designation (Section 8)	Tax increment financing adoption—division of ad valorem taxes—payments in lieu of tax, deposit evaluation not to be used in calculating state school aid formula, when—other taxes included, amount—Missouri Supplemental Tax Increment Financing Fund, establishment – redevelopment project costs
847	n/a	Tax increment financing project not authorized, when
848	n/a	Districts providing emergency services, reimbursement from special allocation fund
850	(included in Section 8)	Costs of project paid—surplus fund in special allocation fund—distribution—dissolution of fund and redevelopment area
855	Tax rates for districts containing redevelopment areas, method for establishing—county assessor’s duties—method for extending taxes to terminate, when (Section 9)	Tax rates for districts containing redevelopment projects, method for establishing—county assessor’s duties—method for extending taxes to terminate, when
860	Severability (Section 10)	Severability
863	n/a	Joint committee on real property tax increment allocation redevelopment
865	Reports by municipalities, contents, publication—satisfactory progress of project, procedures to determine (Section 11)	Reports by municipalities, contents, publication—satisfactory project progress, procedure to determine—department of economic development reports, rules, manual

Summary Statistics Regarding Legislative Development of the Act

During the 27 years of the study period, from 1982 through 2009, the Act has been amended 16 of those years (1986, 1987, 1990, 1991, 1993, 1996, 1997, 1998, 2002, 2003, 2004, 2005, 2006, 2007, 2008, and 2009). These changes ranged from very minor changes to clarify a requirement, to very major and extensive rewrites. An example of a minor change is in 1993 the amendment clarified that with regards to a redevelopment plan it is “the most recent assessed valuation of property within the proposed redevelopment area and that notice of the public hearing shall be given to persons who own property within the area” (1993 Summary of Truly Agreed To and Finally Passed Bills, p.29). This change was included in the 1993 Omnibus Economic Development Act. On the other side of the spectrum, the 1991 amendments involved rewrites of fully eight subchapters of the Act. These major rewrites occurred in years eight and nine of the statute (1990 and 1991) which coincides with the very early usage of the Act.

Looking at the breadth of impact of the amendments, there are five years in which the amendments impacted three or more subchapters of the statutes: 1986, 1990, 1991, 1997, and 2007. There are two years that stand out significantly – 1991’s amendment impacted a total of ten subchapters, and 1997’s amendment impacted nine subchapters. The 1986 amendment impacted five subchapters, the 1990 amendment involved rewrites of three subchapters, and the 2007 amendment impacted four subchapters. (See Appendix I.)

Oftentimes amendments that followed within one or two years of other amendments were mostly to correct language, clarify, or correct oversights in the prior

year's amendments. This is the case as already mentioned in 1993; this also occurred in 1987 (to reinsert a clause to 99.810 inadvertently omitted in 1986's law) (1987 Summaries of Truly Agreed to and Finally Passed Bills, p.39) and 1998 (to correct language so that St. Louis County would have three representatives on commissions in their county instead of two as intended in 1997) (Senate Bill 707).

In addition to clarifying or correcting technical issues, some of the minor amendments involved exempting subsequent or specific taxes from capture – this can be seen in the 2006 and 2008 laws, where Jackson's County's stadium tax (2006) and capital improvement sales tax (2008) were exempted. Another change that could be considered technical was to raise the amount of the state sales tax that is available in any one year to \$32 million in 2005 from the \$15 million cap set in 1997.

In the earlier years of the Act, amendments were routinely made to subchapters 805 (definitions), 810 (redevelopment plan, contents, adoption of plan, required findings – time limitations), and 825 (adoption of ordinance for redevelopment, public hearing required—objection procedure—hearing and notices not required, when—restrictions on certain projects). Before and including 1997, subchapter 805 and 825 were amended four times, and subchapter 810 was amended six times.

After 1997, no changes were made to any subchapters except subchapters 820 (Municipalities' duties—commission appointment and powers—public disclosure requirements—officials' conflict of interests, prohibited), 845 (Tax increment financing adoption—division of ad valorem taxes—payments in lieu of tax, deposit evaluation not to be used in calculating state school aid formula, when—other taxes included, amount),

and 847 (Tax Increment financing project not authorized when) until 2007. During this nine year period (1998-2006), subchapter 845 was amended, repealed, or revised in six of those years. Otherwise, these years were relatively “quiet” with only the following additional activity: subchapter 820 amended in 1998 and 2003; subchapter 848 (Districts providing emergency services, reimbursement from special allocation fund) added in 2004, and subchapter 847 amended in 2002 and 2005.

In 2007 amendments were made to subchapters 805, 820, 825, and 847. Also, subchapter 843 (Tax increment finance projects, greenfield areas with counties not subject to authority of East-West Gateway Council of Governments) was added. Subchapters 820 and 825 were amended again in 2008, and subchapter 865 was amended in 2009.

Overview of Legislative Development of the Act

Changes to the TIF amendment started before actual use of the statute began. The first amendment was made in 1986. In addition to routine technical modifications /clarifications, this year is notable because it expanded the allowable “purposes” to include an “economic development area⁹” in addition to “blight” and “conservation.” In adding this purpose, the Summary stated this addition was expected to help a municipality either to retain businesses, increase employment, or preserve or enhance its tax base (Summary, 1986, pp. 9, 46). The allowable purposes up to this point were

⁹“Economic development area,” any area or portion of an area located within the territorial limits of a municipality, which does not meet the requirements of subdivisions (1) and (2) [blight area or conservation area] of this section, and in which the governing body of the municipality finds that redevelopment is in the public interest because it will: (a) Discourage commerce, industry or manufacturing from moving their operations to another state; or (b) Result in increased employment in the municipality; (c) Result in preservation or enhancement of the tax base of the municipality; (statute 99.805(3). Laws of Missouri (1986), pp. 492-493)

“blight”¹⁰ and “conservation areas.”¹¹ In this instance, “conservation areas” are considered areas at risk of becoming blighted, or, in other words, pre-blighted. The addition of the economic development purpose had the potential of expanding usage beyond “urban” & “redevelopment” before anyone had benefited from its existence.

The year 1990 also saw an important modification – this year the taxes available for capture were expanded. This property likely changed the nature of the type of projects favored for TIF consideration. Up to this point, only the property tax was involved. The new law now allowed for “50% of taxes imposed by municipalities or other taxing districts which are generated by TIF projects, shall be deposited in the special allocation fund to pay for redevelopment costs and obligations” (Summary, 1990, p. 28). These new taxes made available for capture were subsequently referred to as “EATS” taxes – economic activity tax, to distinguish them from the original tax, referred to as “PILOTS” – payment –in-lieu-of- (property) taxes. Thus, projects that collected “EATS” had an additional revenue stream to make the project “feasible.”

¹⁰ “Blighted area”, an area which, by reason of the predominance of defective or inadequate street layout, insanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present conditions and use; (Section 2. Laws of Missouri, (1982),p. 250)

¹¹“Conservation area”, any improved area within the boundaries of a redevelopment project area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more. Such an area is not yet a blighted area but is detrimental to public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: Dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation; light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning; (Section 2. Laws of Missouri, (1982), p. 250)

The 1991 law also specified the make-up of a TIF commission. Prior to this change, a commission had the latitude to be anywhere from 5 to 15 persons, all appointed by the “chief executive officer of the municipality with the consent of the majority of the governing body of the municipality” (Laws of Missouri, 1982, p.252). The committee as specified by House Bill 502 (1991) required the commission “to consist of 9 members appointed as follows: (1) two members appointed by the school boards of affected districts; (2) one member appointed by all other affected taxing districts; and (3) six members appointed by the municipality.” Another requirement that was made more specific is the charge for a relocation plan, including payment minimums and minimum time allowances for vacate notices.

Only two relatively minor changes occurred between 1991 and 1997. In 1993 the law clarified that the most recent assessed valuation was to be used in the redevelopment plan. In 1996 a new subchapter was enacted that allowed for direct reimbursement for emergency services in TIF districts.

The 1997 amendment, as mentioned earlier covered many areas and is considered a major amendment year. This amendment had two major impacts: the first is the availability of state-level taxes for the first time, but only available to specific type of projects that must first receive state approval (initially from the Dept. of Economic Development, and then from the Legislature with the appropriation of funds). The second impact was a wide array of changes design to better manage or restrict the use of TIF. These changes included: a municipality must be in existence at least one year before a TIF commission could be formed, a cost-benefit analysis must be a part of the redevelopment plan and include projected impact on all taxing-districts, a developer must

sign an affidavit stating “but-for” the incentive the redevelopment would not occur, and TIF commission are required to establish procedures for obtaining competitive bids (1997 Perfection Calendar Summary Senate Bill 1). Also, the (non-county) municipality’s discretionary power with the TIF commission was further diluted by this amendment. At this time, all non-county TIF commissions were to add two additional members chosen by their county government. The exception was intended to be St. Louis County, which would have three representatives. Through an oversight, the exception for St. Louis County was not made until the following year via a 1998 amendment.

These modifications were done in a special session (1997 2nd ex. Session) and were part of a major economic development incentives package. Within this major package, one sees the effect of particular lobbyists. For instance, exclusion from TIF capture was given for the Merchants and Manufacturers Inventory Replacement tax (M&M Replacement tax), the State Blind Pension Fund tax, the Kansas-Missouri Bi-State Cultural tax, and the St. Louis County Transportation tax. Another specification was that “gaming establishments” would not be eligible for TIF usage. Also, a hotel in Excelsior Springs was legislatively designated as “qualifying” as well as a levee in Platte County.

The years from 1998 to 2007 were remarkably quiet as far as actual amendments to the statute. The only subchapters amended in this time period were 820, 845, and two of the three added subchapters – 847 and 848. The first change to 820 was to amend the number of representatives to TIF commissions in St Louis County as just mentioned, and again in 2003 regarding elected officials and conflict of interest. Elected officials could express their opinions about specific projects even if they lived in the TIF area, but they

could not profit from a project. Changes to subchapter 845 were numerous (six) and were mostly to fine-tune the state-level TIF, commonly referred to as the “super-TIF” since it was to be used in conjunction with a municipal-level TIF. This is not unexpected since the super-TIF was a relatively new addition (in 1997). Another change made in 2006 was to exempt the Jackson County Stadium improvement tax from TIF capture.

The amendments to subchapter 847 during this period were not necessarily significant but are somewhat tricky to follow. This subchapter was enacted in 1996 to allay concerns of providers of emergency services regarding increased responsibility of providing service to an area without corresponding increase in tax revenues because of the tax capture. This subchapter provided conditions under which emergency services could be reimbursed directly. In 2002 a new clause was added to 847 to limit use of TIF in certain floodplains in St. Charles County. In 2004 another change was made to the emergency services clause, and it was placed in a separate and new subchapter (848). The older emergency services reimbursement clause in subchapter 847 was eliminated in 2005 (Senate Bill 516). By 2007, when another change was made to subchapter 847, it had been renamed “Tax increment financing project not authorized, when.”

Significant changes were again made in 2007 but with one major focus – the St. Louis area. For descriptive purposes, the area impacted was described as being under the authority of the East-West Gateway Council of Governments, of course just the segment within Missouri. The county-level TIF commission model of St. Louis County was also prescribed for St. Charles and Jefferson Counties and St. Louis City. Franklin County was exempted. Additionally, the municipalities could no longer approve a TIF area by a simple majority vote if it was not recommended by the county TIF commission– to

override the county TIF commission's recommendation a two-thirds supermajority would be needed.

Another change was the enactment of subchapter 843, which stated that TIF could not be used in the East-West Gateway Council of Governments authority area if the area could be defined as a "greenfield." This amendment also went on to define greenfield as:

Any vacant, unimproved, or agricultural property that is located wholly outside the incorporated limits of a city, town or village, or that is substantially surrounded by contiguous properties with agricultural zoning and classifications or uses unless said property was annexed into the incorporated limits of a city, town, or village ten years prior to the adoption of the ordinance approving the redevelopment plan for such greenfield area; (99.805)

A "Hunting Heritage Protection Areas" Act was also enacted in a different chapter of the state statutes, but it impacted subchapter 847. In this law which "preserved" certain flood plains for hunting purposes, restriction was put on the potential use of TIF in those defined areas.

The 2008 legislation pertained to Kansas City, and excluded "certain transportation sales taxes" from being captured by either the TIF Act or the Missouri Downtown and Rural Economic Stimulus Act. In 2009 legislation was added to the reporting subchapter (99.865). Consequences were set for municipalities with TIF districts that failed to meet the reporting requirements. Municipalities that do not comply with the reporting requirements are not permitted "to implement any new tax increment finance project for a period of no less than five years from such municipality's failure to comply" (99.865). Also the Director of Economic Development is directed to annually share this information with the state auditor, who is told to make the report information searchable in an electronic database on the auditor's website. No further amendments

had been made to the TIF Act through 2009, the time period under research. A summary of these changes are contained in the next table (Table 2).

Table 2. The More Important TIF Amendments

Law / Year	Description of Important Changes / Impact to TIF
L. 1986	<ul style="list-style-type: none"> • Adds “economic development “ as an allowable purpose
L. 1990	<ul style="list-style-type: none"> • Makes 50% of local sales tax available for capture
L. 1991	<ul style="list-style-type: none"> • Corrects capture of local sales tax to 50% of increment • Specifies composition of TIF commission, to include 3 seats for other taxing districts
L. 1997	<ul style="list-style-type: none"> • Makes available state sales taxes or income tax for some projects • Requires cost-benefit analysis • Changes to “but-for” (to include developer affidavit) • Begins excluding specific taxes from capture • Restricts intra-county relocation with TIF funding (by redefining “net new revenues) • Expanded TIF commission by adding 2 members for county representation • Excludes use of TIF funding for gaming establishments • Specifies how “surplus” should be distributed back to taxing-districts • Added restrictions for using “conservation” purpose (must meet at least 3 of 15 factors) • Charged Department of Economic Development with assisting municipalities when requested and to provide technical assistance and general information regarding using TIF
L. 2007	<ul style="list-style-type: none"> • Changes TIF commission in the counties of St. Louis, Jefferson, and St. Charles and St. Louis City to a county-level TIF commission, and specifies membership • Requires a 2/3 majority vote by a municipality’s governing body to overturn a negative recommendation from a county-level TIF commission
L. 2009	<ul style="list-style-type: none"> • Adds penalty for municipality not filing annual TIF report.

Overview of the Legal Jurisprudence of TIF

The judicial decisions discussed here have primarily been noted for their impact on the TIF statutes in at least one of the following sources: 1) V.A.M.S (Vernon's Annotated Missouri Statutes); 2) Missouri Economic Development Law (White, 2010), or 3) Summary of Tax Increment Financing in Missouri (Gilmore and Bell, 2007). Missouri's judiciary has three levels – Circuit Court (also called the trial court), Appeals Court, and Supreme Court. The Circuit Court is where most cases enter the system, and cases may advance to the Appeals court, and in fewer cases they may reach the Missouri Supreme Court. Many of the cases mentioned were Appeals or Supreme Court decisions. The cases mentioned will be limited to those that directly impacted the TIF statutes or usage of the statutes thereof, with a few exceptions that have been noted for their subsequent impact on other cases. In total, twenty cases are discussed within this chapter (17 TIF-specific, 3 closely related) – and the more impactful of those will be reviewed in this overview with the aim helping to give a deeper understanding of the decision's impact than might be possible within the narrative of the interactive storytelling of the many other parts.

The parties involved in the judicial actions have varied. A municipality (by definition including counties if they initiate the TIF) was always one of the two parties, either as plaintiff or respondent. The other party (parties) was (were) generally: 1) another level of government such as the county or the state, 2) a landowner facing condemnation, 3) a set of citizens, 4) a school district, or 5) a competing developer/business owner. The municipality most often won the case (11 of 17 cases – 65%) indicating a jurisprudence of deference to the municipalities. Of the six cases in

which a municipality (or county acting as a municipality for TIF purposes) lost, they initially won three of those cases before a higher court reversed that decision. Five of the six cases were appealed. All five cases that were appealed and ultimately lost by a municipality were signals from the higher Courts that municipalities were taking too much for granted and not following the statute closely enough. The Pettis County was the sixth case where the county acting as a municipality was thwarted in its efforts to establish a TIF in Dresden city. In this TIF case the county used “economic development” as its stated purpose. The lower Court indicated the economic development purpose as unconstitutional, as well as siding with the school district on other lesser points. This decision is noteworthy because it occurred early in the development of the usage of the statute (1992) and was never challenged by an appeal.

Time wise, the development of the cases seems to be as follows – initially, the constitutionality of the set of TIF statutes was challenged. Next, a specific allowance (economic development) was challenged at the lower court level and that decision was not appealed. The next set of cases seem to be testing the boundaries - challenging exactly what taxes were available for capture, or testing how much flexibility the municipality would have in their interpretation of the redevelopment plan requirements, and testing the boundaries of the definition of blight. The most recent cases (2006 and after) seem to gravitate around challenging condemnation again or challenging a redevelopment plan, but by attempting to use newer arguments.

Determining the constitutionality of the TIF Act was the aim of the first few court actions. In 1984, Plaza Properties in Kansas City challenged the constitutionality of the Act by asking the courts to rule in a “quo warranto” fashion on the validity of bonds that

could be issued under the Act. The courts refused this request, stating that enough court decisions had been made regarding bond “pre-issue” that they no longer felt it necessary or desirable to continue making individual decisions on this subject.

Thus the first significant case concerning the TIF Act is known as the *Dunn* case – *Tax Increment Financing Commission of Kansas City v. J. E. Dunn Construction Co., Inc.* This case was decided by the Missouri Supreme Court after a Missouri Circuit Court had approved a condemnation proceeding. The landowner appealed to the Missouri Supreme Court based on the question of constitutionality of some of the provisions of the Act. The Supreme Court affirmed the condemnation, stating in the opinion:

“(1) Act did not violate state constitutional provision requiring that increase in government revenues and expenditures be approved by vote of people affected by increase; (2) Act did not violate state constitutional provisions requiring uniform levy and assessment of taxes; (3) payments in lieu of taxes into special allocation fund securing revenue bonds for redevelopment project did not constitute taxes; (4) revenue bonds were not subject to constitutional provision permitting political subdivision to incur certain debt only upon approval of two-thirds of its qualified voters; (5) city’s eminent domain extended to condemnation of land within conservation area; and (6) condemnation of land for redevelopment purposes constituted condemnation for a public purpose, and thus condemnation of landowner’s property was permissible.” (*Dunn*)

In 1992 a school district in Pettis County sued to stop Pettis County from creating a TIF district in Dresden, Missouri. This case was held at the Circuit Court level and a summary judgment was issued in favor of the school district. This Court found the economic development purpose for this instance unconstitutional. The outcome was not appealed, and there is not another “economic development” case where this question is settled at a higher level (White 2010, p. 5-305; Gilmore & Bell 2007, p.4).

In 1994 the County of Jefferson sought a “declaratory judgment” from the courts confirming that it was proper and mandatory that special taxes be placed in their corresponding special accounts, and hence not captured by TIF. The situation that they used to request this declaration impacted the I-55 TIF District in Herculaneum in which the Quiktrip Corporation had made some interstate interchange improvements with the expectation of being reimbursed from the TIF special allocation fund. The county asked the courts to confirm that the county had first responsibility to deposit special taxes in their respective accounts. The lower court disagreed, stating that these taxes were not expressly excluded by the statute, so therefore were to be captured along with the other “EATs” (economic activity taxes). Jefferson County appealed this decision, and the lower court’s decision was affirmed by the Missouri Supreme Court in 1995. Other arguments were struck down in this decision and the courts determined that capturing EATs is not subject to Hancock Amendment restrictions because “changing the distribution of revenue is not the levying of a new tax requiring voter approval,” and does not “mandate a new activity by a local government” (*County of Jefferson et. al. v. Quiktrip Corporation et. al.*, 912 S.W. 2d 487 (Mo.banc 1995)). Relatedly the Missouri Supreme Court rejected the argument that “the capture of sales taxes constituted an unconstitutional diversion of the tax from their intended destination” (*Quiktrip*).

This scenario of the county-level government not being willing to remit any or all of the funds a municipal level government was a fairly common theme which played out in slightly different ways in three subsequent court cases: *Village of Bel-Ridge et. al. v. Lohman and St. Louis County*, 1998; *City of Desloge, et. al. v. St. Francois County et. al.* 2007; and *City of Shelbina v. Shelby County, et. al.*, 2008. In these court decisions the

county was required to remit the expected funds to the municipality in all but the last case.¹²

The second case that a municipality lost (the first being the County of Pettis regarding TIF in Dresden, Missouri) was the *City of St. Charles v. DeVault Management* case. The city of St. Charles attempted to condemn apartment buildings owned and managed by DeVault Management in June of 1995, shortly after a purchase offer from the developer had been rejected. In court proceedings it was determined that the redevelopment plans approved by ordinances in 1993 and 1994 were not in compliance with their most recent comprehensive plan – the 1974 Comprehensive Plan. In affirming the lower court’s finding, the Appeals Court stated that “the intent of the legislature was to require full conformance, not substantial conformance,” and that the “City’s determination that the Redevelopment Plan conforms to the comprehensive plan was arbitrary, contrary to fact and an unwarranted abuse of discretion” (*City of St. Charles v. DeVault Management*, 1997). Basically, the redevelopment plan intended the area to be a convention, hotel, and entertainment area with support facilities and a park, while the Comprehensive Plan designated the area for “moderate density residential” and park land. The redevelopment plan was designed with the Ameristar Casino in mind and the city could not “make it be compatible” with its comprehensive plan by decree.

Shortly thereafter another school district sued a municipality and though they initially lost, they were able to win an appeal at the Supreme Court (*Ste. Genevieve School District R-II et. al. v. City of Ste. Genevieve et. al.*, 2002). The court again asked

¹² Shelby lost because Shelby County changed the case to one regarding whether the TIF district was properly constituted, which the Court determined it was not, making the issue of remittance moot.

the municipality to stick closer to the guideline in the statute, stating that projects in the redevelopment plan had been changed and this indeed would require that the TIF Commission be reconvened to approve the revised redevelopment plan.

Two court cases near the end of the study period are also similar to the City of St. Charles and the City of Ste. Genevieve cases. They again involve what constitutes a proper redevelopment plan. Initially the *City of Shelbina v Shelby County, et. al* case was the usual case about a TIF district attempting to get the County to remit funds into its district, but it ended up being a case that challenged how their redevelopment plan was constituted (which they lost). The city of St. Peters' TIF (on 1,640 acres of farmland near Highway 370) was challenged in court by a citizen's group (the Great Rivers Habitat Alliance) who challenged the TIF on more than one account. Ultimately the Court ruled against the city's TIF district for the following reasons: 1) the city did not meet the definition of blight, because it stated that the road system serving the redevelopment area would not be adequate for future uses (instead of present uses); 2) the plan to use TIF funds to pay off already issued general obligation bonds on a levee that is already being constructed fails the "but-for" test; and 3) the city could not show conclusively that the document presented as an amendment to their comprehensive plan was an official amendment, and thus they could not show that the redevelopment plan "conformed" to the comprehensive plan at the time of adoption of the redevelopment plan.

Lastly, a high profile case in the St. Louis area tested the definition of blight and the visual image of the purpose of TIF and the type of municipality that it was intended to benefit. The Appeals Court made its decision on *the J.G. St. Louis West v. City of Des Peres* on January 2, 2001. The city of Des Peres began discussions in 1994 with

Nordstrom Department Stores about possibly locating in the West County Center.

Considered an upscale department store, it was to be their first store in the St. Louis area (*J.G. St. Louis West*). Nordstrom's requested redevelopment of the mall and suggested tax increment financing be used. After further negotiations and further redevelopment analysis by outside experts, a redevelopment plan and TIF financing was agreed to with the developer and approved by the TIF commission and the city's Board of Alderman by the end of 1997. The plaintiffs in this case included a number of taxpayers from both the city of Des Peres and a neighboring city of Kirkwood¹³. The lead plaintiff though was the owner of a competing mall in the city of Chesterfield, approximately 10 miles west of West County Center. The main argument presented by the plaintiffs was regarding the determination of blight, but also questioned was whether the "but-for" clause had been met.

Regarding the determination of blight each court (Circuit and Appeals) again followed precedence, with the Appeals Court stating "judicial review of a legislative determination is limited to whether it was arbitrary or induced by fraud, collusion or bad faith or whether Board exceeded its powers" (*J.G. St. Louis West*). They also stated that as long as the issue is "debatable" the courts would not "substitute our opinion for that of the Board" and thus the burden of proof to show that a debatable issue is really "arbitrary or induced by fraud, collusion or bad faith" is on the plaintiffs – a burden which they did not meet in this case. An interesting aspect of the argument that the city of Des Peres used is that they had determined the mall was an economic liability due to the "existence of statutory blighting factors [which] jeopardize the viability of [the] shopping mall" (*J.G.*

¹³ Des Peres and Kirkwood have an overlapping school district.

St. Louis West). Although the city acknowledged that the mall was currently its biggest economic asset, the decrease in sales tax revenue and the projection of further loss in sales tax revenue was accepted by the court as grounds on which the city also labeled the mall an economic liability.

Both the plaintiffs and the respondent presented expert witnesses regarding whether development would occur even without the use of tax increment financing. The court stated again that with a fairly debatable issue the burden of proof is on the plaintiff. The court stated the plaintiffs did not meet this burden of proof – it was not good enough for an expert to say he/she thought development would occur otherwise, but not be able to give substantive evidence of such opinion. A summary of the major court decisions is included in the next table (Table 3).

Table 3. Court Decisions by Parties Involved, Affirmed Party, and Impact on Statute Use

Year Court	Case	Issue (primary)	Party 1	Party 2	Decision in favor of	broaden/ restrict usage
1989 Sup. Ct.	Kansas City TIF Commission v J.E. Dunn Construction (appellant)	condemnation /validity	municipality	municipality	muni	
1992 Trial Ct.	<i>Pettis School District v Pettis County</i>	validity of economic development purpose	school district	(county as) municipality	school district	restrict use of econ. devel. purpose
1995 Sup. Ct.	<i>County of Jefferson (appellants) v. Quiktrip Corp.</i>	validity of diverting taxes, validity of EATs	muni (Herculaneum) & developer	county	muni & developer	
1996 Sup. Ct.	<i>Consolidated School District (appellant) v. Jackson County</i>	taxes – inclusion/exclusion	school district	municipality (& county)	muni (& county)	
1996 App. Ct. ED	<i>Smith v. Independence</i>	technical aspects of the approving the redev plan	citizens (competing mall?)	municipality	muni	
1997 App. Ct. ED	<i>St. Charles (plaintiff/ appellant) v. DeVault Mngmt.</i>	eminent domain; redevelopment plan must be compatible with comprehensive plan	municipality	property owner	property owner	
1998 App. Ct. ED	<i>Bel-Ridge et. al. Lohman (respondent/ appellant)</i>	Remittance of taxes to TIF account	municipalities	State Dept. of Revenue & St. Louis County	munis	
2000 App. Ct. ED	<i>Hazelwood Yellow Ribbon Committee v. Klos</i>	Question of whether TIF district formation could be restricted by voter referendum	citizen group	municipality	muni	
2001 App. Ct. ED	<i>JG St. Louis West LLC (appellant) v. Des Peres</i>	blight determination and “but-for” test	competing mall owner and citizens	municipality and developer	muni & developer	Affirmed broadening blight definition
2002 Sup. Ct.	<i>Ste. Genevieve School District (appellant) v. City of Ste. Genevieve</i>	Standing to sue and when a redev. plan needs to be reapproved by TIF Commission	school district	municipality	school district	
2006 Sup Ct.	<i>Broadway-Washington v. Honorable Manners</i>	condemnation proceedings, technicality	landowner	judge and municipality	land owner	
2007 App. Ct. ED	<i>Desloge et. al (plaintiff – respondents) v. St. Francois County</i>	taxes – remittances to TIF district	munis	county	munis	
2007 App. Ct. ED	<i>Adams et. al v. City of Manchester</i>	Citizens challenged technical procedures of plan	citizens (competing developer?)	municipality	muni	
2008 App. Ct. ED	<i>Shelbina (appellant) v. Shelby County et. al</i>	taxes – remittances to TIF district; properly constituted redev. Plan	municipality	county, other taxing districts	county	restrict
2008 App. Ct. WD	<i>Great Rivers Habitat Alliance (appellant) v. St. Peters</i>	blight and “but-for” test	citizen group (i.e. wealthy family)	municipality	Citizen group	Restrict blighting to current uses
2008 App. Ct. WD	<i>Kansas City v. Chung Hoe Ku, et al (appellant)</i>	condemnation	municipality	landowner	muni	
2009 Sup. Ct.	<i>Meramec Valley R-III School District (appellant) v. Eureka</i>	Redevelopment plan (large size and inclusion of farmland)	school district	municipality	muni	Broaden when farmland can be included in redev. plan

Interplay of Legislation & Court Cases with Political Actors and Context, Etc.,

The style of government in the United States, and in Missouri, is designed so that there is interplay, commonly referred to as checks and balances, among the three branches of government – legislature, judicial, and executive branch. Also it is designed to provide space for participation by the people – via elections, public hearings and disclosures, and collectively as interest groups. This section will attempt to recreate the story of the historical development of the Real Property Tax Increment Allocation Redevelopment Act by looking at the impact each of these segments had on the other, or not. This section places into context the amendments and court cases discussed prior in time sequence and includes the activity of other actors and environmental factors. Additionally, it will draw upon secondary sources, such as articles, books, and legislative hearing reports, as well as first-hand interviews of legislators and professional consultants.

Economic Environment

It is important to quickly summarize the economic environment around the enactment of the statute. The United States was in a deep recession in the period of 1980 – 1982. The new President of the United States, Ronald Reagan, cut non-military government spending under the philosophy that “big government was bad.” As a result, cuts were made to a variety of federal programs for urban and local governments, reducing federal aid from \$43 billion to only \$17 billion (a 60% cut) (Dreier, Mollenkopf & Swanstrom, 139).

Within this environment the Missouri legislature created a few significant laws that have impact even today. One was the Hancock Amendment, named after Melton Hancock who helped draft the amendment and then spearheaded a statewide initiative to amend the state constitution. The business man from Springfield was successful in this endeavor. Richard King described the Hancock amendment as “‘property taxes and other local taxes and state taxes and spending’ cannot be increased without voter approval in accordance with the Missouri Constitution” (King 1995, p.12). This constitutional amendment became effective November 4, 1980. Achieving an amendment to the constitution is not easy, and is a great barometer of the mood of the people of Missouri.

Also, just one year earlier in 1979 the state legislature authorized the means by which all counties in Missouri could collect a county sales tax if approved by their voters. St. Louis County was the first county authorized by the state to collect a county tax in 1978 (*Columbian Missourian*, Sept. 13, 1979), and this authorization was expanded statewide a year later. Fully 28 (of 114) counties immediately put the sales tax on their November 1979 ballot and it was approved in 24 of them (*The Kansas City Times*, Nov. 7, 1979). The following spring an additional 18 counties attempted to enact the county sales tax, 14 of which were successful. An important aspect of this county sales tax was that 50% of the collected taxes would be used to replace property taxes then being collected, thus reducing real estate property taxes.

The Kansas City Star called the property tax “rollback” provision of the county sales tax “Missouri’s answer to Proposition 13” (November 20, 1979). *The Star* noted with great surprise how quickly the county sales tax was embraced, calling it “a startling development.” Remarking on the legislators’ debate surrounding the legislation, *The Star*

stated that even the legislators “thought that the new formula might catch on – in time.” The Star described the “norm” for Missourians as being cautious “in adopting new ideas,” which was described as a few years for allowing “time for the message to soak in” followed by “two or three (or more) elections” before the new idea has the public’s affirmation. *The Star* described that the anticipated slow process that did not occur with this county sales tax is exactly what had happened approximately ten years earlier with the availability of a city tax (November 20, 1979).

But even with these anticipated changes, county and local governments were concerned about their budgets. Barely a month later (December 23, 1979) an article in *The Kansas City Star* emphasized this concern. Titled “Sales Tax Revenue Declining in Cities,” many cities had begun to see a slowdown in the rate of sales increase, causing their revenue projections to be overstated.

The nation officially entered a recession for the first six months of 1980, and a second recession period quickly followed covering the period of July 1981 to November 1982. This was the environment in which the Real Property Tax Increment Allocation Redevelopment Act was passed in the Missouri legislature in November of 1982.

Usage of the Statute

Kansas City formed its TIF Commission in 1982, immediately after the legislation became law. Even as such, it was another four years before the first tax increment plan was adopted in Kansas City. St. Louis city showed minor interest initially. St. Louis’ interest lied more in the companion House Bill 1587, which made modifications to the Planned Industrial Expansion Authorities. These modifications were expected to “streamline the process and cut down on paperwork” and to “cut the time to process a

bond issue from six to eight months down to approximately three months” (Perfection Calendar Summary, HCS HBs 1411, 1587, 1982). The Planned Industrial Expansion Authority applied to St. Louis and Kansas City only.

Attorney Michael White¹⁴ gave a lecture on November 20, 1985 in Kansas City about tax increment financing and Chapter 353 tax abatement for the Midwest Research Institute. He stated in this lecture that tax increment financing “has not been used because bond attorneys will not give an opinion on that statute until there are some state Supreme Court decisions that say it is free from constitutional challenge” (White 1985, p.6). He even stated slightly earlier in the lecture that Chapter 353 projects had only begun to be used in the six to seven years prior (although Chapter 353 statutes, called the Urban Redevelopment Corporation Laws, were first created in 1943), and that this increased usage was due to a few Missouri Supreme Court decisions in the late 1970s regarding the definition of blight (*Tierney v. Planned Industrial Expansion Authority of Kansas City* and *Crestwood Commons Redevelopment Corp. v. 66 Drive-In*). The two important aspects of the Court decision were that blight “need not be a slum area” and “not each and every structure need be blighted” (White 1985, 6). These Court definitions are in line with the U.S. Supreme Court’s decision in *Berman v. Parker* (1954). He noted that this validation of the definition of blight, along with the increase usage of Chapter 353, had created controversy, mostly over the finding of blight – and that this could be because the statutory definition of blight does not match people’s intuitive notion of blight (White 1985, p.6). Another program that had been used by cities was industrial

¹⁴ Attorney White is considered an expert in economic development law in Missouri.

development bonds¹⁵, and he acknowledged that their use had been subject to well-known abuses. He said “instead of economically depressed areas using the bonds to attract development to their area, economically well off areas were using the bonds to attract industry from their less-well-off neighbors. You can’t blame them for that because as long as the financing tool is available they’re going to use it” (White 2010, p.4). Lastly, he mentioned that he had recently drafted language for an amendment to “clean up” the TIF statute (White 2010, p.13). He has also been credited with being a co-author of the original TIF statute¹⁶.

The amendment was approved in 1986 by the legislature, and included the addition of the “economic development” purpose to the statute. The “economic development” purpose was drafted by Roger M. Grow, director of planning and development for the city of Webster Groves (White 2010, 5-74). Later that year, in November 1986, the Kansas City TIF Commission approved its first TIF plan, called the Tenth & Troost TIF Plan. The Kansas City TIF Commission (which was formed in 1982 right after the enabling legislation) attempted to condemn property within this district on May 6, 1988 (*J.E. Dunn Construction Company, Inc. v. Kansas City TIF Commission*). Property owner J.E. Dunn Construction Company challenged this condemnation in the Missouri Court. Dunn stated that his individual property was not blighted, and he challenged the overall validity of the statute on a variety of grounds. White, in his capacity then as General Counsel to the Kansas City TIF Commission, argued the case at the Missouri Supreme Court when Dunn appealed the Circuit Court’s finding on

¹⁵ Industrial Development Bonds was a federal-level program.

¹⁶ Mentioned in his biography as the 2010 Richard A. King Awardee given by the Missouri Economic Development Financing Association.

constitutional grounds. He won. This is the necessary court challenge and outcome White had stated needed to occur before bond attorneys would feel comfortable giving opinions on TIF bonds. This case was decided by the Missouri Supreme Court on December 12, 1989.

During this time, the city of Richmond Heights was working with developers about renovating the Crossroads Mall into what is now known as the St. Louis Galleria. Tax increment financing was considered as part of the financing package, but the Clayton School District had reservations. They did not totally object, but the school district's administrators thought it was unfortunate that the real estate taxes increment that would be due to them would be the primary captured tax – meanwhile the facility would be generating other taxes that would dwarf their captured amount but benefit others (Brancaglione 2011, interview; Norber 2011, interview). By the end of the 1990 Missouri legislative session, the TIF Act had been amended to allow the capture of local and county sales tax, known as “EATs” – economic activity taxes.

Another notable modification to the law in that legislative session was that the composition of a TIF Commission was made more specific and representative. Instead of five to fifteen members all selected by the city administrator, the commission would be nine members of which only six would be municipal representatives. The remaining three members would be selected by overlapping taxing districts – two would come from impacted school districts, and the remaining member would be from among any other overlapping taxing district.

The school district of Clayton had an obvious hand in these changes, but also visible was the Missouri School Boards Association. They are recorded as attending the

1991 hearing in the House Committee on Commerce, objecting to the correction that was about to be made to the 1990 amendment. Although the legislature intended to only allow 50% of the incremental economic activity tax, the omission of the word “incremental” allowed it to be 50% of all economic activity taxes. The Association was the only opponent to this correction, and the bill passed the committee 18 to 0 (Perfection Calendar Summary, HCS HB 502). Kenneth Hubbell and Peter J. Eaton (1997) wrote in a short report on TIF the following:

The use of sales taxes to help finance TIF districts is the direct result of actions by school districts. This is a result of their relatively greater reliance on property taxes as a source of revenue. In 1993, the average school levy was \$3.13 compared to an average property tax rate of \$0.78 for cities. (p.2)

Another school district started court proceedings around this time (1992) to prevent the formation of a TIF district in Dresden, Missouri. The municipality forming the TIF in this instance was the County of Pettis. The Pettis County School District R12 claimed that the TIF district violated procedural requirements, and more importantly, claimed that the economic development area category was unconstitutional. The Circuit Court granted summary judgment in favor of the school district, and the county did not appeal (White 2010, p.5-305).

The city of Herculaneum, located in Jefferson County, was an early TIF user. It established an I-55 TIF district in 1989, intended to help them benefit from the traffic traveling on Interstate 55. The Quiktrip Corporation paid money upfront to make improvements to the interstate exchange, with the expectation of being repaid from the TIF special accounts. Herculaneum established another TIF district in 1992 called the Riverview TIF District. Jefferson County did not remit funds to any of the special accounts (PILOTS or EATS) for either TIF district, and in 1994 requested the courts to

confirm that the county had a duty to deposit collected funds into other accounts which preempted their remittance to the TIF special accounts. During the same timeframe, on the other side of the state the Consolidated School District of Jackson County made a similar argument as Jefferson County, trying to exclude the M&M Replacement tax.

In both cases the Supreme Court supported the TIF Act and thus the municipalities enacting it, stating that if the taxes were not explicitly excluded from the TIF Act by statute, then it would not be excluded from capture. The Herculaneum (*Quiktrip*) decision was made in December 1995 and the Consolidated School District case was decided December 1996.

It is during 1996 the House Commerce Committee began a series of hearings “in response to concerns voiced to legislators” about “possible misuse and abuse” (*Report of the House Interim Committee Studying Tax Increment Financing* 1997, p.1). In the fall of 1996 a House Interim Committee was established and they held five public hearings – three in Jefferson City, one in St. Louis, and one in Independence (Kansas City area). These hearings were held from November 19, 1996 to January 29, 1997. Approximately 80 people either spoke in person or submitted written testimony. These persons included “private citizens, city and county officials, city managers, representatives from school, library, and fire protection districts, chambers of commerce, merchants associations, and local officials from rural areas” (*Report*, p.2-3). The report submitted in February 1997 stated that the testimonies covered the following subjects: 1) additional representation by adding others on the TIF commission (i.e. private citizens, existing business owners, county); 2) abuse of the “but-for” test, 3) redefining blight, conservation area, and economic development area; 3) distribution of surplus funds; 4) inclusion of a cost-

benefit analysis; 5) the relocation of business within the same county with the aid of incentives; 6) lowering the pay-back period allowed; 7) use of TIF in rural communities; 8) need for technical assistance and information for complying with TIF regulations; and 9) the need for local control and for controlling abuses.

In reading the Committee report there appears to be two distinct types of testimonies –leave the statute as is, or modify it to curb abuses. There did not appear to be any push to expand its usage into more areas or to new users. It was recognized by many that momentum was gathering to limit or scale back usage of TIF. Three cities submitted written pleas – St. Charles, Harrisonville, and Lee Summit, all requesting that the statute not be changed.

Lee's Summit's letter included a seven page position statement, which provides a good feel for the debate during this period. They requested that the definition of blight remain the same stating that any changes would invite court challenges and add to a municipality's cost. They advocated that TIF time limit remain at 23 years (not less), and that retail and residential projects remain eligible. Additionally, they argued against allowing associated taxing districts from having the ability to "opt out" of a TIF project. The city of Harrisonville stated in their letter to the Committee that as a relatively rural community of 8500 population, TIF is "perhaps the only remaining tool" available to his city to assist in their attempt to "sustain acceptable growth rates and quality of life." The city of St. Charles' letter also made reference to how useful the TIF tool was for redevelopment and "development." The letter further stated that 70% of the county's population lived within municipal boundaries, and "by the use of TIFs, development is accelerated in areas where there is a good possibility that no developments would occur

without the use of TIFs” (*Report 1997*, Appendix B). These letters document, in essence, the expanded use of TIF for rural areas, development areas, and for greenfield areas, was already taking place.

The Committee made eleven recommendations which they hoped would “reflect a commitment to local control of local economic development projects, while strengthening the consumer protection aspects of this law” (*Report 1997*, p.11). The eleven recommendations are reprinted below. The law was amended in 1997 largely along the lines of these recommendations with minor changes in some instances.

1. Ensure county representation on non-county TIF commissions, by increasing the size of these commissions from 9 to 11 members, with the 2 additional members to be appointed by the county in which the TIF project is located;
2. Require, after the effective date of the TIF legislation, that proposed TIF projects meet at least 3 of the criteria listed under the definition of “conservation area” in order to ensure that only economically vulnerable areas are qualifying for the use of TIF under this designation;
3. Require that a cost-benefit analysis accompany all redevelopment proposals, and that such analysis include information about the economic impact on affected jurisdictions and on the economic stability of the developer or developers;
4. Strengthen the “but-for” test, by requiring developers to submit a signed affidavit to this effect with the proposal;
5. Require surplus funds to be redistributed to local jurisdictions on a pro rata basis, to ensure that redistribution is equitable and fair;
6. Require a 2 year waiting period for newly established jurisdictions before they are authorized to use TIF;
7. Prohibit the use of TIF for gambling establishments;
8. Require additional public hearings in the event there are major changes to a redevelopment plan;
9. Provide information and technical assistance to local jurisdictions on the use and implementation of TIF through the Department of Economic Development. Such

assistance should include the development of a written manual on implementing tax increment financing;

10. Require regular legislative review of the TIF statutes, with a report on the review and any recommendations for legislative changes; and
11. Prohibit the intra-county relocation of retail establishments using TIF for at least 1 year.

It should be noted that the chairman of the House Interim Committee Studying Tax Increment Financing, Henry Rizzo (Kansas City), was also the chair of the House Commerce Committee. The TIF amendment was part of a larger economic development project which was ultimately passed in a 1997 special session. This TIF amendment included the addition of a new source of revenue – state level sales taxes or income taxes.

Another interesting aspect of this committee report is the attendance to the public hearings from representatives of more rural municipalities, and the committee's recognition of their participation. The committee's report included in its summary of the hearings a section labeled "rural areas" and stated that the five rural representatives (cities of Cameron, Trenton, Harrisonville, Mexico, and City of Lake Ozark) were "especially encouraged to present their views and concerns" (*Report 1997, 8*). The paragraph continues, stating:

Without exception, the committee was told that TIF is very beneficial and critical economic development tool for rural areas in Missouri. Witnesses stated that rural areas do not receive a great deal of federal or state assistance for business development, and they have limited local funds for redevelopment. While TIF is not used as extensively in rural areas, as compared to the urbanized regions, it is one of the few economic development strategies available to rural areas for job creation and economic growth. Making infrastructure improvements under the economic development area designation is particularly important use of TIF in rural areas. (*Report 1997, p.8*)

This interaction with rural representatives expressing need and interest in using TIF could have been a key reason for the ninth recommendation – charging the state Department of Economic Development with providing technical and information assistance on the use and implementation of tax increment financing. These rural communities are less likely to have in-house staff or have the financial resources to be able to contract the know-how to correctly implement and maintain a TIF project.

In this 1997 legislative process, it is possible to see the impact of the two schools of “leave it alone” versus “curb the abuse” factions. The first House Bill (HB 131) sponsored by Henry Rizzo made an early introduction in the session and was designed to restrict TIF use. It was referred to the House Commerce Committee where no further action was taken. The stricter provisions of this bill that did not make it into a latter version of another bill included elimination of the economic development area purpose all together, and a stricter definition of blight which included references to poverty level, vacancy or abandon building rates, and crime rates. Reduction of the time period for acquisition of property through eminent domain from five to three years and prohibition of the special use or sales tax within a TIF plan four years after this bill was effective also did not make it into later versions. Near the end of the session, the House had agreed on HB589, which the Senate made some minor changes and substituted SB165 for HB589. At the hearing for HB589, testifying in favor of the bill were the following: Missouri Association of Counties, Jackson County Legislature, Clay County Commission, St. Charles County, city of Maryland Heights, city of Mexico, and city of Cameron. The proponents’ position was summarized as “[it] is a valuable economic development tool which needs to be reformed but not dismantled.” Opposing the bill were the Missouri

Tax Increment Financing Association and the city of Fulton, whose position was noted as “[it] works well as outlined in the current statutes” (Committee Summary, Debra Cheshier, research analyst).

Richard King, another Kansas City attorney with strong economic development and tax increment financing ties, wrote two articles in the Missouri Municipal Review about the economic development changes from the 1997 legislature. With respect to the state TIF, he remarked “however, obtaining the state revenues for use in a TIF plan may require the dexterity of the oft-cited long-tailed cat in a room full of rocking chairs” (King 1997b, p.10). Recall that the state TIF requires approval from the Department of Economic Development and appropriation of funds from the legislature. Next, he noted the negative effect of the amendment’s exclusion of specific taxes –the M&M Replacement tax and the tax levy on the Blind Pension Trust Fund, Kansas City’s Bi-State Cultural tax, and Metrolink’s Transportation Sales tax – and said that “revenue formerly available for all TIF plans was severely restricted” (King 1997b, p.11). But, as may be expected from a well- respected economic development attorney, he already had a work-around. He wrote:

In approving new TIF projects in blighted areas, it may be possible to avoid the impact of the elimination of the M&M Replacement Tax and the blind pension trust fund tax by approving a redevelopment plan under Chapter 353, RSMo, in tandem with a TIF plan. While the TIF plan cannot directly capture these real estate taxes, a 353 plan could abate real estate taxes and require the developer to contribute sums equal to the abated taxes to the special allocation fund to be used in conjunction with economic activity taxes to carry out the TIF plan. (King, 1997, p.11)

He acknowledged the intent of legislators to “tighten” the approval process and “eliminate” abuses, but wondered if the true beneficiaries of the new amendment would be developmental lawyers and consultants as cities tried to comply to the “tighter”

processing requirements (King 1997b, p.13). He drew attention to the revised definition of “economic development area” and stated it was “intended to prevent large retailers from using tax increment financing in an economic development area to subsidize development costs and, in turn, compete against existing small locally owned businesses” (King 1997b, p.14). The revised definition added the phrase that economic development areas “will not be solely used for development of commercial businesses which unfairly compete in the local economy” (99.805.(5)).

Other economic development tools were either created or modified in 1997, as previously mentioned. Richard King wrote the other article to highlight three of these tools – the Transportation Development Districts (TDDs), the Museum Districts, and the Community Improvement Districts (CIDs). He noted that the “extensive amendments” to the TDD should result in TDDs being used almost immediately. He said that although the TDD statute was almost ten years old, that “to date, however, no Transportation Development District has been authorized or utilized to construct a local or state road improvement” (King, 1997a, p.21). The changes made it easier to create a district and to impose a tax. He stated that the Museum District was a newly created program and had features similar to the TDD (King, 1997a, p.22). A particular advantage of CIDs over Special Business Districts (SBDs) and Neighborhood Improvement Districts (NIDs) was the maintenance (i.e. upkeep and repairs) provisions of the legislation, which was absent in both the SBDs and NIDs.

The 1997 amendment definitely showed a response to a few of the previous court cases. The specific exclusion of particular taxes had remnants of the *County of Jefferson* and the *Consolidated Schools of Jackson County* court cases, as well as another case that

was rising through the courts at that time – *Village of Bel-Ridge et. al. v. Lohman*. Bel-Ridge was joined by other cities in this action to have collected taxes allocated to their TIF Districts by the state (via the county if appropriate). Although some of these taxes were finally excluded as a result of the 1997 amendment, these exclusions would not apply to TIF Districts formed prior to December 23, 1997.

The *City of St. Charles v. DeVault* case was heard in 1997 at the Appeals Court level (transfer to Missouri Supreme Court was denied). The case, which outlined the requirements for constituting a valid redevelopment plan (per 99.810) was a test for how stringent or lax a municipality could be in its interpretation and implementation. The Court suggested that wording in the statute used to describe the requirements of a redevelopment plan is important, and that the requirement that a redevelopment plan be compatible with an existing comprehensive plan is not fungible.

Senator Phil B. Curls of the Kansas City area was chair of the Senate Insurance and Housing Committee, and repeatedly attempted to obtain a 20% set-aside of TIF capture for affordable housing. This goal replicates a provision in California enacted in 1976 that requires 20% of TIF funds be set-aside for low and moderate income housing. He introduced bills in 1995 (SB0303), 1996 (SB0621), 1997 (SB0095), and 1998 (SB0878). He was unable to advance these bills any further than having a hearing in the committee he chaired, and he left the Senate in 1998.

The year 1997 saw opponents of TIFs in Kansas City area gather some momentum, resulting in the Kansas City Council referring two TIF projects to their voters in 1998. During this timeframe the city's Auditor, Mark Funkhouser, released his first audit of Kansas City TIFs primarily noting that the projected payoffs were not materializing,

stating that only about 25% of projected TIF revenues had occurred to date (Karash, 2008). The first referendum went to voters in February 1998, after opponents had gathered enough signatures to put in on the ballot. Centertainment, the developer, and other proponents of the Power & Light District project challenged the signatures to no avail. The voters approved the project. In an opinion piece in the *Kansas City Star*, Yael T. Abouhalkah applauded the petition process, stating that “some thoughtful debate occurred over how downtown should be redeveloped and how much taxpayer revenue should be dedicated to the cause” and that “pressure is now on developers to deliver on crucial campaign promises, such as building housing that’s needed to give the project a better chance to succeed” (Abouhalkah, 1998). At the same time though he felt a downside was that developers may become “more brazen” (Abouhalkah, 1998).

Abouhalkah’s opinion piece also gave the impression that the opponents were concerned about the impact on the district’s schools and the trustworthiness of the governing body. A few months after the voters approved what was described in another article as “the city’s largest redevelopment project,” the Kansas City School District threatened to sue the City over this TIF district unless they could renegotiate the amount of its captured taxes (Heaster, 1998). Later that year the Kansas City Council voluntarily (without requiring a petition) put another project (Brush Creek) to the voters, which they also approved. A school board member (Lance Lowenstein) attending the Kansas City Council’s meeting was quoted as stating that the Kansas City School Board had been prepared to sue the City had they approved the TIF that evening (Heaster, 1998). Also, Lowenstein and a Councilman mentioned that “voluntarily” putting the issue to the voters

would allow the issue not to be on the same ballot as the spring elections for the councilpersons.

In an article written in 1999 for the Washington University Law Quarterly, Julie A. Goshorn clearly stated that the TIF statutes were still in need of reform. As examples she mentioned two TIF projects in St. Louis County – one in Olivette and the other in Des Peres, and both regarding retail. She highlighted what she perceived to be abuses in both cases, and concluded with how she believed specific reform could help curb those type of abuses. The Olivette district involved replacing residential property with retail property and required acquisition of the residential property. The residential area was not considered housing stock in poor condition, and the developer's intention was not to use eminent domain, but to purchase these private properties at well above market rates – at two and one-half times market rate. This relatively expensive acquisition of parcels inflated the project costs, and \$40 million in TIF was requested, which was almost one-third cost of the total project costs (Goshorn 1999, 920; Billingsly 1999, (see footnote 7)). In this case the developer wanted to use tax incentives to buy property at well-above market rate for retail purposes, and this purpose did not neatly fit the public purpose of blight removal or the “but-for” requirement. The city leadership decided to approve the TIF, but to address public dissension that had developed, also agreed to put the question of whether to proceed with the TIF plans to their voters (Goshorn 1999, 920).

Two citizen groups were formed to rally the voters to their cause – and named themselves Committee to Repeal the TIF (against the TIF, and the first of the two groups to organize), and Citizens for Olivette First (in favor of the TIF). The project involved approximately 300 houses, and 500 people attended an Olivette City Council special

meeting. The Committee also filed petitions to recall the mayor and three councilpersons and to amend the city charter (Billingsley, St. Louis Post-Dispatch, November 8, 1999). Those in favor of repeal won during the February 2000 election with 53% (1,656 to 1,435 – St. Louis County Election Board website), but the recall of officials and the charter amendment efforts was not successful. The TIF district was dissolved.

The other project Goshorn mentioned as an example is the West County Center TIF plan. Mentioned previously as a TIF project that led to a major court case, the case at the time of the article had just been decided at the Circuit Court level on September 28, 1999 (Goshorn 1999, 922 fn 12) and was being appealed. Goshorn noted that the circuit judge felt that he could not second guess the city's determination of blight, and could only look for evidence of "bad faith or fraud" (Goshorn, 1999, p.922, fn12). Although he ruled in favor of the city and thus for the TIF for West County Center, Goshorn also noted that "the judge criticized the city's decision to declare the area blighted, noting the irony of a blight declaration in one of the wealthiest areas in St. Louis County" (Goshorn, 1999, p.922, fn12). Goshorn recommended the following reforms to the TIF statute – "a more restrictive definition of blight, and the application of constitutional debt limitations to TIF bonds" (Goshorn, 1999, p.944).

The political upheaval in Olivette which led to the voters deciding not to have a TIF district also included voting on the same ballot on whether or not to recall two aldermen. The aldermen kept their seats in that election. Similar activity occurred in another nearby committee of Rock Hill, Missouri. A proposed TIF by the governing authority met with public debate. The project did not occur (the developer backed out due to the conflict)

and many of the council members who had backed the project were not reelected (find citation).

The success of the Committee to Repeal the TIF in Olivette is contrasted with lack of success achieved by the Hazelwood Yellow Ribbon Committee which formed in the summer of 1998. Not to imply that the projects were comparable because in many ways they were not. The Hazelwood “Missouri Bottoms” TIF was on undeveloped land in a floodplain, versus Olivette’s proposal was to replace residential housing with retail. The Hazelwood Yellow Ribbon consisted of approximately fifty citizens of Hazelwood (*Hazelwood Yellow Ribbon Committee v. Klos* 2000). They opposed the \$17 million in subsidies to a private corporation and the use of eminent domain. They circulated a petition to make changes to the charter that would 1) require the city council to get supermajority voter approval before approval of a TIF plan and 2) even if they did get this approval, they would not be able to use eminent domain with TIF. They also submitted a petition to that would repeal two ordinances. The Appeals Court had ruled against the group (supporting the lower court’s decision) in November 2000 and the Missouri Supreme Court refused to hear or transfer the case (*Hazelwood Yellow Ribbon Committee*). The Hazelwood Yellow Ribbon Committee was headed by Leon Steinbach, a Hazelwood resident. A coalition composed of other Hazelwood residents, especially those living in the affect farmland area, made up a significant portion of the committee membership. Greg LeRoy (1999) described them as “Forty-nine volunteers, many of them past retirement age, braved winter drifts to go door to door. To signal their support, residents adorned their homes and mailboxes with yellow ribbons” (28-29). The city was

aggressive in defending its cause. LeRoy (1999) mentioned a “shrill mailing” sent to residents, and Margaret Gillerman (2000) of the St. Louis Post Dispatch wrote:

municipal officials lobbied door-to-door, made phone calls and sent letters to encourage residents to support the project and remove their names from the opposition petitions. Deb Faber, a spokesperson for the municipal government, said city officials were entirely justified in working on behalf of the project. She called the mall the best proposal to come to Hazelwood in decades.

The city officials also argued that the farmland would be developed regardless of whether it was this particular mall or not, and so stopping this project would only mean that the development would occur with another project that would have lower economic returns to the community (Gillerman 2000, T.R. Carr 2000). With the Court decision in its favor, the city of Hazelwood proceeded with its plans.

Meanwhile, the House convened another House Interim Committee on Tax Increment Financing in September 2000, and they held three public hearings in November and December of 2000 – one each in Kansas City, St. Louis, and Jefferson City. The public testimony again had factions that fell across the same line – those that wanted reform to curb abuse and those who wanted it to remain the same. Again, no one seemed to be advocating for program expansion. Fourteen witnesses were listed as attending the St. Louis hearing, and sixteen for the Kansas City hearing (no list was provided for the Jefferson City hearing). The St. Louis attendees included county representatives (Jefferson, St. Louis County and St. Charles County), city representatives (St. Louis and St. Peters), organizational representatives (East-West Gateway, St. Louis Municipal League, Missouri Growth Assn., St Louis Regional Chamber & Growth Assn., United Food & Commercial Workers Union), a representative from the Hazelwood Yellow

Ribbon Committee, a state Senator, and a university professor¹⁷. The Kansas City witnesses had a similar type of constituent makeup from their area, but also included many Kansas City TIF commissioners, County Economic Development Councils (Clay, Platte) and a member from the Cooperating School Districts of the Suburban KC area (*House Interim Committee on Tax Increment Financing Report 2000*, p.3).

What is specifically different in this report is that the first observation noted by the committee was labeled “Differences in the Experience with TIF in Kansas City and St. Louis” (*House Interim Committee on Tax Increment Financing Report 2000*, p.7). Under this heading they noted “Overwhelming support was voiced to the Interim Committee from those testifying about the experiences with TIF in the Kansas City area....In contrast, the assessment of TIF from those testifying from the St. Louis area was far less positive, and generally contained recommendations to the Interim committee to make substantial changes in one or more aspects of the TIF program” (*House Interim Committee on Tax Increment Financing Report 2000*, pp.7-8). The committee did note the “political and geographical differences found between the two metropolitan areas” as the likely cause for this difference. They recognized that the St. Louis area, with over 90 municipalities in close proximity would be subject to more competitive pressures (*House Interim Committee on Tax Increment Financing Report 2000*, pp. 8-9).

Attendees at the Kansas City hearing basically supported the TIF Act as is, and the testimony seemed to be how well they were managing the TIF process in order to avoid some of the negative aspects of known issues. It is recorded in this report that in the Kansas City area “independent evaluation is obtained to ensure that the ‘but-for’ test is

¹⁷ Disclosure – university professor was Kenneth Thomas, chairperson of this dissertation committee.

met,” that good relationships are maintain with all taxing districts, and often-times “pay-go” is the financing method used. A criticism was registered in the Kansas City hearings though, regarding the negative impact that TIF still could have on school districts. School districts were concerned with residential development adding to the demand for their services, and they requested training for school board members so they could understand the impact of TIF. They also voiced concern about the school district funding formula and TIFs impact on it, and wanted lawmakers to change the laws so that when TIFs expired and new revenues became available to the schools, they would not be negatively impacted in the school funding formula.

On the other hand, the St. Louis contingent had specific suggestions on how the law could be improved. Some witnesses requested strengthening the definition of blight, and /or the “but-for” test, and for shifting the burden of whether blight exist to the municipality/developer. Others suggested independent review of whether the “but-for” test had been met (referring to Kansas City’s example), elimination of TIFs for retail projects, or that a “good jobs” requirement be met. Also suggested was the creation of a St. Louis area “super-TIF Commission,” and or that the state provide an increase oversight of TIFs over a certain dollar volume.

After including an almost two-page summary of the West County Center case, the Interim Committee said that they were not making “specific recommendations on the aforementioned problems and concerns, but does recommend the filing of legislation in the upcoming session to address and further the discussion of these issues” (*House Interim Committee on Tax Increment Financing Report 2000*, p.16). The

“aforementioned problems and concerns” were listed in a subheading of “Committee Findings and Recommendations.” A summary of the five points listed follows below.

1. Perhaps the use of TIF for residential development should be limited. They particularly noted the problem surrounding new construction and the problems that “hold harmless” districts may face.
2. There may be a need to limit TIF use as an incentive for “large discount retailers.” They voiced particular concern for small local retailers, stating that this problem is mainly in smaller cities and towns.
3. Incentive use for relocating existing businesses from one nearby location to another was acknowledged as a problem, and it was suggested that the creation of “regional TIF cooperation districts” could help solve this problem.
4. Creation of a state oversight committee to review local TIF projects for adherence to the statute “may spurn regional cooperation and provide standardization among the various local TIF Board recommendations.”
5. As a result of the West County Mall case, the legislature might “need to review and possibly re-write various elements of the TIF law as it relates to the “but-for” test, the definition of “blighted area” and inclusion of parking garages and other associated structures in TIF projects.” It was felt that the courts needed more structure to make a determination regarding blight and the “but-for” test.

Despite the suggestion by the committee that there be “some filing of legislation” to spur discussion and to make changes, very limited changes were actually made in the time period of 1998- 2006. As mentioned earlier, the only changes in this time-period were provisions for reimbursement for emergency services provided, modifications to the state TIF, and the exclusion of a new tax in Jackson County. Perhaps the timidity of the recommendations marked by the passive tone used (ultimately suggesting that the legislature “file something”) and the lack of actual amendments passed, both reflect the inability of those in favor of further restriction to garner enough votes to do so.

Yet given the lack of actual bills that made it into law, there was considerable legislation introduced and evidence of interest group lobbying. Timothy Green and

Catherine Hathaway in the House and Wayne Goode in the Senate seemed to present as a team to introduce significant legislation in the years of 2000 (HB1629 and SB0802), 2001 (HB599 & SB0079), and 2002 (HB1496 & SB0066). Two opposing commentaries by well-respected professionals and opinion-leaders illuminate the debate during this time in the St. Louis area – Les Sterman, executive director of the East-West Gateway Council of Governments¹⁸, and John Brancaglione, vice president and director of urban consulting at Peckham Guyton Albers & Viets (PGAV).

The commentaries were published in the St. Louis Business Journal one week apart – Mr. Brancaglione’s commentary was in response to Mr. Sterman’s commentary. Mr. Sterman made mention of the two bills in the legislature (HB1629 and SB0802), and praised the legislators who sponsored them by concluding with “Let’s thank them for taking this brave step by helping to pass the TIF reform legislation” (March 13, 2000). He mentioned the February 8th vote in Olivette a month earlier, and mentioned the Senate hearing on SB0802 also on February 8th in Jefferson City which was attended by many St. Louisans, including “neighborhood residents, public officials, attorneys, consultants and developers,” who were “entangled in questions about policy, procedure, profit and community values.” He mentioned that many of the issues were the result of a lack of a “well-constructed regional strategy” leading somewhat to every municipality for themselves while the “region as a whole is sliding backward in a zero-sum game of competing metropolitan marketplaces.” This state of affairs he writes has brought together an unlikely coalition supporting SB0802 and HB1629 – urban, suburban, and

¹⁸ This quasi-governmental agency does regional planning for the 8 counties including and surrounding St. Louis city as its designated planning authority for federal and state transportation planning. As such they value a regional focus on economic and community planning and progress.

rural sponsors – who have come together to “restore order and fiscal responsibility to tax increment financing” and to restore TIF “to its originally intended purpose – support for the redevelopment of areas where private investment cannot otherwise be anticipated.” He makes obvious that the Missouri Tax Increment Financing Association and others in the professional development community oppose his position (March 13, 2000).

John Brancaglione responded in his capacity of one of those from the professional development community. He titled his commentary “TIF: It’s time for responsible legislative reform,” so as to not make whether or not to reform TIF the main point. Rather, he stated, he opposed the legislative bills on the basis of the way they would reform the Act. He preferred a reform approach that “focused on the factors that cause economic disinvestment, rather than one that focuses on the characteristics of an area’s population,” and that TIF should be used for economic development, in addition to redevelopment. He stated that the current proposals “will do nothing more than further hamstring the municipalities’ and the counties’ abilities to maintain and enhance their existing economic base with the already meager tools at their disposal.” This really comes back to a statement he made earlier in the commentary -- that “the concept of tax increment financing has evolved in many states as a redevelopment tool and an economic development tool,” and that “this evolution occurred, in part, because of the drastic decline in federal dollars to assist local governments in economic development” (March 20, 2000). In essence, Sterman was arguing for a return to the “original intent,” and Brancaglione was making a case for the “evolved” purpose. Brancaglione also mentioned that Sterman’s organization had drafted both bills. The bills did not make it through the legislative process.

While mentioning that the East-West Gateway Council of Governments had drafted legislation then circulating in the legislature, Brancaglione also mentioned that he had drafted legislation in an earlier year that was not successful because it was introduced too late in the session. These disclosures expose the role organizations and other interested parties played in writing legislation. In particular, Sterman mentioned the Tax Increment Financing Association and its opposition to the circulating bills. The Tax Increment Financing Association was begun in 1991, and its founding members included Brancaglione, as well as the other two Kansas City attorneys previously mentioned, Michael White and Richard King. During this year (2000) the organization renamed itself to encompass a wider scope. The organization was renamed the Missouri Economic Development Financing Association. Its stated purpose is “education and advocacy concerning all economic development financing tools available in the State of Missouri” (<http://www.medfa.com/about.htm>).

The House Commerce Committee held a public hearing on February 23, 2000, but no further action occurred. The Senate Bill went considerably farther, finally passing in the Senate on April 4th before it went to the House, where it was referred to the House Commerce Committee. The House Commerce Committee did hold a hearing on April 18th but that was its last activity. The 2001 bills (HB599 & SB0079) may have made it to the point where hearings were held but no further. In 2002 the HB1496 seemed to be headed for passage, reaching the point where the bill had been “perfected” and passed the House (115 to 34). But on April 17th after the second reading in the Senate, the bill was referred to the Senate Commerce and Environment Committee, where it apparently stayed (Missouri House of Representative Activity History for HB1496). Senator Goode

proposed a bill (SB0172) the following year that was slightly weaker, but the last reported activity was a hearing in the Senate Ways and Means Committee. HB 1496 would have made the following changes:

- 1) limit TIF use in new developments (“25% or more of the area is vacant and not been previously developed, qualifies as ‘open space’ as defined in Section 67.900 RSMo, or is presently being used for agricultural or horticultural purposes, except in certain cases”);
- 2) require retail projects in the St. Louis area including counties of St. Louis city, St. Louis, Jefferson, Warren, St. Charles, Franklin, Lincoln, St. Francois, and Ste. Genevieve to meet additional requirements generally related to decline and stress;
- 3) create a regional review authority for TIFs in the counties mentioned in above;
- 4) limit public funding amount to 30% of total project costs;
- 5) require an economic feasibility analysis with projected return of investment figures and verification that the property has not already been redeveloped through private enterprise.

Again, this bill did not make it through the Senate, and after a multi-year effort, was abandoned.

A few other bills were introduced but also did not gain traction. A St. Louis coalition (Tom Villa, Maida Coleman) attempted a few years to exempt the St. Louis Schools from participating in tax abatements and TIFs (2002 HB2141, 2003 HB30, 2003 SB0634). Bills were presented in two consecutive years (2002, 2003) by Representative Tom Dempsey (2002 HB1480 and 2003 HB119) to require school board approval for TIF plans that have a residential or multifamily component. Representative Holt submitted HB585 in 2001 to require that taxing districts receive distributions from special allocation accounts in a timely manner. These plans did not progress past a committee referral.

The Ste. Genevieve School District v. city of Ste. Genevieve case which covered TIF activities in Ste. Genevieve in the late 1990's was decided in 2002, just one year after the West County Center case. The conclusion in the Ste. Genevieve case differed in contrast to the West County Center case, because the Supreme Court did not appear to "go along" with the reasoning presented by the city, and thus remanded the case back to the trial court that had accepted the city's argument. The city posited that a change in a redevelopment project did not change the nature of the overall plan because changes had been made in other parts of the plan to counter the increase in costs expected in the changed project. The Supreme Court disagreed with this analysis, and stated that according to the wording of the statute, if there is significant change at the project level (not necessarily only at the plan level), then the TIF commission should be reconvened to consider the changes.

Although not much change occurred within the TIF statute during this period, there were modifications and new legislation closely related to the TIF statute. In 2003 the Missouri Downtown and Rural Economic Stimulus Act was passed. The enacting legislation labeled 99.915 to 99.980 is known as the downtown portion (MODESA) and the statutes 99.1000-99.1060 is the rural portion (MORESA). MODESA & MORESA have many similar goals and provisions as the TIF Act, but is specifically for downtown revitalization or rural needs. The municipality must make application to the state Department of Economic Development, and have a median household income of under \$62,000 ([http://www.missouridevelopment.org/upload/moresaguidelines\(012706\).pdf](http://www.missouridevelopment.org/upload/moresaguidelines(012706).pdf) , and <http://www.missouridevelopment.org/upload/modesa.pdf>). A few years later a

MODESA lite version was added (2005) to specifically aid smaller communities, and is known officially as the Downtown Revitalization Preservation Act (2005). The paperwork is said to be much less, but the incentive amount is also less (99.1080-99.1092, http://www.missouridevelopment.org/upload/dwntwn_rev_pres.pdf).

The use of TIF in Missouri came to the attention of the Brookings Institution as a result of a larger project in which they were “examining growth trends and challenges in the state of Missouri” (Luce, 2003, iv). With support of the Ewing Marion Kauffman Foundation (located in Kansas City) they analyzed TIF use in St. Louis and Kansas City particularly and published the results in 2003. The study looked at “three issues of special concern – allowable purposes for TIF districts, the “but-for” clause and project evaluation” (Luce, 2003, p.1), and it looked at the variation of TIF use between the two major metropolitan areas. Luce commented that “TIF districts were located disproportionately in the Kansas City and St. Louis metropolitan areas” (89 of 125 TIF districts as of February 2001) (Luce, 2003, p.8). He stated that the Kansas City area showed “a pattern very consistent with the generally stated goals of TIF” because of their location in the city core or inner ring suburbs, and higher percentage in “fiscally stressed areas” (Luce, 2003, pp. 8,11). Noting a different pattern in the St. Louis area, he saw a “greater predominance of TIF districts in outer parts of the region” and that cities using TIF on average “already fare relatively well in inter-local competition for tax base” (Luce, 2003, pp. 8,11). He recommended the following in his conclusions:

These patterns [referring to St. Louis] clearly imply that the law should be revised to: (1) narrow the scope of activities or types of places eligible for TIF; (2) require review of the “but-for” implications of TIF projects by some outside reviewer; and (3) require local TIF administrators to reconcile TIF plans with land use and economic development needs locally and in nearby areas.

If such reforms were put in place, TIF could be returned to its attractive main purpose in Missouri: that of providing resources that would not otherwise be available to localities that badly need them to promote economic development and redevelopment. (Luce, 2003, p.16)

The St. Louis Business Journal reported on the Brookings Institution finding, and solicited comments from three developers, two who testified that they would not have been able to do specific projects were it not for the assistance of TIF. Terry Jones, a professor at a local university, felt that the media coverage of the study was very disappointing, with the major area newspaper, the St. Louis Dispatch, not mentioning it at all, and the coverage of the St. Louis Business Journal primarily focusing on the opinions of a few developers and mentioning the essence of the study in three sentences plus a quote from Thomas Luce, the study's author (Jackson 2003). He went on to highlight a few of the major points that he felt should have been shared with the "citizen-readers" of these news organizations. He pointed to TIF being used by more than the original target which was the urban core, and the study's finding that suburban areas with, as Dr. Jones describes, "little need for assistance in the competition for tax base" are regular users of TIF in the St. Louis area (Jones 2003).

The Senate convened an Interim Committee on Tax Increment Financing in 2005, held public hearings from July 27th to November 1st in Jefferson City, Kansas City, and St. Louis, and issued its report in January 2006. No list of witnesses was provided in the report. The testimony mentioned in the report that comments from Kansas City were positive, and it appears that representatives from Mayor Barnes' office (Kansas City) gave an upbeat presentation, again highlighting their achievements, how well they work with taxing districts, and that they have developed a standardized manual for use in "determining the merit of proposed tax increment finance plans" and to provide

uniformity in procedures and oversight (*Report of the Senate Interim Committee on Tax Increment Financing 2006*, p.11).

And, like before, the testimony in St. Louis was filled with concerns of abuses. Unfortunately, the Sunset Hill TIF project had just collapsed resulting in real hardships for many of the residents that were in the TIF district. What made this hardship more difficult was that the city's TIF Commission had recommended against using TIF, but the governing board of alderman approved the redevelopment plan with the use of TIF. As it was, the developer was unable to complete acquisition of the primarily residential properties because he could not secure the financing for the total project.

Other concerns mentioned by witnesses included revenue shifting – referring to corporations “pitting” communities against each other, and “big box” national retailers putting small local businesses out of business (like the mall project in Hazelwood). Some witnesses spoke against TIF use on greenfields or floodplains. Another contingent brought up the hardship on school districts when TIFs are used for residential projects and the negative impact to school districts in general when the tax base is increased under the Missouri schools funding formula. The last complaint registered in the report was that newly approved taxes are being captured by TIF projects instead of their intended purposes (*Report of the Senate Interim Committee on Tax Increment Financing 2006*, p.11).

The Senate Interim Committee on Tax Increment Financing made twelve recommendations. They were:

1. Expand tax increment finance commission membership by adding two more members representing affected taxing districts (including but not limited to fire districts, ambulance districts, library districts, etc.) other than school boards and municipalities. These additional members should be prohibited from being

employees of the municipality. In addition, there should be additional qualifications or restrictions on a municipality that wants to proceed with a project the TIF commission has rejected.

2. A regional or county-wide tax increment finance committee could be formed for certain geographic areas such as St. Louis County.
3. Place restrictions on the use of tax increment finance in Greenfield areas. Greenfield areas could be defined as follows:

“Greenfield area,” any vacant, unimproved, or agricultural property that is located wholly outside the incorporated limits of a city, town, or village and that is substantially surrounded by contiguous properties with agricultural zoning classifications or uses.
4. Consider using the same percentage of tax revenue (ie. EATs, PILOTs) from all political subdivisions.
5. Prohibit future tax increases from existing tax increment finance project revenues.
6. Restrict the use of tax increment finance funds for payment of developer’s attorney fees.
7. Upon the sale of tax increment finance project property, the developer should realize a profit that is proportionate to the community investment.
8. Create new reporting requirements and penalty provisions for a municipality’s failure to report to the department of economic development. Such report should be compiled annually by the department of economic development and made available the general assembly.
9. Place restrictions on the layering of tax increment finance projects and chapter 353 projects to eliminate certain abuses.
10. Prohibit use of purely residential tax increment finance projects in non-urban core areas.
11. Prohibit the use of TIF in undeveloped flood plains except for river-front development.
12. Legislative reform is necessary to provide objective measureable criteria for the determination of blight.

The chair of the committee, John Griesheimer, did not sign the report and stated in a letter included in the report that he would have been pleased to sign the report had it

not included the twelfth recommendation regarding the definition of blight. He argued in his letter that “I strongly believe that any attempt to redefine the word “blight” ultimately will result in the polarization of those on both sides of this issue and would eliminate any possibility for much needed tax increment financing reform” (*Report of the Senate Interim Committee on Tax Increment Financing 2006*, section VI). That year the chair of the Interim committee (Griesheimer) introduced SB0832 to enact many of the recommendations of the committee. The bill made it to conference before the session ended.

In the background of this activity was the *Kelo v. New London* U. S. Supreme Court decision handed down in June 2005. Governor Matt Blunt convened a task force to make policy recommendations regarding the use of eminent domain in Missouri. This effort culminated with the passage of HB1944 in 2006. This bill did not amend the TIF statute directly, but does affect how eminent domain is implemented. Eminent domain now cannot be used solely for economic development purposes, and disallows farmland from being blighted (<http://missourisenate.blogspot.com/2006/05/lawmakers-agree-on-bill-limiting-use.html>).

The city of Shelbina created a TIF district in 2003 and in December of 2005 had to ask the courts to grant a declaratory judgment against its county government, the county of Shelby. The county had not remitted any funds to Shelbina’s TIF accounts, and in October the county also asked the courts for a summary judgment against the city. The county was joined in their efforts by many other taxing districts – Shelby County R-IV, Monroe City R-1, Salt River Ambulance District, and Monroe City Ambulance District. These other districts only appear in the case title, they do not appear in the

opinion. An “extensive hearing” was held in December 2006 and the Circuit Court ruled in favor of the County, stating that the TIF districts were void because there were no actual, “identifiable” projects within the redevelopment plan. The city appealed the decision which was upheld by the Appeals Court in 2008. This decision had the effect of creating uncertainty regarding the validity of redevelopment plans of the “proactive” sort. It was not uncommon, particularly with municipal-initiated plans, for a municipality to recognize the need for redevelopment and to create a TIF district to begin needed infrastructure improvements, with the hopes of attracting development that had yet to be identified. This unexpected ruling has created some concern in the economic development community about how this ruling will curtail a municipality’s ability to plan ahead in an effort to be “ready” when the right opportunity comes along, or to proactively make the right opportunity happen (Grimm 2011, interview).

In Kansas City use of TIF was becoming a major political issue. The mayor at the time, Kay Barnes, was first elected in 1999 and was reelected in the 2003 elections. She was a major supporter of TIF, and had been the chair of the TIF commission prior to becoming mayor. The Kansas City Auditor’s Office had audited the TIF program in Kansas City four different years from 1998 to 2005 (1998, 2000, 2003, and 2005), and issued a “follow-up” report in April 2007 (*Performance Audit Tax Increment Follow-Up* 2007, p. 4.) But, the follow-up report was released by the Acting Auditor, because the Auditor, Mark Funkhouser, was a candidate in the 2007 race for mayor. Funkhouser was a critic of TIF use, and the release of the Follow-Up report in the “heat” of the race was considered calculated and unfair by many (Grenz, 2007, . Some of the criticism made by the auditor’s office included: 1) projected revenues were frequently significantly

overestimated, 2) lack of a stated “public strategy” for using TIF, and 3) need for more oversight of TIF staff, commission, and the funds they control (*Follow-Up 2007*, p.4).

Funkhouser won the election for mayor in 2007.

Another report was released by Michael Kelsay, economics professor at the University of Missouri-Kansas City, three months before the follow-up auditing report was released. This study was commissioned by the Kansas City Chapter of ReclaimDemocracy.org. It makes many references to the 2005 auditing report with particular references to the poor performance of projecting revenues. But he also made an important distinction different than the analysis Luce had made a few years earlier. Luce had concluded that Kansas City was using TIF more as it was intended to be used – in the urban core. Kelsay looked at Kansas City proper, and subdivided it into its six districts. This analysis, which used more specificity, concluded that TIF was being used at a significantly higher rate in the better off communities within Kansas City, and the two districts with highest poverty and unemployment rates, contained one-third of the population but “received only 12% of TIFs” (Kelsay 2007, Executive Summary).

During 2007 Senator Griesheimer introduced SB22, which included changes that impacted a wide range of statutes. The bill description is “modifies laws affecting political subdivisions,” and subsection 99.847 is included, which prohibits using TIF in a flood plain in St. Charles County except under certain circumstances. This bill also included changes to the TDD Act and the CID Act.

But other changes were accomplished in 2007 through a bill originating from the House. HB741 was sponsored by David Pearce in the House and Chris Koster in the Senate. Changes were made to subsections 820 and 825. Subsection 820 was specific to

the St. Louis area, and this was done by making it relevant to any municipality in a county under the authority of the East-West Gateway Council of Governments with the exception of Franklin County.¹⁹ As a result, the city of St. Louis and municipalities in the counties of St. Louis, St. Charles, and Jefferson now have a county-wide TIF commission with the composition of six persons appointed by the county and three by municipalities, two by school boards in the county, and one for all other taxing districts within the county. Griesheimer considers this change alone as being “huge” and possibly underappreciated at this time. He believes when the economy recovers and development and redevelopment starts to occur again that the actual impact of this change will become evident (Griesheimer 2011, interview).

The change to subsection 825 may be a result of the Sunset Hill debacle and the controversy taking place in Eureka, Missouri, where the city governing bodies overrode their TIF commission’s recommendations not to go forward with the TIFs. After this change, a municipal governing body needs a two-thirds vote to override a negative recommendation of a TIF commission. Griesheimer had also included in his 2006 bill that did not become law provisions requiring a developer to disclose contingencies and conditions related to financial commitment for redevelopment plan.

Ron Richards, a House co-sponsor of HB741 was also able to sponsor HB1 in an executive session later in 2007. In this session he was able to add a new subsection –843. This subsection disallowed TIF projects in areas considered “greenfields” in the St. Louis

¹⁹ John Griesheimer, the chair of the Senate Interim Committee on Tax Increment Financing and bill author, is from Franklin County. In a 2011 interview with this author he explained that Franklin County had only one TIF district, and thus was not experiencing misuse, overuse, or competitive pressures.

metropolitan area (city of St. Louis and counties of St. Louis, St. Charles, Jefferson and Franklin (East-West Gateway Council of Government areas).

The city of St. Peters had created a TIF district in late 1999 and a citizen group was begun shortly thereafter with an interest in preserving the area that St. Peters had plans to develop. The Great Rivers Habitat Alliance claimed some credit for assisting the National Rifle Association in the passage of the “Hunting Heritage Preservation Act, enacted in 2007 by the passage of SB225. <http://www.grha.net/site/about-grha/>).

Although this legislation is not part of the TIF statute it included language that many areas in the state that are in 100-year floodplains cannot be developed using TIF funds.

St. Peters’ TIF district covered “1,640—acre tract of farmland in the Northeast corner of the City” (*Great River Habitat Alliance v City of St. Peters*, 2008). In its finding of blight on this farmland, the city said that the existing road system serving the farmland at the time was inadequate for anticipated future use. Although the circuit court had ruled in favor of the city, in 2008 the Appeals Court reversed and remanded the case back to the circuit courts, directing them that the finding of blight based on anticipated future use was improper and the “but-for” test had not been met since the levee was already under construction(*Great River Habitat Alliance v City of St. Peters*, 2008).

In November 2007 condemnation process were started on property in Kansas City owned by Chung Hu Ku and Myong Suk Ku. Their property was part of a redevelopment plan in a TIF district. The Kus argued against the blight designation and that the compensation amount was inadequate. They lost in the circuit court and in the

appeals court argued that the Centene case²⁰ determined that in order to have a finding of blight the city must show the Ku property to be both a social and economic liability. The appeals court rejected this argument because this was a TIF plan, not a Chapter 353 plan. Each statute has its own definition of blight, and it would be improper to apply Chapter 353's definition of blight to a TIF plan. The Appeals Court affirmed the lower's court decision in February 2009.

Another school district case was decided in February 2009 in the Appeals Court (petition to transfer to Supreme Court denied May 2009). The school district, Meramec Valley R-III, attempted to take advantage of a few newer legislative amendments, arguing that the city of Eureka's redevelopment plan included farmland that, as it fitted the definition of "greenfield" should not be subject to TIF, and it objected to farmland being blighted. The court refused to entertain these arguments stating that the statute did not envision individual parcels within the plan being analyzed in a "piecemeal" fashion. The redevelopment plan had documented blight within the "plan as a whole," and that was adequate. Regarding the "greenfield" status – the redevelopment plan existed prior to the amendment, so was not subject to that requirement.

Also in January 2009 the East-West Gateway Council of Governments released an interim study titled "An Assessment of the Effectiveness and Fiscal Impacts of the Use of Development Incentives in the St. Louis Region." As mentioned earlier the executive director of the Council, Les Sterman, was very concerned regarding TIF use, particularly in the St. Louis region. The Council has an inherent interest in creating an environment

²⁰ *Centene Plaza Redevelopment Corp. v. Mint Properties*, (Mo. banc 2007). A Clayton, Mo. project involving Chapter 353 tax abatement. The Court disallowed a finding of "blight" because the definition of blight in Chapter 353 required a finding of BOTH an economic liability and a social liability. The social liability was not shown.

for cooperation and collaboration among the many municipal and county governments in the St. Louis area including near counties in Illinois.

The report attempted to look at TIF use in the region and quantify in dollars the actual costs to the region and the return received for this investment. Using “conservative assumptions,” it estimated that between TIFs and special development districts, already \$2.5 billion in local taxes had been diverted (13). The executive summary of the interim report made the following observations:

1. There have been massive public investment in private development in the last 15 years across the St. Louis region: about 80% of that investment includes retail development.
2. Across all incentive programs, the provisions for uniform reporting of revenues, expenditures, and outcomes (jobs, personal income, increases in assessed value, etc.) are remarkably weak, particularly considering the involvement of public funds.
3. There should be a complete database of public expenditures and outcomes for all publicly supported development projects.
4. Broad measures of regional economic outcomes strongly suggest that massive tax expenditures to promote development have not resulted in real growth.
5. Focusing development incentives on expanding retail sales is a losing economic development strategy for the region.

Each point included elaborations. Also, 90 development professional and local officials

were interviewed. From these interviews, the following information was gleaned.

Municipalities seem to use development incentives to: 1) improve its fiscal health by developing/redeveloping under-utilized land, or 2) “redevelop urban core or other distressed areas,” especially in competition with non-urban areas that are also using incentives, and 3) to “change” a community’s “character,” that has not evolved without this extra encouragement (2009, 31). Issues still remain regarding trying to make the

“but-for” test have meaning, and curbing abusing to the determination of blight (2009, 32). One abuse of “blight” identified is that the relationship between the amounts of subsidy needed to compensate for the blight disadvantage is not required to be a consideration in determining the total TIF subsidy granted. The other points gleaned centered around actual economic productivity and benefit, especially within a regional, potentially competitive environment (2009, 33)

The lone change in the TIF law in 2008 was SB1131 which made a minor change to allow the exclusion of Kansas City capital improvement tax from TIF capture. In 2009 a change was made to the reporting requirements in an attempt to achieve better compliance (HB191). Prior to this amendment there were little consequences for not reporting as statute 99.865 requires. Now failure to submit a TIF report as required can result in a five year suspension in the ability to create a new TIF district (HB191). This bill also increases the ease by which TIF information should be accessible. The Department of Economic Development is directed to give the annual TIF reports to the State Auditor, who is then directed to make the reports available on a website in a searchable format. These two changes are in line with the East –West Gateway organization’s recommendation in their interim report, released near the beginning of this legislative session. The St. Louis Municipal League and Missouri Municipal League are on record for opposing the new penalty for a municipal’s failure to report annually. The Missouri Municipal League has suggested the penalty be reduced to a municipality not being able to create another district only until they have submitted the delinquent return (website).

The executive branch of the state had to grow to accommodate the increase in responsibilities directed to it by the growth of these economic development programs. The state's capacity to handle TIF Reporting requirements improved in 1997 and after, and Hal Van Slyck, Business Incentive Specialist in the Missouri Department of Economic Development has access to the reports received from 1997 forward. It is unclear where any reports received before those times are now (Van Slyck 2011, interview). In 1997 the charge to the Department of Economic Development increased significantly with the adoption of a state-level TIF and direction from the legislators to assist municipalities with information and with the technical aspects of using TIF. Van Slyck arrived at the Department of Economic Development in 2004 for the purpose of managing the municipal and state TIF programs. He recalls a significant number of new hires in the Business and Community Services section during the 2003 and 2004 time period, in which he was a part. Before his arrival, the responsibility of this recordkeeping belonged to his supervisor (Ann Perry, director of business services) along with her many other duties. Before her, another division (within the Department of Economic Development) handled it. In his responsibilities as a business incentive specialist, he is the state person for reporting and analysis of local and state TIFs, MODESA, MORESA, and CIDs (Van Slyck 2011, interview).

In 2005 the Department of Economic Development announced a program called the "Dream Initiative." The Missouri Dream Initiative website describes this program as "an innovative statewide partnership that provides Missouri communities the technical and financial assistance they need to accomplish downtown revitalization plans." Cities must apply with the Missouri Dept. of Economic Development, and if accepted, they

obtain customized assistance in working with their citizens to develop an ideal redevelopment plan. This is a three year process and state commitment. In the years 2006, 2007, and 2008 10 cities were selected each and in 2009 five cities were selected. These cities are/were provided with outside professional services of which PGAV is the primary provider. TIF is one of the tools that the cities may decide to use as a result of this technical assistance. This program uses a “toolbox” approach to redevelopment – allowing the municipality to learn which economic tool would work best for them after an analysis of their situation, strengths, weaknesses, and needs. Using TIF is one possible outcome that may result from participating in this program. This program is administered through the economic development department, but has other state institutions as sponsors as well. This program is a collaborative effort that includes the Missouri Development Finance Board and the Missouri Housing Commission. As a result, towards the end of this study period, 35 Missouri cities were in some stage of participation in the Dream Initiative.

Interestingly, the TIF Act was enacted during a recession period, and the twenty-seven years under review in this study ends during another recession period. There are five recession periods within this study: 1) January 1980 to July 1980 (six months), 2) July 1981 – November 1982 (sixteen months), 3) July 1990 to March 1991 (eight months), 4) March 2001 to November 2001 (eight months), and 5) December 2007 to June 2009 (eighteen months). Many legislators, and consultants have noted the impact of the last recession on the lack of new TIF districts, and the lack of actual development in TIF districts created in the years closer to the beginning of the last recession (Griesheimer, Brancaglione, Marks, Van Slyck, 2011 interviews). In fact, Van Slyck

commented on reading in a newspaper that the city of St. Charles is currently considering a TIF, and remarked how unusual that is these days. He also mentioned that the use of CIDs has picked up over the last few years and is something he now sees on a regular basis. (He has responsibility at the state for receiving the TIF Reports and the requests for CID creation.)

Summary and Observations on the Historical Development of the Statute

The original intent of the TIF statute as written in the 1982 HB1411 bill was to “deal with the redevelopment of blighted areas and conservation areas in municipalities,” and the bill’s proponents stated that “this type of financing encourages the redevelopment of blighted urban areas making those projects more cost competitive with projects on previously undeveloped sites” (Perfection Calendar Summary, 1982). This statement confirms that in the minds of its proponents, this statute was intended to be an advantage to the targeted group – redevelopment projects in urban areas.

The statute saw little use until after the first court case that confirmed its validity at the Missouri Supreme Court level in 1989. By the mid-nineties a growing debate was occurring regarding the actual way in which TIF was being used which resulted in hearings in the House Commerce Committee in 1996 and the establishment of a House Interim Committee Studying Tax Increment Financing later that year. The testimony in the letters showed evidence that by this time many municipalities had embraced TIF as a “development tool” (instead of just as a redevelopment tool) and did not appear to feel that this was improper - conversely, it appeared they considered it one of the generally accepted purposes of TIF. Harrisonville’s letter stated that TIF was important in helping

it manage growth and quality of life, and St. Charles' letter seems to indicate (using different words of course) that "sprawl" would not have happened without TIF.

Michael White had in many ways foreshadowed this attitude of using TIF for development with the statement he made in his 1985 talk in which he referenced how Chapter 353 bonds were being used. Recall he said "instead of economically depressed areas using the bonds to attract development to their area, economically well off areas were using the bonds to attract industry from their less-well-off neighbors. You can't blame them for that because as long as the financing tool is available they're going to use it" (White, 1985, p.4). This seems to be what happened in the case of the TIF statute also. Originally intended to help the urban areas to compete with non-urban areas, evidently the way the statute was written did not preclude non-urban areas or non-distressed areas from its use.

It may not be that better-off communities were trying to "attract industry from their less-well-off neighbors" as much as these communities were trying to continue to provide for their citizens in at least the manner to which they were accustomed, or put another way, an attempt for better-off communities to maintain (or even improve) their level of revenues. Joyce Man's theory that cities use TIF to address municipal stress, including municipal stress that occurs as a result of growth appears to have some empirical support in Missouri. Both Harrisonville and St. Charles expressed this use in their letters. The East-West Gateway Council of Governments' 2009 study also found municipalities using TIF to relieve fiscal stress. The legislators also began to recognize that TIF was of interest to smaller towns in more rural communities, and seemed willing to encourage this activity. Thus the aim of providing a "redevelopment" advantage gave

way to including plain development, and a solution drafted to allay an urban problem found a use among rural cohorts, as well as municipalities experiencing financial distress (East-West Gateway Council of Governments, 2009; Missouri House Interim Committee Report, 1997).

The year 2000 commentary debate in the newspaper between Sterman and Brancaglione further establishes this difference, with Sterman still supporting the narrower use envisioned by the original proponents, but Brancaglione introducing the concept that the original intent had “evolved” for good reasons and now included “development” in particular types of cases. The primary debate prior to then and even now seem to be regarding whether or not this evolution is proper and “settled.”

The more “evolved” use of TIF for “development” outside of urban areas did not require an amendment to the original statute, even though some amendments had been made, especially the addition of “economic development” as an allowable purpose and the addition of other taxes in addition to real property taxes for capture. It appears that the provisions that allowed TIF to be used for development purposes and in rural geographical have been there from the beginning. The “culprits” that seems to allow others than the original intended beneficiaries to use TIF are: 1) the lack of geographical or other indicators within the statutes, such as poverty, vacancy rates, etc. to narrow its use to urban areas, and 2) the definition of blight. It is also interesting to note that a leading municipal/development lawyer (Michael T. White) with experience with the development and usage of Chapter 353 laws was said to be a co-author of the TIF statutes. He made mention of “cleaning-up” language, etc., of the law before ultimately being the lawyer who successfully defended it in front of the Missouri Supreme Court.

Along the historical tracing of this statute, evidence of legislation being written by interested parties (versus the legislators themselves) has periodically been revealed (i.e. Sterman and Brancaglione commentaries).

Many attempts have been made to change the definition of blight to preclude areas in non-distressed areas from being able to use this category, but this attempt has not been successful. A difficult argument to overcome is that the current definition of blight has been court tested for about a half-century - getting its validation from the U.S. Supreme Court in the 1950s (*Berman v Parker*) and later in the 1970s in the Missouri Supreme Court (White 1985, p.6). Changing the definition would result in uncertainty which would require court challenges to remove, as stated as a concern in one of the position points brought up by Lee's Summit (1996 letter). Even still there are court cases that attempted to challenge blight findings throughout the history of the statute. There have also been legislative attempts to narrow the TIF tool to geographic areas meeting certain economic or other indicators of poor economic conditions, but they have met with little success.

Recall the targeted erosion theory posited by Peters and Fisher:

Politically it is difficult to maintain a truly focused program without acceding to the demands of other areas to be granted similar policy instruments. As targeting erodes, one is more and more likely to end up simply giving a wide range of localities the tools to better compete with one another for new investments; in other words, one is simply subsidizing mobility. And the older, more distressed areas are likely to be the losers in a contest between Greenfield sites with incentives and small, congested brownfield sites with similar incentives (Peter and Fischer 2004, 34).

In this regard, the theory that targeted erosion occurs, as Peter and Fischer stated, cannot be entirely supported for one reason – the policy instrument used to grant advantaged to “older, more distressed areas” did not require “acceding to the demands of other area” for

the most part. The legal structure of the TIF statute already allowed “other areas” to use the tool. This ability, or as many refer to as a loophole, came as a result of the broad definition of blight. It is also possible that the statute, although purposely designed to meet one need, was also skillfully written not to preclude other municipal possibilities (recalling that lawyer Michael T. White was a co-author of the statute). Others also believed that the “economic development purpose” also contributed. This was an early amendment that occurred before the first TIF was constituted. With this exception (the statute did not need much amending in order to be used by other areas), it is evident that other areas did use the TIF tool, and by 1997, seemed to feel entitled to its use. Although the erosion of targeting occurred without noticeable pressure of political mobilization and advocacy, interested parties did mobilize to keep the advantages to which they already had access. In this way, the rest of Peter and Fisher’s theory is supported by the historical developments that occurred with this statute. The legislature on a whole did not object to the “evolved” purpose of TIF, and in some instances created or improved other statutes specifically for other communities to use, such as MODESA, MORESA, TDDs, and CIDs that helped facilitate this erosion. This supports the section of Peter and Fisher’s statement that “as targeting erodes, one is more and more likely to end up simply giving a wide range of localities the tools to better compete with one another for new investments” (Peter and Fischer, 2004, 34). And as can be seen in later legislation and court cases that tried to limit greenfield development with TIF, that battle is still being waged and decided.

To summarize – since the statute as written did not expressly preclude its use by others, groups did not need to “mobilize” to erode the targeting effect. In fact, mobilization occurred to “restore” the original intended targeting.

Another way in which the battle for how TIF could be used occurred in the legal system. There is ample evidence that courts paid attention to the legislators, and paid particular attention to the words that legislators used as they assumed that the wording was purposeful. Likewise, it is evident that legislators responded to TIF court decisions and made modifications to the law if they so desired. Sometimes these modifications were in support of the court case outcome, but were intended to make the decision-making more clear cut in the future thereby perhaps avoiding future court challenges (i.e. *Ste. Genevieve* and *St. Charles*). In other cases the legislators made modifications indicating their preference for having a different outcome – an example of this would be the exemption of particular taxes (i.e. *Consolidated School District of Jackson County*). In no situation did it seem that the courts widened the use of the TIF statute (i.e. judicial “activism”). But of course, the Courts affirmed uses of TIF that was already broader than the legislators seemed to originally intend. The Courts followed a fairly predictable course of jurisprudence, giving deference to governments in their determinations of blight and establishments of redevelopment plans. But perhaps governments tested these boundaries, and over time, the Courts signaled that there were limits to this deference.

The legislature struggled with whether to change the definition of blight or not. The judiciary continued their historical precedent by in most cases continuing to defer to the “governing authorities” determination of what was “blight” and what was a valid redevelopment plan. The beginning of a “chink in this armor” seemed to appear with the

ruling against the city of St. Charles (1997), where the city found out they needed to pay more attention to meeting the letter of the law, particularly with how they “amended” a comprehensive plan that needed to be compatible with their redevelopment plans. Later the city of Ste. Genevieve found out through a court case settled in 2002 that changes even in a redevelopment project required the reconvening of a TIF commission. This “chink in the armor” seemed to be “repaired” with the West County Center decision, which deferred to the governing authorities determination. But it is important to note that the court did seem to follow carefully the wording of the statute before determining that it was in proper order, even if some aspects were “fairly debatable.” By 2005 the Missouri Supreme Court reversed a decision that originally supported the city of Kansas City – it said that “acquisition” of a property meant “acquisition,” and that beginning condemnation proceedings within the five-year limitation does not count as acquisition.

Then an Appeals Court also decided that Shelbina’s redevelopment area needed to include “identifiable” project(s), thus voiding its redevelopment plan. Another Appeal Court reversed the circuit court regarding the St. Peter case, stating that the city could not show that the comprehensive plan was amended and thus compatible with the redevelopment plan before it was approved by ordinance, and the supposition that the project would not have been done “but-for” is unbelievable by fact. Yet another Appeals Court just a year later did not strike down the city of Eureka’s redevelopment plan, even though it contained farmland (because it was part of a total redevelopment plan).

It seems that there is some movement in the jurisprudence of redevelopment plan determination, and that Missouri Courts are looking more closely at procedures municipalities are using to implement TIF. It seems that lower courts are still giving

great deference to municipal declarations, but the Missouri Supreme Court has sent a signal that has filtered to the Appeals Courts, which seems to be reversing lower court decisions at a higher rate in more recent times.

In summary, the role of the Courts in influencing whether actors even need to lobby legislators in order to effect policy change should not be overlooked. Especially with respect to investors, the desire to lower the risk of an investment is high and whether or not the Courts have made a ruling that would affirm the investment they are considering is just about mandatory. If this support is available without any additional policy changes – none will be requested of the legislators. Thus, over the twenty-seven years, there was little need for lobbying to broaden use for the statute – this contingent only needed to lobby to keep the statute from being narrowed. The Courts were highly influenced by statutory definitions. It revisiting Hacker's Four Modes of Policy Change, court decisions impacted the flexibility that municipalities had in implementing their TIF districts, either narrowing the room they had to work within or allowing more freedom. Acknowledging this role of the courts (at least regarding economic development laws) could enhance the policy change framework presented by Hacker.

Many organizations have shown interests in the TIF Act and some organizations have developed as a result. Some of the organizations already in existence that are evident in this study include the Missouri School Boards Association, Missouri PTAs, Commerce and/or Merchant Associations, Missouri Municipal League, St. Louis Municipal League, the East-West Gateway Council of Governments, Reclaimingdemocracy.org and unions (especially of grocery workers). Examples in this study of organizations that have been created as a result of the legislation include the

Missouri Tax Increment Financing Association (which then became MEDFA), the Hazelwood Yellow Ribbon Committee, and the Olivette groups of Citizens for Olivette First and Committee to Repeal the TIF.

Although there is a great deal of variation relating to the impacts of the different organizations, they all seem to have some degree of impact, even if it is minor. At the local level, locally organized groups have stopped projects from proceeding in some cases (Rock Hill, Olivette), and local groups have had their issues noted by state legislators who have in many cases attempted to find remedies at the state level for problems that have occurred at the local level (i.e. Sunset Hills).

In this study it appears that the state legislature interim committees did have influence on legislation that followed their studies, and that the interim reports recommendations were heavily influenced by public hearing attendees – although this study cannot be sure since it is also possible that the study is written in a way to support what the committee already intended to recommend. It is interesting to note that of the three interim committee reports, two resulted in major legislation soon after. The 2000 Interim House Committee on Tax Increment Financing did not result in major legislation. Perhaps the study itself was a precursor of some type. The report listed five suggestions in a fairly meek manner. Perhaps the committee's make up made it difficult to make strong recommendations, or perhaps because they did not make strong recommendations, it was difficult for the legislative body to capture any momentum.

The Missouri School Boards Association and various school districts had a great deal of influence on TIF legislation once TIFs started to be used. In fact, it was a school district that had some responsibility for the amendment stated by many as being the most

important amendment to the TIF statute. This statute is the one that allowed for capture of other taxes besides the real property tax, which happens to be the main revenue stream for financing school districts. They were able to help get this amendment through the legislation process it seems within a year. The School Boards Association also seem not to be embarrassed to take a situation to the limit - they opposed the correction to the 1990 amendment which inadvertently allowed for 50% capture of all EATs taxes instead of 50% of the incremental amount. They have noticed how the availability of new taxes (that were no longer being captured) negatively impacted the school funding formula, and aggressively sought to protect their new found tax base from negatively impacting their other revenues from the state. They asked the legislature to provide them (the school boards) with regular training regarding TIF impact on their budgets. Even the St. Louis Public Schools was able to get legislation introduced whereby TIF capture and tax abatements would not apply to portions due to the school district – although it did not get past the introduction stage.

Schools kept housing projects with TIF off the agenda. House Representative Curls introduced legislation numerous years in an attempt to get TIF use for affordable housing – this legislation never made it past a hearing in the committee he chaired. To the contrary, there are many instances where introduced legislation included specifically that TIF not be used for housing. And it appears that for a while at least there was a credible possibility that taxing districts (such as schools) would be able to “opt-out” of a TIF plan (1996 Lee’s Summit letter).

The other area in which the school organizations showed capacity is in their ability to get a “seat at the table.” Along with adding new taxes that would result in their

captured funds being released in a shorter time period, they got the statute to specifically reserve two seats for affected school district on TIF commissions (1991). This same legislation in 1991 limited the municipal's representation to six and one more "ally" was added with the ninth member being selected from another participating taxing district.

School districts were not afraid to sue municipalities, or even counties. These suits have impact from the jurisprudence surrounding approval of redevelopment plans to the exclusion of the M&M Replacement Tax. Even though the Consolidated School District was unable to get the M&M tax excluded through the courts, they were able to get it excluded through subsequent legislation in 1997. The actual use of the "economic development purpose" was challenged by the Pettis School District in 1992, and since the circuit court found this purpose "unconstitutional," lawyers today are hesitant to recommend this pathway for TIF usage. It is uncertain whether this decision would hold up in a higher court decision – yet it remains unchallenged.

Emergency services seemed to be able to get their concerns met. This category generally includes fire protection services and ambulance services. These services are handled in varied ways across cities and counties in the state– some services are within municipalities, and some services are in created districts. These districts are eligible to serve on TIF commissions along in that seat reserved for "any other taxing district." Emergency services coalitions were able to get the statutes to provide for reimbursements to them for services rendered in cases where their remissions from the district were not adequate to cover their costs. These changes occurred in the old version of 847 prior to 2005 and the new subchapter 847 created in 2004.

Many municipalities rely on either or both their regional and state Municipal League to keep them aware of all legislation regarding municipal affairs, including economic development and TIFs. Smaller cities in particular use the Municipal Leagues as their “lobbyist” in Jefferson City. An example of their lobbying efforts includes their recent attempts to change a penalty for failure to report reduced to a much lesser consequence.

The relationship between counties and their municipalities is apparently “complicated.” A number of court cases involved city versus county, and most often involve remittance of funds. Counties sometime challenged whether a redevelopment plan was properly instituted (Shelby County and Shelby), or if they had duties that preempted remittances to TIF allocation funds (Herculaneum and Jefferson County; St. Louis County, and numerous cities).

Perhaps counties were concerned they had no say in the number of TIFs that individual municipalities in their own counties could create, but each TIF created could negatively impact even taxes collected to provide other services. In 1997 counties were able to obtain their own seats on each individual municipality’s TIF commission, obtaining either two or three seats of eleven or twelve. Now this representation is even higher in the areas served by the East-West Gateway Council of Governments. With the exemption of Franklin County, counties in this area have a county-level TIF commission and these counties have six members appointed by the county executive, fully 50% of the commission’s membership.

Yet some counties provide the capacity that enable municipalities within their region to create a TIF district. This has been seen with St. Louis County, which has

provided assistance to the city of Jennings with one or two of their TIF districts, and with the cities of Berkeley, Kinloch and Ferguson with the NorthPark Project. But, it is suspected that St. Louis County also prevented the city of Hazelwood from obtaining a state-level TIF for their Robertson redevelopment project because they thought it might compete with the NorthPark project, and thus impact the level of success they could achieve at the NorthPark project (Butler, 2006, 27).

In some interviews with municipalities of TIF users in the state, it is apparent that some counties are situated where one city, generally the county seat, is the “economic engine for the entire county.” In these counties there really is no competition for investment among municipalities. But there are some entire counties within Missouri that barely have 5,000 population total, and they may find it difficult for any funds to be divert to any one municipality’s project.

III. Modifications to the TIF Statute Over Time – Purposes, Improvement, or Special Interest Capture?

The modifications to the statute over time tend to fall in one of three categories:

- 1) to clarify ambiguousness or correct omissions or other unintended situations/conflicts;
- 2) to improve the process or rectify other problems that were not foreseen in advance;
- and 3) to make TIF less user friendly to some types of municipalities, or more user friendly to other types.

The preponderance of amendments were in categories one or two, and although these changes sometimes met with opposition, it was not usually effective or sincere opposition. Modifications did fit category three also, and changes in this category frequently met with participation from interested parties, and generally included parties both for and against the proposed change.

The modifications in category three generally were not to “add” new users (thus eroding the targeted advantage), but some modifications were to make the statute more user friendly for some groups who were not the original intended users of the tool. Examples of these would be assisting smaller cities in more rural areas with TIF usage, although it was originally said to be for distress in urban areas. Also, urban areas such as Kansas City and Chesterfield used TIF on farmland, floodplains, and other undeveloped land, and in some cases the statute modifications attempted to restrict this usage, but in other ways, it did not. Restriction on TIF use in floodplains was applied to areas of St. Charles County only, and restriction on TIF use in greenfields was applied to areas in the St. Louis metropolitan areas (East-West Gateway Council of Government area) only.

It appears that the strong lobbying efforts of the “evolved” purpose of using TIF for development and redevelopment have come to an “equilibrium” where the

“originalists” are not able to take away any benefits that the pro-development parties have been able to assume. An exception is in particular geographical areas that have been able to restrict usage on floodplains or greenfields. Even with the success of the pro-development parties has retained, they need to stay vigilant not to lose ground.

Improvement or Special Capture?

Whether the overall changes to the TIF statute are positive or negative is subject to debate. The addition of EATS to the statute is universally seen as the most important and impactful amendment to the statute. It is surprising that the addition of EATs seems not to have been driven by developers, and could have come into being as a result of school districts in their attempt to preserve their revenue streams. To many, this change alone has changed the nature of TIF projects in Missouri to an unhealthy emphasis in retail (East-West Gateway Council of Governments 2009; Thomas 2007, Luce 2003). This change influences the nature of the types of businesses that individual municipalities prefer, and also impacts the ranking of retail projects versus other economic development projects (industrial, etc.) in the shorter time needed to repay borrowed money (i.e. TIF bonds).

For developers and municipalities of all types, it seems that they would say that the statute has either stayed the same or slightly improved over time, and the tool is a necessary and useful to them – municipalities in their efforts to fund their governments, and developers as they partner with municipalities to do private projects that they assert would not otherwise be financially feasible.

Some people question use of government subsidies to private investors, stating that if a project is not otherwise financially feasible then perhaps it should not be done.

They argue that some projects would not be financially feasible because this service is being provided in another nearby location, and thus the project has no net value to the public. This is frequently referred to as “subsidizing mobility” which is generally not considered a “public purpose” worthy of subsidy.

The 1997 requirement that a developer include an affidavit stating that without the inclusion of TIF the project would not be financially feasible was made to strengthen the “but-for” test. It was felt that up to that time, many municipalities just stated that “but-for” existed perfunctorily, without any proof or analysis. This statement was intended to put the developer somewhat “under oath” that this was indeed the case. But many consultants and city officials have noted a “power-shift” from municipalities to developers, because this affidavit must come from the developer (Brancaglione 2011, interview; Grimm 2011; interview).

The legislators were willing and able, at least some of the time, to “target” amendments to meet different geographical needs. Of course different taxes in different municipalities were exempted on an individual basis. An extra county representative was added at first to just St. Louis County, and later a special TIF commission composition was design specifically for the areas served by the East-West Gateway Council of Governments. A hotel in Excelsior Springs and a levee in Platte County was legislatively designated as TIF eligible. This “tailoring” seem to be a result of in some case, like the county-wide TIF designation, solving a problem that is particular to a specific geographical area. In other cases, such as the exemption of special taxes, this tailoring is likely the result of special interest lobbying.

The factions have remained fairly constant over time – the faction to better limit the use of TIF and the faction to leave the TIF statute as is. The modifications over time show that the faction to limit TIF is getting on the agenda but achieving only minor and/or geographically-bound modifications through the legislature. But when one looks at the projects that are still “getting done” with TIF support, one has to acknowledge the effectiveness also of the other faction in not letting through legislation that would materially impact their ability to use TIF.

That type of legislation that seems unable to pass the legislature seems to be regarding 1) the definition of blight and or the “but-for” test and, 2) geographical restrictions limiting TIF use to areas presenting with particular distressed area indicators, and 3) affordable housing.

Still, at first glance it may seem that the “privileged” position of the business class underperformed by having a mere goal of maintaining status quo, but that is an effective strategy if they feel that the TIF statute already allows them to do many of the things they would like without even trying to amend the statute to expressly grant them access. But the real effectiveness in the pro-development group may be what they have been able to achieve outside the scope of the actual TIF statute. Many statutes have been created and made more developer friendly over this time period, especially in the 2001- 2005 time period when actual amendments to TIF were difficult to achieve. The rural areas have TIF-like tools made specifically for them such as MORESA and MODESA lite. The TDD districts don’t even have to have residents in them for approving districts, and CIDs are available and being used by more and more municipalities. The barometer for this paradigm shift may have been when the Missouri Tax Increment Financing Association

changed their name to the Missouri Economic Development Financing Association in 2000.

Hypothesis 1

The narrative in this chapter is sufficient to address the first hypothesis:

- I. H1: Changes to the TIF statute broadened the availability of its use by local governments, especially to local governments that did not fit the original “targeted” definition.

There were a few amendments that did sanctioned the availability of TIF to other users, such as the 1986 amendment to add economic development as a purpose, and the 1997 amendments to support rural areas in their attempt to use TIF. The 1997 amendment occurred after the fact – and thus did not make TIF newly accessible to rural areas. The economic development purpose was an attempt to broaden the usage of TIF, although this avenue did not seem to get the traction anticipated due to a Court decision finding this use unconstitutional.

Tie in to the Next Chapter

The TIF Act was enabled with the intention of being useful to certain municipalities in certain areas – i.e. urban cores that were either experiencing or on the verge of experiencing blight, and needed redevelopment. Acknowledging that redevelopment can be a more expensive proposition as compared to new development, the TIF Act was designed to give urban areas in need of redevelopment a tool to help them compete. This chapter discussed the development of the TIF statute over its first twenty-seven years, and identified some of the forces involved and events that occurred to help shape the statute to the provisions it has today. The next chapter will analyze the

who of TIF usage – it will describe basic municipal characteristics and patterns of usage in effort to see who is using TIF, and at what point certain types of municipalities began to adopt TIF plans and districts. The second section of the next chapter will also contain survey and interview results with anecdotal information from municipal users of TIFs and TIF professionals.

Chapter Four– TIF Usage and Pattern of Usage; and Surveys and Interviews

Chapter Four is divided into two separate sections. The first section is primarily quantitative in nature and addresses specifically who is using TIF and discernible patterns of usage and adoption. The second section reports findings and results of primary research surveys and interviews of personnel in a sampling of TIF-using municipalities, and of professionals that assist municipalities and/or developers in their use of the TIF tool.

I. TIF Usage and TIF Pattern of Usage

This chapter is designed to answer the second research question, which is:

2. What is the pattern of adoption and usage of TIF over its first 27 years (1982-2009) of life and how does this pattern correlate with legislative changes or legal decisions, including:
 - a. Who is using TIF (municipal characteristics), and
 - b. When each began to use TIF (adoption of new program).

This research does show distinct patterns of adoption and usage of TIF over time among different type of municipalities. This analysis can be used to contextualize the historical development of the TIF. Quantitatively, these questions will be operationalized by hypothesizing the following:

HII – TIF using municipalities are more likely to have a higher poverty rate; and

IIII – Waves of adoption of TIFs by particular types of municipalities followed court decisions and statute amendments that lowered risks for that particular type of user/usage/investment. In other words, An adoption wave pattern by type of

municipality (size of population, growth of population, percent poverty) can be observed in an ordered logit regression.

It is expected that regarding Hypothesis II, a binomial regression model (to be specified later in this chapter) will show a positive and significant coefficient with the independent percent below poverty variable and the dependent binomial variable of whether a municipality has used a TIF or not. With respect to Hypothesis III, it is expected that an ordered logit regression model using a municipality adoption waves variable as the dependent variable and using the following independent variables might have significance: municipalities with smaller population sizes will more likely be in later adoption waves, more rural municipalities will more likely be in later adoption waves, municipalities experiencing growth will more likely be in earlier adoption waves (this model will be specified later in this chapter).

In answering the question of “who is using TIF,” the above information gleaned from testing the hypothesis listed above will also be added to simple summary statistics available from the database used. Summary statistics will be used to look at: population size, county location, urban-rural location, etc. Also, the database has included “status” information, relating to the stage of completion of the project. This information will be reviewed in regards to its impact on counts.

Another item collected in the data collected by the state of Missouri is the official qualifying “purpose” used to establish the TIF districts reported. Given the relative importance that the qualifying purpose (blight, conservation, or economic development) was shown to have in the historical development of the statute, a short summary

statistical discussion is included on whether and to what degree these purposes have been used.

Data

The primary database will be the 2009 Missouri TIF Annual Report (Missouri State Department of Economic Development, 2010). Analysis using this database will use each reported TIF as the unit of analysis, and will be referred to as the basic database. This database reports usage of 477 TIFs. This includes 13 TIFs reported by six county-level governments, which for the most part, will not be counted, leaving 464 TIFs in the basic database to be analyzed.

The basic database will be supplemented by other information, and will be referred to as the enhanced database. The unit of analysis for the enhanced database will be municipalities that have adopted a TIF. Although many of the TIFs that have ever been adopted are in the base database, some TIFs are no longer reported in the basic database for a variety of reasons. Some of these reasons include that the TIF district may have been dissolved because it has met its goal, met with political challenges, the developer was unable to get financing, or the municipality was unable to attract a developer. The sources of supplementation of the enhanced database are: 1) The 2006 Missouri TIF Annual Report, 2) Kenneth Thomas' database of Missouri TIFs from 1987-2004, 3) Thomas Curran's database of TIFs in St. Louis County from 1991 through 2006, and 4) East West Gateway database of TIF districts in their service area²¹. Also a few

²¹ The enhanced database adds 14 new municipalities that have adopted TIF during the study period --two municipalities added from the 2006 Annual TIF Report (Branson, Shelbina), four added from Thomas'

TIF districts were made evident within the exploration of the development of the statute (see previous chapter). The supplementation of the database occurs in two ways – new municipalities may be included which were not in the basic database, and/or new TIFs may be added that were no longer reported by municipalities that reported other TIFs. In some instances these new additions indicate that a municipality had experience adopting a TIF earlier than it would seem by using the basic database. Because this study desires to capture the moment of first use of the TIF tool, the 2009 Annual Report database will be supplemented with the data mentioned. This action results in the addition of 32 TIFs, bringing the total of TIFs in the enhanced database to 496.

This analysis will use the 2000 United States Census (versus either the 1990 or 2010) because it is the more representative of the time period surrounding TIF use and adopting activities than the most recent census. The number of TIF municipalities (after excluding six counties) in the 2009 Missouri Annual Report are 108. Three municipalities under 1000 population (Clarksville, New Florence, and Unity Village) have adopted TIFs.²² Having just three municipalities in this category (under 1000 population) is dwarfed by the total number of municipalities within this category (about 600) so these three municipalities will be dropped from most analysis. For comparison purposes between TIF-adopting municipalities and non-TIF-adopting municipalities, the remaining municipalities (1000 population and over) will be added to the enhanced database. The 105 (108 less 3 under 1000 population) on the basic database, 14 added TIF-adopting

database (Carthage, Hillsboro, Mexico, Moberly), seven added from Curran's database (Berkeley, Chesterfield, Cool Valley, Green Park, Olivette, Pine Lawn, and Sunset Hills), and one from East-West Gateway's database (Washington).

²² Wayland adopted a TIF in 2005 and appears on the 2006 Annual TIF Report, but since it has population of under 1000 it was not added. Thus there are a total of 4 municipalities under 1000 population that have adopted TIFs.

municipalities, and 223 non-TIF adopting municipalities with population of 1000 or more) creates an enhanced database of 342 observations. Approximately 36% of the municipalities (cities, towns, villages) in Missouri are of the size of 1000 population or more (342/950) (Missouri Blue Book 2001).

The following municipality characteristics have been added to the enhanced database: county name, 2000 population, percentage population change from 2000 to 2009, percentage of persons below poverty 1999 (U.S. Census), county classification, and 2000 county assess valuation (2001 Missouri Blue Book).

The Who of TIF Adoption / Usage

Population Size

Of these 342 municipalities, 119 have adopted at least one TIF during the study period (35%). Breaking out the municipality TIF adopting cities by municipal size shows a significant difference in adoption among the study size of municipalities over 1000 population. There is a wide range of TIF usage or nonuse based on municipal size.

All 10 municipalities of 50,000 or more population have adopted at least one TIF, and nearly all 33 municipalities in Missouri over the population size of 17,000 have created at least one TIF plan with the two exceptions being Wildwood and Cape Girardeau (94%). The percentage TIF adoption among cities between 20,000 and 49,999 population is 90%.

Of the 35 municipalities between 10,000 and 20,000 population 24 have adopted at least one TIF plan (69%); of the 134 municipalities between 2500 and 9999

population, 52 (31%) have adopted at least one TIF. For the 143 municipalities with at least 1000 population but less than 2500 only 13 have adopted TIF plans—which is still a significant 9%.

County Location, Metropolitan and Rural Areas

The state of Missouri has 115 counties including the city of St. Louis. Sixty-two counties (54%) have no TIF areas within their boundaries – municipality of any size or at the county level. Three of the four dropped cities (cities under 1000 population) are the only municipalities in their county with a TIF (New Florence in Montgomery County; Clarksville in Pike County; and Wayland in Clark County)²³. Of the 62 counties without one TIF, five counties do not even have one municipality containing population over 1000 (Carter, Hickory, Ozark, Schuyler, and Worth).

Fifty-three of the counties have at least one municipality (any size) that has adopted a TIF (46%), and 50 of these counties have at least one municipality containing 1000 population that has adopted a TIF (43%). The two major metropolitan areas in the state account for a large number of municipal TIF adopters and users. The city of St. Louis itself a significant user of TIF and the adjacent county of St. Louis County is also home to 37 municipal TIF adopters. St. Charles County has four municipal TIF adopters, and Jefferson County has three. The subtotal for the St. Louis metropolitan area is 45 TIF adopting municipalities, amounting to 38% of the 119 municipalities statewide being located in four counties in the metropolitan St. Louis area.

²³ The fourth city under 1000 population is Wayland. Technically it is not “dropped” city, but a TIF-using city on the 2006 TIF Report that was not added to the enhanced database because its population was under 1000.

Kansas City is also a heavy TIF user, and within Jackson County (where it is located), there are another eight cities with TIF areas. Clay County, adjacent to Jackson and within the Kansas City metropolitan area, contains another six TIF-adopting municipalities. Cass County and Platte County are also mostly within the Kansas City SMA, and each have three municipalities that have adopted a TIF area. The subtotal for the Kansas City metropolitan area (including Harrisonville and Platte City) is 21 TIF adopting municipalities, amounting to 18% of the 119 TIF adopting municipalities being located in four counties in the Kansas City area. Adding the totals for the St. Louis and Kansas City areas together, 55% of the TIF adopting municipalities are in eight counties located in either the St. Louis or Kansas City area.

Fifty-eight TIF adopting municipalities are outside of the two major urban areas of Missouri²⁴ and are contained within 45 counties. The census has designated five other areas as being “urbanized areas.”²⁵ They are the Springfield (Greene County), Columbia (Boone County), Joplin (Jasper and Newton Counties), St. Joseph (Buchanan County), and Jefferson City (Callaway and Cole Counties). While all of these municipalities report using TIF, Springfield is the only one of these urbanized areas that has other municipalities within the urbanized area also reported using TIF [Battlefield, Ozark²⁶]. One other city in Greene County has adopted a TIF.²⁷ Joplin has no other TIF adopting municipalities within its urbanized areas, but it does have four TIF adopting

²⁴ For county analysis purposes, the three TIFs adopted by the municipalities under 1000 population will be included -- Clarksville (Pike), New Florence (Montgomery), & Wayland (Clark).

²⁵ U.S. Census definition of “urbanized area” – an ‘urban area’ with 50,000 or more people. An ‘urban area’ is defined as “core census block groups or blocks that have a population density of at least 1,000 people per square mile and surrounding census blocks that have an overall density of at least 500 people per square mile.”

²⁶ Ozark, while in Springfield’s urbanized area, is located in a different county (Christian County).

²⁷ Strafford, population 1845.

municipalities in the two counties in which it resides – Carthage and Sarcoxie (Jasper County); and Neosho and Granby (Newton Counties). Jefferson City also is contained in two counties (Calloway and Cole) but only Callaway has another TIF-adopting municipality – Fulton.

Thirty-seven counties with at least one municipality that has adopted TIF contain no urbanized areas. These include the three municipalities TIF adopters with population under 1000. Thirty-three of these counties have only one municipality that has adopted a TIF (29% - 33/115). The only four counties outside of the seven “urbanized areas” that have more than one municipality that has adopted a TIF are St. Francois (#4), Miller (#2), Pulaski (#2), and Scott (#2)²⁸. Twenty of these 37 counties outside of urbanized areas have one TIF adopted by their county seat government. It is worth noting that 18 of the 33 counties (55%) in non-“urbanized areas” that only have one TIF within their boundaries had that TIF adopted by the municipality that also governs the county affairs.

When viewed spatially on a map of Missouri which includes roadway arteries, it is striking to see how close nearly all the TIF-adopting municipalities are to roadways that are considered major thoroughfare. It appears that just a few municipalities are not within three miles of a major thoroughfare – Appleton City, Hermann, and one of the municipalities under 1000 population (Clarksville).

TIF Characteristics, Properties (Basic Database)

The (TIF) Numbers

²⁸ St. Francois – Bonne Terre, Desloge, Farmington, Park Hills; Miller – Lake Ozark, Osage Beach; Pulaski – Waynesville, St. Roberts; Scott – Miner, Sikeston. Another interesting observation – Miller County itself has adopted two TIFs.

The numbers of TIFs vary among municipalities with a high of 115²⁹ in St. Louis to a low of one, a number that belongs to thirty municipalities. St. Louis and Kansas City are the outliers, with a count of 115 and 108 respectively. Four other municipalities, all located in the Kansas City area, are in the next five highest, with a very distant 17 in Independence, 14 in Grandview, nine in Lee's Summit, and eight in Blue Springs. St. Joseph, just north of the Kansas City area, has nine TIF areas (the 5th one). Jennings, from the St. Louis area, is the only other municipality with more than five TIFs (Jennings has seven)³⁰. Municipalities reporting five TIFs are Belton, Brentwood, Maplewood, Raytown, and St. Charles; and municipalities reporting four TIFs are Excelsior Springs, Liberty, Riverside, and Wentzville. Independence is the fourth largest municipality in the state with a 2000 U.S. census of 113,288, so it is not unexpected that it would be the third highest user. But it was surprising to see Springfield, the third largest city with 151,580 population and Columbia, the fifth largest city with population 84,531, with only two TIFs each. The sixth and seventh largest municipalities, St. Joseph (population 73,990) and Lee's Summit (population 70,700) each reported using nine TIFs (as mentioned previously).

It is important to note here that while Kansas City and St. Louis have significantly more TIFs, together accounting for almost 45% of the TIF districts, there is some variability in how each TIF district is reported and managed among the municipalities. This variability shows up in whether a municipality chooses to account for each project in a TIF district as its own individual TIF plan, or as part of the same TIF

²⁹ Although 118 TIFs were reported, 3 were new and without ordinances yet – a pre-TIF state. Those 3 were dropped.

³⁰ St. Louis County government has six TIFs reported.

plan. For instance, Kansas City has a tendency to have multiple TIFs with similar names but different project letters or numbers. It has 11 TIFs beginning with “22nd & Main” (but ending in project numbers 1, 2, 10, 12 & 13, 14, 16, 21, 22, 24, 27, 28), and eight TIFs beginning with “1200 Main” (but ending in project numbers 1, 2, 3, 4, 5, 7, 8, 13 & 14). Conversely, there are some municipalities that use a single TIF districts for multiple projects that present themselves overtime. University City has done this, as well as municipalities like Cabool and Strafford. The one district-many projects design is typical of TIF districts used to revitalize smaller downtown areas.³¹ Thus, it is even tricky to compare TIFs usage among municipalities by count alone.

The mere fact that economic development projects have various states of “completion” or project statuses (which can vary in lengths of time and impacts, etc.), also lends itself to the difficulty of comparing the “numbers” regarding TIF projects. The 2009 Missouri Annual Report questionnaire provides the following categories to describe “project status:” inactive, seeking developer, starting up, fully operational, and dissolved.” Of the 464 TIFs reported, 10 reports did not provide this information (2%), five (1%) reported their TIFs as being “dissolved,” and 35 (8%) were categorized as “inactive.” More than half reported their TIFs plans as “fully operational” (256/464, or 55%), 80 (17%) were categorized as “under construction,” 14 (3%) were categorized as “seeking developer,” 64 (14%) and were categorized as “starting up.”

It is not clear and it is suspected that there could be some misclassifications among fully operational, inactive, and dissolved. Additionally, the criteria for deciding

³¹ This is the type of “pro-active” TIF districting that is now in question after the Shelbina v. Shelby County court case.

how to categorize each project seem to rest with whoever completes the TIF questionnaire. Perhaps a fully operational classification is a TIF project that is fully paid-off, and should be called completed and dissolved. Perhaps dissolved should only be TIF districts that never collected funds and were subsequently withdrawn and dissolved. Inactive actually could be that the TIF is not currently collecting funds but had in the past. At this point it is interesting to note the various stages of classifications of the TIFs reported, although its analysis can only be used in generalities.

In fact, this is probably the next stage of improvement possible with the TIF reports to the state of Missouri. The state requires that the reports be filed. But the accuracy of the information seems to vary. This observation is based on the inconsistencies that are easily evident in perusing the reports, and in some cases, reports are considered incomplete. It also seems to be unclear and thus some variation exists regarding at what point a municipality stops reporting a TIF (i.e. dissolved, or inactive?).

Summary of Blight, Conservation, Economic Development Purpose

Declaration/Selection

The classification of a TIF district as serving the purpose of blight (removal), conservation, or economic development is an important decision, as well as in some respects political, as seen in the previous chapter. In the previous chapter, some viewed the addition of “economic development” as an allowable purpose, as an avenue that allowed the TIF tool to be used by projects outside the original intention. Additionally, the Circuit Court in Pettis County found the economic development purpose unconstitutional in 1992. Another, but much less important court case, stated that

although the TIF Commission could state the purpose of a TIF district could be more than one of the three qualifying purposes, the governing body of should only use one purpose when creating the actual district (*Smith v Independence*, 1995/1996). To add context to that discussion, it would be interesting to note the percentage use of each classification in the basic database, over time. One would expect that the economic development purpose would not be used soon after a court found it unconstitutional. Additionally, one would expect that each municipality would only declare a single purpose not long after the *Independence* (1996) decision.

The questionnaire for the Missouri Annual Report allows the selection of the three options, but in many cases more than one box is checked leading the possibility of seven combinations, plus being left blank. Using the basic database, the numbers of single selections are as follows: blight only, 296 (of 464, 64%); conservation only, 81 (17%), and economic development only, 20 (4%). Blight was combined with conservation four times, with economic development 30 times, or with both 12 times, resulting in blight being at least one of the purposes stated of the 342 times (74%). Economic development, in addition to being paired with blight 30 times and with both 12 times as just mentioned, was paired with conservation only 3 times, for a total mention of 65 times (14%). Conservation was mentioned a total of 100 times (22%). This question was left unanswered 16 times (3%). It is interesting to note that blight was the most common purpose used by far, followed by conservation, and that both of these purposes were most frequently used alone. Economic Development was least used alone (20 times), and was most often used in combination with blight (30 times) – even more frequent than when used alone.

Taking a closer look at the 20 times when economic development was used alone, it is clear that the Kansas City area was an early user of this purpose, using it a total of 14 of the 20 times (70%). From 1988 to 1996 Kansas City used economic development alone five times (1988, 1991, 1993, 1994, 1996), Grandview used it twice (both in 1989), and Lee's Summit used it once (1988). Kansas City used in three more times in 1999 and 2000, Lee Summit used it again in 2000, and Independence tried it once in 1999. After 2000, economic development was used alone only one more time by Lee's Summit (2006). Thus, economic development alone was used predominantly in the Kansas City area before 2001. Other municipalities that used economic development alone before 2001 were Boonville (1991), Fulton (1996), and Fenton (1998). It was used only four times alone after 2000 by Bethany (2001), Moscow Mills (2003), Battlefield (2008), and as already mentioned, Lee's Summit (2006).

Kansas City has no TIFs using economic development in tandem with another purpose. Five municipalities in the Kansas City area have used economic development with other purposes fourteen times, and surprisingly, Independence has done this the most with eight TIFs plans adopted between 1994 through 2004. Liberty has three (2002, 2006, 2008) and the other three municipalities are Grandview (2001), Parkville (2002) and Sugar Creek (2003) (each with one).

O'Fallon was the first to combine economic development with another purpose in the St. Louis area (1992), and eight other municipalities in the St. Louis area have done the same. Six years had passed before Fenton used a combination purpose that included economic development in 1998, and Ballwin followed in 1999. Four years pass before it is used again (in combination) in the St. Louis area by Maryland Heights in 2003, and a

few more years pass again before Eureka uses it in 2005. Normandy and Wentzville both use a combination economic development purpose in 2006 and Clayton and Valley Park has done so in 2007.

There are 22 times when the economic development in combination with at least one other purpose was used by 16 municipalities outside of the Kansas City and St. Louis areas that used economic development in combination with one or more other purpose. Of these 22 times, 10 municipalities used it 11 times before 2001 and nine municipalities used it 11 times after 2000 (Hannibal, Sikeston, and West Plains used it in both time periods)³².

Combining the usage from the entire state, the following observation can be made: Kansas City and the Kansas City area were leading users of the economic development purpose by itself. The Kansas City area used it primarily in the late 1980's and throughout the 1990s, and its use as a single purpose nearly ended by 2001. Independence, a municipality with the third highest number of TIFs, only used economic development alone only once (1999). But Independence did use economic development in combination with blight eight times³³, beginning in 1994 and continuing through 2004.

The concept of declaring economic development alone as a purpose did not catch-on in the St. Louis area – Fenton did it once in 1998. Even using it in combination only happened two other times in the 1990s (O'Fallon -1992, and Ballwin – 1999). The other

³² Before 2001: Hannibal (1988), Clarksville (1989), Bethany (1994), West Plains (1994), New Florence (1996), Desloge (1997), Granby (1998), Neosho (1999), Sikeston (2-2000), and Osage Beach (2000). After 2000: Hannibal (2001, 2nd time), Strafford (2002), Sarcoxie (2003), Chillicothe (2004), Maryville (2004, 2005), Sikeston (2004, 2nd time), West Plains (2005, 2nd time), Lake Ozark (2006, 2007), and St. Joseph (2008).

³³ One of the eight times also included conservation.

six times it was used in the area it was used after 2003 and in combination with blight and/or conservation. It is a little puzzling that any report has two or more purposes stated because of the *Smith v Independence TIF Commission* case in 1996, which ruled that for ordinances creating a TIF District should only have one purpose stated (although the TIF commission of each municipality can *recommend* more than one category of purpose).

Pattern of Usage

The pattern of usage analysis will use the municipality as the unit of analysis, using the enhanced database. Once the first TIF districts were established in late 1986 and 1987³⁴, TIF districts have been established every year of the study period. The numbers do not reflect the 13 districts created by six counties over the time period. Although the numbers reflect what is reported along with additional information from sources already identified, the numbers presented here should be viewed relatively to each other instead of an absolute sense due to possible omission of unreported TIFs. The error is expected not to be significant, and some trends and patterns are still expected to be valid. The enhanced database contains 119 municipalities with 496 TIF districts.

The lowest number of TIF districts enacted in any year is in the first year with two, and the highest number reported in any year is forty-seven (2005). The highest five years are consecutive in a bell-curve pattern from 2003- 2007, with numbers of 37, 45, 47, 44, and 33 (respectively). The “spike” years are progressive, with a spike in 1994 of 25 (falling back to 12 in 1995), 31 and 32 in 1999 and 2000 (falling back to 11 in 2001), and the just mentioned highs of 45 and 47 in 2004 and 2005 (falling back to 44 and then

³⁴ Technically the 10th & Troost was created in November 1986 but is being counted as 1987 for this analysis.

33 the following two years). The study period ends in 2009 where the number stood at 15, a low not seen since 1994 (12) with the exception of 2001, where the number was 11³⁵. These low number years fall within economic recessionary periods. These numbers are highly influenced by the patterns of usage of Kansas City and St. Louis since these two municipalities account for almost half of the TIFs reported. Both these municipalities have different patterns of usage.

The first TIFs were not created until 1987 by Kansas City first, and then Kirksville. Two other large suburban cities in the Kansas City area were very early users (within the 1980s) – they were Grandview and Lee’s Summit. In the St. Louis area, the very early users were the smaller, mostly inner ring suburbs such as University City, Ferguson, St. John, Webster Groves, and Valley Park. The big “municipality” in the St. Louis area was the county of St. Louis, who was also an very early user of TIF with two projects in 1987 – removal of blight with the distressed area known as Robertson (removed all residential and school buildings) and replaced a closed drive-in with a shopping center (known as Dierberg’s Clocktower Shopping Center). Both of these areas were unincorporated at that time³⁶.

Kansas City was the first city with a TIF and it continued to use TIF throughout the study period. There are only three years that it did not create a TIF – 1989, 2001, and 2009. Kansas City averaged five TIFs/year, with two peak periods – 1994 (12) and 1999 and 2000 (14 and 17 respectively). These were the only years where Kansas City created

³⁵ The low numbered years of 2001 and 2009 fall within economic recessionary periods.

³⁶ St. Louis County has a relatively large percentage of unincorporated areas, although both of these areas have been annexed by the municipalities of Hazelwood and Florissant. Hazelwood took over the County’s Robertson TIF.

a number 10 or greater. After creating 31 TIFs in two years, it created none in 2001. It experienced a smaller peak in 2003 and 2004 (seven and eight respectively).

The other major urban area, St. Louis, had a very different pattern of TIF usage. They had only created four TIF districts total before 1999 (one each in 1990, 1991, 1997, 1998), when they created four more. By the end of 2000 they had a total of 9 TIF districts – the remaining 106 were created after 2000. The peak year was 2004 with 22, followed by strong usage in 2005 and 2006 with 14 and 16 districts created respectively. Whereas Kansas City usage diminished significantly after 2006 with a total of 4 TIFs from 2007 to 2009, St. Louis has created 33 districts in this same time period.

Municipal Characteristic Patterns of TIF-Using Municipalities versus Non TIF-Using Municipalities

A logit regression analysis compared municipal characteristics of TIF using municipalities to non-TIF- using municipalities. The dependent variable was a dummy variable of whether the municipality was a TIF-user or not. The municipality characteristics used as independent variables were: population size (2000 U.S. Census), percent persons below poverty (1999 U.S. Census), percent population growth (2000-2009), and where the municipality is located – urbanized area, urban cluster, or rural.

Other characteristics were also experimented with, and include whether the municipality is a county seat, classification of municipality, classification of county, county population and assessed valuation of the county. The addition or replacement of these other characteristics to or for the independent variables actually used in the regression did not improve the model. It is clear that there is overlap among many of the

variables – for instance, municipality classification is a function of population size, county classification is a function of county assessed valuation, etc. The county assessed valuation variable did appear to improve the model, but a closer look at the distribution of the variable it was revealed this improvement was due in large part to the large number of TIFs in St. Louis County coupled with St. Louis County’s very large assessed valuation. Repeating the model with the exclusion of St. Louis County wiped out the improvement to the model, and thus the variable was dropped.

The predicted behavior of the dependent variable to the independent variables is as follows:

1. *population size*: the larger a municipality, the more likely they are to have a TIF. This has been shown to be the case in Mason and Thomas’ (2010) research. This is likely due to many factors, including: TIFs were intended to be used in urban areas with decline; larger cities are more likely to have professional staffing able to implement a TIF; and larger cities have more land that may be in need of redevelopment/development, etc.
2. *percent persons in poverty*³⁷: the higher the percent persons in poverty, the more likely the municipality is to use a TIF (positive coefficient). This follows the intention of TIF – to be used in urban areas experiencing decline. Although the predicated behavior test is along the lines of the original intent of TIF legislation, it is the contention of many who argue for TIF reform that it is the wealthier communities that have the capacity to implement TIFs.
3. *population growth*: municipalities that are experiencing population growth will be more likely to use TIF (positive coefficient). Not exactly the intended user of TIF, but Anderson (1990) and Man (2001) have speculated that TIFs have been used to fund infrastructure in municipalities experiencing growth.
4. *rural-urban continuum*³⁸: TIF use is higher in urbanized areas, followed by urban clusters, followed by rural areas, at any population size. It has been shown in

³⁷ Data Set used is Census 2000 Summary File 3 (SF 3) -- Sample; Geographic Area: Missouri - Place

³⁸ U.S. Census definitions used: “Urban Area” -- “core census block groups or blocks that have a population density of at least 1,000 people per square mile and surrounding census blocks that have an overall density of at least 500 people per square mile.” “There are two categories of urban areas. An urbanized area (UA) denotes an urban area of 50,000 or more people. An urban cluster (UC) is an urban

Mason and Thomas' research that adjacency is a significant variable in TIF adoption, and adjacency is more readily available in urban areas. It is suspected that competition for revenue sources (such as sales taxes) to fund government is higher in areas with more governments in close proximity, and less so in more sparsely organized communities. Also the possibility for learning is higher in communities with close proximity.

The binomial logit model used was:

TIF use (yes=1, no=0) = $b_1(\text{2000 Census}) + b_2(\% \text{ population growth}) + b_3(\% \text{ persons below poverty})$.

This model was done as a whole (all 342 municipalities), and then separated to compare this whole regression to repeated regressions that isolated different groups within the 342 municipalities by urban-rural categories of rural, urban clusters, or urbanized areas. This isolation attempted to see the effect of rural/urban on TIF usage.

Analyzing all 342 municipalities (all Missouri municipalities size 1000 population or greater), the model as specified shows significance for the independent variables of population and population growth at the 95% confidence level, and for population growth and percent persons below poverty at the 90% confidence level. The relationship of two of the three independent variables (population, population growth) is positive with the decision to implement a TIF, as predicted. The percent persons below poverty has a negative coefficient, which is opposite of the prediction.

Using the logit model as specified, the model has a pseudo R2 of .2389, sensitivity rating of 48%, and specificity rating of 92%, correctly classifying 77% of the

area with fewer than 50,000 people, but more than 2,500." For regression purposes, "rural" is defined as any municipality not in an urbanized area or an urban cluster. <http://www.ers.usda.gov/data-products/rural-definitions/data-documentation-and-methods.aspx>

time whether a municipality has adopted a TIF or not. The model has its highest error in predicting non-usage of TIF for a municipality that has implemented a TIF predicting 57 municipalities as having a TIF while the actual number is 119 (48% sensitivity, 52% false negative). Conversely, the model was more reliable in classifying only users of TIFs as users, only incorrectly identifying 18 non-TIF user as a TIF user out of 223 total non-TIF users (92% specificity, 8% false positive). As the model moves from non-TIF user (0) to TIF-user (1), the independent variables change as follows:

+ .00018(2000 census) + .00929(% population growth) - .03464(% persons below poverty).

The model output is different if grouped by degree of rural/urban (rural, urban clusters, or urbanized area). The population variable remains strongly significant at the 99% level in all scenarios except rural, where it remains significant at the 95% level. In the rural group (112 observations which include 13 TIF adopting municipalities) population is the only significant variable. Percent population growth is no longer significant at the 90% confidence level in any separated group (although it is as a whole group). The group with the highest z score for percent population growth is the urbanized area, with a z score of 1.2 ($p < .23$).

What is most notable though is the impact of this separation on the percent below poverty variable. As a whole this variable is negative and significant at the 90% ($p < .064$) confidence level. In the 111 municipalities in urban clusters this variable becomes stronger in the negative direction at the 99% ($p < .007$) confidence level. Even more interesting, in the 119 municipalities in urbanized areas, the coefficient changes

signs and has an opposite relationship than the urban cluster or rural communities does with TIF usage – as percent persons in poverty increases in urbanized areas, the likelihood that a municipality is a user increases (i.e. poorer municipalities in urbanized areas are more likely to use TIF than better off communities). This opposite behavior in the urbanized area does not reach the significance level ($p < .14$). Again, this is in contrast to communities in urban clusters. Municipalities in urban clusters are less likely to have a TIF if they have a higher percent of persons in poverty.

This change in direction of the percent persons in poverty can be further divided within the urbanized group to understand if St. Louis County moves differently than the other urbanized areas. Regressing St. Louis County by itself, the coefficient and z remain about the same score (coefficient of .049 versus .044, and z score of 1.48 for both), showing the strong influence of St. Louis County on the urbanized areas' regression. St. Louis County has 69 of the 119 municipalities in urbanized areas within its boundaries, and of the 66 TIF-using municipalities, 36 are in St. Louis County and 30 are in the 50 municipalities within the boundaries of the other urbanized areas. The coefficient and z score for percent persons below poverty in urbanized areas not including St. Louis County are -.007 and -.08 respectively. Additionally, the percent population growth's z score improves slightly without St. Louis County, moving from 1.2 to 1.33 ($p < .18$).

The logit model for urbanized areas (including St. Louis County) correctly classifies TIF using from non-TIF using municipalities 89 out of 119 times, or 75%. Sensitivity is 68% -- of the 66 TIF using municipalities, 45 are correctly categorized and 21 are not. Specificity is 83% -- of the 53 non TIF using municipalities, only 9 are miscategorized as being TIF-users.

The logit model of the urban cluster has a 70% rate of correctly classifying whether a municipality has implemented a TIF or not. Among the 111 municipalities in the urban cluster, 40 have implemented a TIF (36%). Sensitivity for actual TIF users is relatively low at 40%, missing more TIF-users than it correctly predicts, predicting only 16 of the 40 TIF users correctly. Again, specificity is relatively high at 87%, only misclassifying as a TIF-user 9 municipalities of the 71 municipalities in this group that have not implemented a TIF.

The logit model of the rural area only has 13 TIF using municipalities among a total 112 municipalities. The model predicts that only one municipality will use a TIF (which is correct about that municipality), but misses the other 12 TIF-using municipality. By predicting that that 111 of the 112 municipalities have not implemented a TIF, it correctly predicts the remaining 99 non-TIF using municipalities. Thus this model has a 89% rate of correctly classifying TIF use among the 112 rural municipalities. The model has a relatively low sensitivity and low pseudo R2 indicating other variables that have explanatory influence are missing from the model. (See Table 4.)

Table 4. **Logit Regression Results**
TIF Users, and TIF Users by Degree of Rurality
 (Urbanized Area with and without St. Louis County
 and St. Louis County alone)

<i>Independent Variable</i>	<i>All</i>	<i>Rural</i>	<i>Urban clusters</i>	<i>Urbanized Areas</i>	<i>Urbanized Areas LESS St. Louis County</i>	<i>St Louis County ONLY</i>
	<i>Logit coefficient (z)</i>	<i>Logit coefficient (z)</i>	<i>Logit coefficient (z)</i>	<i>Logit coefficient (z)</i>	<i>Logit coefficient (z)</i>	<i>Logit coefficient (z)</i>
2000 Census	0.00018 (6.11)**	0.00073 (2.02)**	0.00015 (2.90)**	0.00016 (4.01)**	0.00018 (2.63)**	0.00015 (2.94)**
Population Growth (2000 – 2009)	0.00929 (1.79)*	0.00902 (0.71)	.00717 (0.67)	0.00943 (1.20)	0.01581 (1.33)	0.039 (0.52)
% Persons Below Poverty 1999	-0.03464 (-1.85)*	-0.00060 (-0.01)	-0.10355 (-2.68)**	0.04396 (1.48)	-0.0071 (-0.08)	0.04942 (1.48)
Constant	-1.38715 (-4.12)	-3.42818 (-2.98)	-.12373 (-0.18)	-1.70465 (-3.59)	-1.9194 (-1.92)	-1.40488 (-2.17)
Number of municipalities	342	112	111	119	50	69
Pseudo R2	.24	.06	.14	.29	.44	.20
** p< .05						
*p< .10						

Adoption Waves

The enhanced database has 119 municipalities who have adopted at least one TIF from the time period of 1987 to 2009. The number of municipalities adopting their first TIF varies by year, ranging from a low of one in 2001 and 2009 (Florissant and Columbia) to a high of eleven in two years – 1994 and 2003. The highest three-year

period was 1996, 1997 and 1998 when new municipalities adopting TIF numbered eight, nine, and nine, respectively. Most years found from three to six new municipalities adopting TIFs for the first time – the two remaining years outside of this range are 1987 and 1993, each year with two new municipalities.

The 119 TIF-using municipalities were put into ordered categories based on when they adopted their first TIF district. The ordered categories were numbered one through eight and called adoption waves. Each adoption wave contained three consecutive years beginning with 1987 except for adoption wave eight which contained only the last two years (2008 and 2009). The total in each wave is as follows: wave one – 11, wave two – 11, wave three – 18, wave four – 26, wave five – 10, wave six – 21, wave seven – 18, and wave eight – 4.

The question to answer was whether and how municipal characteristics related with when a municipality first adopted a TIF. The same municipality characteristics were used as independent variables as were used in the TIF-user /non-TIF- user logit regressions – population, percent population growth, and percent persons below poverty. An ordered logit model was used to regress these variables, asking the question of as various municipalities implemented a TIF at different times (adoption waves), how did the independent variables mentioned change. The output of the ordered logit (ologit) was:

$-.00001(\text{2000 Census}) + .00334(\% \text{ population growth}) + .02801(\% \text{ persons below poverty})$

The only independent variable that was significant was population, which was significant at the 99% confidence level. This model could not be improved upon by breaking it out by rural, urban clusters, and urbanized areas. The pseudo R2 was very low indicating that this model has a very low explanatory power and that the adoption wave order (early adopter, later adopter, etc.) was influenced by other variables not included in the model. (See Table 5.)

**Table 5. Ordered Logit Regression Results
TIF Users, and TIF Users by Degree of Rurality**

<i>Independent Variable</i>	<i>All</i>	<i>Rural and Urban Clusters</i>	<i>Urbanized Areas</i>
	<i>OLogit coefficient (z)</i>	<i>OLogit coefficient (z)</i>	<i>OLogit coefficient (z)</i>
2000 Census	-0.00001 (-2.58)***	-0.00009 (-1.48)	-0.01787 (-2.17)**
Population Growth (2000 – 2009)	0.00334 (0.64)	.00288 (0.22)	0.00278 (0.5)
% Persons Below Poverty 1999	0.02801 (1.21)	.01136 (0.23)	0.03344 (1.11)
Number of municipalities	119	53	66
Pseudo R2	.02	.01	.02
*** p< .01			
** p< .05			
* p< .10			

Simple counts do shed a little insight into adoption waves by rural, urban clusters, and urbanized areas. Of the 13 TIF-users in the rural category, only three are in any of the first four waves (Cabool (1993) – wave 3; Granby and Hillsboro (1998) – wave 4), amounting to 23% before 1999, and 77% of rural municipalities adopting a TIF doing so after 1998. The mean statistic is 5.46 (between wave 5 and wave 6), and the median statistic is 6 (wave 6), with two more municipalities adopting a TIF in wave 5 followed by most of the 13 rural communities (#6) adopting a TIF in the 6th wave. The last two rural municipalities in this group were created in the first year (2005) of the next wave. Of the 40 TIF-users in the urban cluster category, 23 are in one of the first four waves (58%, about 2.5 times the rate of the rural category). The mean statistic for this group is 4.45 (between wave 4 and wave 5) and the median statistic is 4 (wave 4). Of the 66 TIF-users in the urbanized areas, 40 adopted a TIF in the first four waves (61%) and 26 first adopted in waves 5-8 (39%). Recapping just the mean statistic of adoption wave by rurality: rural – 5.46; urban cluster – 4.45, and urbanized area – 4.18. Clearly there is a pattern that on average municipalities in the non-urbanized areas adopted TIF at a later rate than municipalities within urbanized areas.

TIF Usage and Legislative Changes and/or Legal Decisions

The 1996 House Interim Report on Tax Increment Financing paid particular attention to the rural attendees, and its report to the House of Representatives aimed to support smaller communities in their hopes to use TIF. The legislature did request the Department of Economic Development to provide technical assistance and information to municipalities regarding TIF. The early 2000s saw legislation implemented to assist smaller communities with economic development via MODESA, MORESA, and other

new or revamped tools such as NIDs and CIDs. Additionally, the Department of Economic Development administered a Dream Initiative to assist smaller communities with economic development planning and implementation.

The previous sections looked at TIF-use numbers and adoption waves and by degree of rurality. The rate of adoption in rural areas increased significantly after 1998 (after the 4th wave), but the overall number (13 total) is still small. Perhaps rural communities have less of a need for a tool such as TIF. Or it could be that rural communities do not have the resources to make it happen. Or it could be that rural communities learn from bigger communities, and thus are late adopters. Yet, the overall small number (13) of TIF-users in areas classified as rural compared to the number of municipalities in the rural category (112) could indicate either low need or low ability to access the tool. It is interesting to note that wave 6 contains the largest number of rural municipalities adopting a TIF, and the years of wave 6 (2002-2004) correlates with the time the Department of Economic Development was expanding staff, partially to meet the charge of assisting communities with the technical aspects of creating and implementing TIF districts and other available economic development programs. First-time TIF municipalities in the urban cluster category are more evenly distributed in the first four and last four waves with 23 in the first four waves and 17 in the last four waves. Although some of the municipalities in the urban cluster also received assistance from the Department of Economic Development, especially in the last two waves (through the Dream Initiative program), the numbers and the distribution of urban cluster municipalities' adoption wave do not clearly indicate a relationship.

With respect to economic development as the stated purpose for creating a TIF district, the historical development of the statute indicated that from time to time this particular purpose was controversial. A circuit court deemed the purpose unconstitutional, and interest groups and legislators (wanting to “restore” the original intent and limit the statute’s use) attempted to delete it as an allowable purpose periodically, but to no avail. The legislature was able to make modifications to it in 1997 limiting its use in potentially competition situations. An earlier discussion in this chapter looked at how frequently this purpose was invoked, and its pattern of usage. It is clear that this purpose is used relatively infrequently. It was most likely to have been used in the Kansas City area in the 1990s. It was more than likely not used alone, and most often it was used in combination with blight. Although no causal relationship can be assured, the strong pattern does warrant a closer look, and some suppositions can be made (in the next chapter). The usage did not seem to be impacted by the 1992 Pettis decision, but its noticeable decline in use after 2000 could have been influenced by the discussion to eliminate it as an allowable purpose.

Hypotheses II and III

The second hypothesis introduced in Chapter was:

HII – TIF using municipalities are more likely to have a higher poverty rate.

The null hypothesis:

HII₀: There is no relationship between municipal poverty rate (percent persons below poverty) and whether the municipality has adopted a TIF.

Predicted value: There is a positive relationship between whether a municipality has adopted a TIF and the municipality’s poverty rate. In other

words, the higher the municipality's poverty rate, the more likely the municipality has used a TIF.

Significance of the % persons below poverty variable for all municipalities (over 1000 population) was found at, but only at the 92% confidence level and with a negative coefficient. This negative coefficient was the opposite of what was expected – as % person below poverty increased, the likelihood of a municipality using a TIF decreased. When these municipalities were separated by rurality, a significance was found in the urban cluster subset, also in the opposite direction and at the 99% confidence level. In urban cluster municipalities, as % persons in poverty increased, the likelihood of being a TIF-using municipality decreased. A much smaller negative coefficient was associated with the rural group but no significance was found at all.

But, this separation of rurality did reveal that the predicted positive relationship was found in the urbanized areas. The z score was 1.48 (confidence level of only 86%). This urbanized areas result closely matches that of St. Louis County alone, and shows the strong influence of St. Louis County's municipality characteristics on the total regression. If St. Louis County is separated from the urbanized areas, then the remaining urbanized areas would have a slightly negative coefficient also!

Summary – there is a significant relationship between % persons below poverty and TIF-use, but it is only reaches the significance level of 95% in the urban cluster group, and in this group the relationship is in the opposite direction than expected. Thus, hypothesis II is rejected, although the finding is very interesting!

The independent variable population size is significant at the 95% level, no matter rurality, with a positive coefficient, as predicted. The independent variable population

growth (2000-2009) reached significance at the 90% confidence level. When subdivided by rurality, this significance was lost. This tendency seemed to be largely influenced by urbanized areas other than St. Louis County. While that subset seems to be more influenced by population growth, St. Louis County seems to be more influenced by % persons below poverty (although neither reaching significance at the 90% confidence level).

The third hypothesis was also researched in this chapter. The hypothesis:

HIII. Waves of adoption of TIFs by particular types of municipalities followed court decisions and statute amendments that lowered risks for that particular type of user/usage/investment. In other words, An adoption wave pattern by type of municipality (size of population, growth of population, percent poverty) can be observed in an ordered logit regression.

HIII₀ – No “adoption of wave” by type of municipality (size of population, growth of population, percent poverty) is observed in an ordered logit regression.

(If no pattern is discerned, then there is no reason to look at what amendment or court decision could have impacted the ordered regression result. If there is significance, then court decisions or legislative amendments will be perused for possible association.)

Predicted Value: Rural municipalities are more likely to use TIF in a later wave than municipalities in urban or urbanized areas.

The ordered regression showed that municipal size (i.e. 2000 Census) was a significant independent variable at the 99% confidence level. The pseudo R² showed the model had very poor explanatory power (.02). The coefficient for population size was negative, indicating that the later the adoption (higher number) the smaller the population size. This was the only variable that was significant. When urbanized areas were removed from the regression the coefficient for the rural and urban clusters (combined together)

remained negative but the z score dropped -1.48, becoming no longer significant at the 90% confidence level.

Summary – the null hypothesis is rejected because the independent variable 2000 census (population size) is significant at the 99% confidence level.

II. Surveys and Interviews: Municipalities, Professionals, and Legislators

A small sample of municipalities were surveyed and interviewed, again with an eye towards adding context to other research information analyzed. They were asked questions regarding whether they used outside consultants, and if internal staff also had economic development responsibilities. Other questions included: 1) the degree of risk the initial and subsequent TIFs represented to the municipality, 2) whether they have comprehensive and/or economic development plans, 3) whether they have completed other economic development projects since 1990 without the use of a TIF, and 4) what other economic tools were used with the TIFs.

The municipality selection criteria for the survey/interview instrument are as follows: all municipalities over 100,000 population, and 40 municipalities from a random sample of the remaining TIF-using municipalities over 1,000 population. An attempt was made to call or email the contact person identified on the Missouri 2009 Annual TIF Report. An introductory email was sent to targeted respondents requesting their participation. The four municipalities over 100,000 population were interviewed in person or by telephone only (no survey instrument was included in the interview process of this group). All others were asked to participate in a two-part survey/ interview process. The two-part process was design to allow them to collect information that they may need time to gather, and to answer easy, routine questions at a time convenient to them. Once this survey was returned, a telephone interview time was scheduled. This allowed time to review some answers in advance, and thus have the ability to devise customized questions based on the survey answers. All four municipalities over 100,000 population consented to the individual interviews, and all were interviewed by phone call

except St Louis, which was in person. Twenty-one of the forty randomly selected municipalities agreed

Table 6. Municipalities Selected for Online Survey/ Telephone Interview, Participation, and Selected Answers

	Municipality Randomly Selected	Agreed to participate	Returned online survey	Interviewed via telephone	Risk 1st TIF	Plan (econ / comp)
	Blue Springs/Jackson	x	x	x	1	both
	Cabool/Texas	x	x	x	1	no
	Clayton/ St. Louis	x	x	x	1	both
	Columbia/Boone	x	x	x	1	both
	Country Club Hills/ St. Louis					
	Desloge/ St. Francois	x	x	x	2	comp
	Excelsior Springs / Clay/ Ray	x	x	x	1	comp
	Farmington/St. Francois					
	Florissant/ St. Louis					
	Gladstone/ Clay	x	x	x	1	both
	Grain Valley/ Jackson					
	Granby/ Newton					
	Grandview / Jackson	x	x	x	1	both
	Hermann / Gasconade					
	Jennings / St. Louis	x	x	x	1	both
	Kirksville/ Adair	x	x	x	1	both
	Kirkwood / St. Louis	x	x		2	comp
	Lake Ozark / Camden/Miller					
	Maplewood / St. Louis	x				
	Maryville / Nodaway	x	x	x	1	comp
	Miner / Scott					
	Monett / Barry					
	Moscow Mills / Lincoln	x				
	New Florence / Montgomery					
	Normandy / St. Louis	x				
	O'Fallon / St. Charles	x	x		1	comp
	Platte City / Platte					
	Raytown / Jackson					
	Richmond Heights / St. Louis	x	x	x	1	comp
	Sedalia / Pettis	x	x	x	2	both
	Smithville / Clay / Platte					
	St. Charles / St. Charles					
	St. John / St. Louis	x	x	x	4	both
	St. Peters / St. Charles					
	St. Roberts / Pulaski					
	Ste Genevieve/Ste Genevieve					
	Strafford/Greene	x	x	x	1	comp
	Sugar Creek / Jackson					
	Unity Village / Jackson	x				
	Wentzville / St. Charles					

to participate, 17 (of the 21) returned the online survey, and 15 (of the 17) completed the telephone follow-up interview. (See Table 6.)

A short summary statistical will be presented first. Next, more specifics from the survey/interviews in a comparative format are discussed.

Summary Statistics

Seventeen of the 21 participating municipalities said they use or have used an outside consultant (all but Independence, Cabool, Kirkwood, and Maryville). Cabool cites finances as a reason for not having an outside consultant. Independence and Kirkwood have internal capacity, and both Independence and Maryville use an economic development council (Maryville, as a county seat, relies heavily on their county's economic development council). Excelsior Spring has recently stopped using an outside consultant. Not surprisingly, everyone who used an outside consultant was satisfied with their services except Excelsior Springs, who has recently terminated their outside consultant's services. Municipalities vary to the degree they used an outside consultant – to some, use of an outside consultant is routine, while to others, it depends on whether the project has special needs.

The four largest cities (Kansas City, St. Louis, Springfield, and Independence) have significant organizational structures designed to channel economic development activities, generally including an association with its own municipality's economic development organization/council. The other municipalities vary in their staffing for economic development personnel or delegation of economic development responsibilities to other staff. Clayton, Gladstone, Grandview, Blue Springs, O'Fallon, and Jennings (6)

all report having a full-time person with economic development in his/her title (director of Economic Development, Economic Development administrator, director of Planning and Economic Development, etc.). Two municipalities (Kirksville, Sedalia) have a Community Development or Community Services director/coordinator, whom spend 20% - 30% of their time on economic development. Otherwise, this function falls to the responsibility of the city manager, or a combination of the city manager, assistant city manager, city finance director, and city attorney, depending on their staffing levels.

Thirteen of the 17 municipalities that returned the online survey categorized the amount of risk taken with their first TIF project as “1” on a five-point likert scale, with 1 being “little risk” and 5 indicating “high risk.” Five of these 13 stated the reason their initial TIF was a “1” (low risk) is because the TIF financing was structured in such a way that the municipality would not be responsible for any short-fall in captured revenues (Columbia, Richmond Heights, Grandview, O’Fallon, and Clayton). Four others mention that they only have approved “pay-as-you-go” financing method (Maryville, Blue Springs, Gladstone, and Kirksville). Two other municipalities used the “but-for” reason to explain why their initial project was “1” level of risk (Cabool and Jennings) (the last two of the 13 did not list a reason). Three of the 17 categorized the risk of their first TIF as “2” (still low risk) for the following reasons: a “few local distractors” (Sedalia), “most of the area was undeveloped and what was developed needed much improvement” (Desloge), and that there is always a chance that the project “would not be successful” (Kirkwood). The only municipality that categorized the degree of risk higher than “2” was St. John, rating their degree of risk as a “4,” stating that their initial TIF was “one of

the first ones in the St. Louis area,” and as a result of this newness, there were likely to be “unknowns.”

Only one municipality (Cabool) stated they had neither a comprehensive plan nor an economic development plan. Otherwise, the remaining 16 (of 17) all had comprehensive plans and of those, 9 also had economic development plans (none had an economic plan without a comprehensive plan).

Fourteen of the 17 municipalities stated that they have had at least one other economic development project since 1990 that was done without use of a TIF³⁹. In those cases, the economic tools used, if any, were: Chapter 70 (Sales Rebate contracts), Chapter 100, Chapter 353, Enterprise Zones/EEZ, or TDDs (Transportation Development Districts). With respect to their TIF projects, six municipalities indicated no other economic development tools being used with their TIF(s) (O’Fallon, Columbia, Sedalia, Gladstone, Kirkwood, and Clayton). CIDs, TDDs, Chapter 353 were mentioned as the other economic development tool used with TIF by more than one municipality. Two municipalities mentioned rebating utility fees (Cabool and Grandview), one mentioned assistance with acquiring property or right-of-ways in advance (Desloge), and another mention both Community Block Grants and the cost sharing program of Missouri Department of Transportation’s Revolving Loan Funds (Kirksville).

Comparative Context of Municipal Initial TIF Adoption, TIF-Use, and Capacity

³⁹ The 3 municipalities that have not done any other economic development projects that did not involve a TIF are: Desloge, St. John, and Strafford.

The narrative information from the interview is presented in a comparative analysis format. The municipalities will be discussed in groups. The first two groups will be from rural-like communities, divided by smaller⁴⁰ and larger⁴¹ (both will include some urban clusters). The next grouping is the three municipalities in the Kansas City area⁴², and the fourth grouping is the six municipalities in the St. Louis area⁴³. The last grouping will be the five largest municipalities⁴⁴.

The first group of municipalities is Cabool, Strafford, and Desloge. They are grouped together because of the following characteristics – municipalities of 2000 census under 5000 population not located within an urban area. Cabool and Strafford are classified as rural, although Strafford’s city clerk stated they are finally beginning to see some benefits from their proximity to Springfield (“just now getting that Springfield boom”). Springfield is also the county seat for Greene County, where Strafford is located. Strafford’s population is only 1845, yet the city clerk states that they benefit from a good location – they are about 15 minutes east of Springfield, right at Interstate 44 with good access to railroads. Strafford has experienced about 20% growth from 2000 to 2009 (to 2211). The city’s location in combination with the skills of their outside consultant has recently helped Strafford to compete successfully for a John Deere “core

⁴⁰ Municipalities and 2000 census population: Cabool – 2168, Strafford – 1845, Desloge – 4802.

⁴¹ Municipalities and 2000 census population: Maryville – 10,581, Excelsior Springs – 10,847, Kirksville – 16,988, and Sedalia – 20,339.

⁴² Municipalities and 2000 census population: Grandview -- 24,881, Gladstone – 26,365, and Blue Springs – 48,080.

⁴³ Municipalities and 2000 census population: St. John – 6871, Richmond Heights – 9603, Clayton – 12,825, Jennings – 15,469, Kirkwood – 27,324, and O’Fallon – 46,169.

⁴⁴ Municipalities and 2000 census population: Kansas City – 441,545, St. Louis – 348,189, Springfield – 151,580, Independence – 113,288, and Columbia – 84,531. Columbia was interviewed as a result of its random selection among municipalities under 100,000 (2000 Census), but happens to be the fifth largest municipality and is a better match to be grouped with these municipalities.

remanufacturing” facility. John Deere had indicated to Strafford that they also considered locating this facility in Germany. The incentive used with John Deere to get this facility is a contracted tax abatement. Their first TIF is a downtown project that the city initiated in 2002 to attract a supermarket and to address blighting as presented in vacant buildings. This remains their only TIF district, which added a Dollar General store two years earlier (using both TIF and CID).

She states the city is well served and quite pleased with the services provided by their outside economic development consultant, Darrell Gross & Gross Associates. She describes him as a “can-do one person company.” The city administrator’s position does include economic development responsibilities expected to take 10-20% of his/her time – but they haven’t had a city administrator since she has been city clerk (2002).

Cabool is a similar size municipality in southern Missouri, and is clearly rural; about 70 miles east of Springfield, located at the intersection of two state thoroughfares – highways 60 and 63. The population size has remained fairly constant from 2000 to 2009 (minor loss of 1.5%). The city clerk states that the city only has a Dollar General, and residence have to travel 15-20 minutes to go to either Mountain Grove to shop at the nearest Wal-Mart or to Houston (Missouri) to shop for clothes. Cabool was an early adopter of TIF, creating a downtown business district TIF in 1993 which was able to attract a Dairy Queen in 1996. This TIF district recently added a Subway restaurant in 2007. Cabool had an economic development person “back then,” when the TIF district was first created, but he left. Currently their city administrator has economic development responsibilities, and is expected to spend about 30% of his time on this function. She stated that this amount of time “seems about right” because the board of

alderman “seemed pleased.” The city has wanted to hire a full-time economic development person “years ago,” but she stated that the budget is too tight for this. They have had businesses move to Cabool without use of any economic development tools, but she stated the Board of Alderman occasionally will “offer a utility incentive to a new business.”

Desloge is the largest of these three municipalities, and is classified as being in the urban cluster of Park Hill, which includes Park Hill and Bonne Terre, all of which are close to Farmington in the eastern side of the state. Desloge is located on the divided state highway 67, and has experienced a modest gain in population from 2000 to 2009 (from 4802 to 5211, 8.6%) Their TIF district is named “Highway 67 TIF District” (created in 1997), which the city clerk describes as individual projects implemented at various times. One project is called “State Street Redevelopment” which dealt with stormwater and curbing, and another is called the “Highly Lane” project, where the street was redone and a water line added. Although the TIF district includes a Wal-Mart, technically Wal-Mart did not receive a TIF. The city used the TIF to acquire the property in anticipation of making it available to be acquired by Wal-Mart at a later date. Wal-Mart had an older store adjacent to the TIF district, and it was known that Wal-Mart wanted to build a newer store. Park Hills attempted to lure Wal-Mart to their city, but they were able to keep Wal-Mart in Desloge. She credits their ability to “keep the ideal property available for sale to Wal-Mart” when it was ready to build its new store as important to Wal-Mart’s decision to stay in Desloge.

The Desloge city administrator spends about 25% of his/her time on economic development. The city clerk mentioned that Desloge had an “economic development

committee a while back.” Desloge does use outside consultants to assist them with specific tasks or projects. She reported that Stifel Nicholas had informed them that their TIF would be “paid for in April.”

In summary of this group – the smallest municipality was the earlier TIF adopter, adopting its only TIF in 1993. It seems that the availability of an economic development person at that point in time could have been a critical factor to Cabool being an early adopter. Their TIF, although designed to attract business to their downtown, has seen very little use, which may be related to the economic development person leaving “back then” (Cabool 2011, interview). Desloge and Strafford both hire outside consultants as needed. Strafford’s consultant pro-actively seeks business opportunities for his client. Although Strafford’s city clerk mentioned that the city is beginning to benefit from its nearness to Springfield, she also felt that Springfield is its biggest competitor. Since Springfield is also the county seat for Strafford, she states that the county-level government has been “very helpful” but at times it is felt that the Springfield Chamber of Commerce exerts pressure on the county government to favor Springfield. Strafford and Cabool both have modest, pay –as-you-go TIFs. Desloge has a TIF bond that likely was paid of this year. Desloge was able to successfully staved off Park Hills from relocating the Wal-Mart store by use of the Highway 67 TIF district (but that was more than 10 years ago). Most noticeably, all three municipalities use the establishment of a TIF district in anticipation of attracting businesses to locate there in the future. This is the type of use that the city of Shelbina attempted in the TIF district that was found invalid in the *Shelbina v. Shelby County* case.

The next grouping is the four larger municipalities between 2000 census population of 10,000 and 21,000, none located in urbanized areas (although Excelsior Springs is close to Kansas City's urbanized area). Three of the four are county seats (Sedalia, Kirksville, and Maryville), and these three municipalities have experienced similar low levels of population growth of between 2% and 4% between 2000 and 2009. Excelsior Springs, just northeast of the Kansas City urbanized area has experienced a stronger growth of 15.9%. All four municipalities have a comprehensive plan – Sedalia and Kirksville also have economic development plans.

All four cities applied and have been accepted into the state's Dream Initiative⁴⁵ – Excelsior Springs and Sedalia in 2006 and Kirksville and Maryville in 2007. All of these municipalities had already adopted a TIF before participating in the Dream Initiative except Sedalia. Sedalia is the county seat of Pettis County, which is the County whose attempt to form a TIF district in another city within its borders (Dresden) resulted in the court decision that found the economic development purpose unconstitutional. Sedalia is the only municipality (of the 4 cities) that has established a new TIF since 2005, creating its first and only TIF district in 2008. Maryville had just established its two TIF districts just before it became a Dream Initiative city, establishing them in 2004 and 2005. Kirksville first TIF was created in 1987 and is no longer reported, but it is named the Southeast Quadrant Economic Development Area and was described as an infrastructure project in Kenneth Thomas' TIF database (used in this research to enhance the TIF database). Kirksville created another TIF in 1999 to improve its downtown area's

⁴⁵ Missouri Department of Economic Development program designed to assist municipalities with economic development. It is a three year program that tailors a community's need based on community assessment and buy-in.

appearance and building improvement (demolition and construction). Excelsior Springs was another relatively early adopter, creating two TIF districts in 1994. One is named the Wal-Mart/Elm TIF and the other is named the Price Chopper TIF. Excelsior Springs has a total of four districts, creating the other two in 1999 and 2002. The two TIFs in 1994 used TIF bonds – the later TIFs did not.

Excelsior Springs is the municipality that recently terminated the services of one-man consultant. The director of administrator services for the city stated that this consultant was given a very low retainer fee (estimated to be about \$100/month), but accountability was their primary complaint because the consultant seldom gave oral or written reports of his activities. This administrator also mentioned that an assistant city manager who had some responsibility for economic development has recently left, and her departure has left the city with a knowledge and information gap with respect to economic development activities. He did not identify any other internal staff as having economic development responsibility.

In Maryville the only staff person with economic development responsibility is the city manager. The city, as the county seat, partners with the Nodaway County Economic Development (a nonprofit corporation), and in essence, pays them to do economic development that benefits them all. The city manager described Nodaway County as having about 22,000 population in an area covering 600 square miles of which 12,000 of the 22,000 population (over half) live in the five square miles of Maryville. Thus, the county's and the city's aims are similar – Maryville is the “economic engine” of the county.

Sedalia listed its Community Development director as the only person having economic development responsibilities, listed at 30%. The Community Development director specifically mentioned that their first TIF in 2008 was a result of the recommendation of the state (based on their participation in the Dream Initiative) and they identified PGAV as their outside consultant, (provided with their participation in the Dream Initiative). This TIF is listed as a pay-as-you-go, rehabilitation/redevelopment mixed residential and commercial project in Sedalia's midtown, to include 26 subsidized and 30 market-rate housing units, with a grocery store. The building will also benefit from a Missouri Housing and Development program. Even still, the Community Development director categorized the risk-level at "2," due to anti-TIF sentiments still lingering from the Pettis County court case almost 20 years earlier.

Kirksville has three staffers that have economic development responsibilities – the city manager (about 10% time), the assistant city manager (about 20% time) and the Community Services Coordinator (about 20% time). In describing their use of an outside consultant, the Community Services coordinator mentioned that the consultant was used in their "second and third [TIF] to complete the Redevelopment Plan," revealing that although they have only two TIFs reported on the 2009 report, by the 2011 interview they had created another TIF district. She describes their initial and second TIFs as having low risk because they were financed by a pay-as-you-go plan *and* the city itself was the developer. She indicated on the survey that the next TIF has an increased level of risk owing to the participation of a developer who wants to use TIF bonds to fund improvements. She wrote "there was not sufficient coverage to obtain the bonds. At this

point the City is not at risk, but it does complicate things when there is an outside party [a developer] involved.”

The municipalities were not all that concerned about competition for investment from other communities with the exception of Excelsior Springs. Interestingly, although Excelsior Springs is located near the urbanized area of Kansas City, the focus of their concern were municipalities in the nearby state of Kansas. The director of Administrative Services stated that Kansas (state) was 30 miles away and was aggressively courting its current businesses. Thus, his concern was focused on business retention.

In summary, among these mid-sized municipalities of between 10,000 and 21,000 population (2000 census) varying levels of capacity were exhibited. In Maryville’s case, the level seemed sufficient – mostly because of their reliance and partnership with their county’s economic development council. Perhaps even Kirksville’s capacity is sufficient, even as they slowly try more “risky” ventures such as working with a developer. Sedalia, the largest of the four municipalities at 20,339 (2000 census) is relatively new to using a TIF, deterred from using TIF earlier based on their county’s experience with TIF in Dresden in 1992. It appears that Sedalia may be using the Dream Initiative as a way to overcome policy inertia – by using the strategy mentioned by another economic development professional (Springfield 2011, interview) – bringing in an “expert from 100 miles away” to gain credibility. That “credibility,” in this case, would be provided by both the Department of Economic Development (as sponsor of the Dream Initiative) and the consultant (PGAV) that provides the service. Excelsior Springs was a relatively early adopter (in 1994) and also has the highest number of TIFs (4) of this group. Yet,

the departure of a single employee can be disruptive to their momentum and or knowledge capacity and institutional memory. Perhaps spreading the responsibilities among two or more employees, like Kirksville, and/or working with or creating an economic development council can help with institutional memory and knowledge capacity. Even though they may have adequate personnel, none really seemed to be operating at above sufficient. Clearly all four municipalities felt they could do better and would benefit from assistance from the state through participating in the Dream Initiative, which required them to apply competitively for a place (only ten cities were selected each year).

The next group of municipalities is in the Kansas City suburbs, and all three municipalities are larger than any of the seven municipalities in the groups just discussed. Grandview, Gladstone, and Blue Springs have populations of 24,881, 26,365, and 48,080 respectively (2000 census). Grandview's population has remained relatively the same from 2000 to 2009 at -0.7% growth (loss of 163 persons), while both Gladstone and Blue Springs have experienced moderate growth of 12% and 16% over the same time period. Blue Spring is the only one of the three cities that does not share a border with Kansas City – it is west of Kansas City, with Independence in-between on its northwest border and Lee's Summit between it and Kansas City on Blue Springs southwest border. Gladstone was considered north of Kansas City until Kansas City annexed all the land around it on all four sides. Similarly Grandview is south of most of Kansas City, although it shares a border with Kansas City on all of its sides except its southern border, which it shares with Belton and is also the southern border of Jackson County.

The staffing of these municipalities is noticeably better. Both Grandview and Gladstone have economic development directors, and Blue Springs has an “accountant-economic development” person, all devoting 100% of their time for economic development. Blue Springs additionally listed the director of Finance (20% time) and the Assistant City administrator (30%) as having economic development responsibilities. Gladstone’s general counsel also has some responsibilities regarding their economic development activities. All three municipalities also use outside consultants. Blue Springs and Gladstone both report typically using a legal consultant and a different consultant to provide the cost-benefit analysis.

All three municipalities have both comprehensive and economic development plans. Grandview was one of the earliest user of TIF, creating two TIF district in 1989, and also has one of the highest number of TIF districts with 14 TIF districts reported. The status of two of them⁴⁶ is listed as “dissolved.” Blue Springs’ first TIF was also in the late 1980’s (as reported in the online survey) and is known as the Highway AA & 40 TIF.⁴⁷ The Assistant City Administrator related the city was an early adopter of TIF because they had a specific identified need at that time – to build a new road to create better access to the businesses at this particular intersection. Blue Springs reported three TIFs on the 2009 Annual Report.

Gladstone only has one TIF district which was created in 2005, making Gladstone fall into the category of a late adopter. Although many late adopters present with capacity issues, this is not the case with Gladstone. Gladstone’s preferred incentive tool

⁴⁶ One of the dissolved TIF districts was created in 1989, the other TIF district was created in 1993.

⁴⁷ This TIF district is not in the basic or enhanced database.

for retail projects – when they choose to use an incentive – is the Chapter 70 sales tax reimbursement (i.e. contracted sales rebate). She describes Gladstone as “the model” for use of this tool, and many municipalities consult and learn how to use this tool by Gladstone’s examples. Also worth noting is she describes the leadership of the city as “visionary.” She states that the administration is “open-minded about incentives,” and each incentive is “customized” when used. She described their philosophy as “liberal in thinking and conservative in action.” She also noted that the city manager is opposed to using incentives for greenfield development. This discussion about leadership philosophy and vision led to the obvious subject of how long this leadership had been in place. The economic development director (the interviewee) had been with Gladstone for 6-1/2 years, while she estimated that the city manager had been employed by the city for 15-17 years and the assistant city manager had been employed by the city for 14-17 years.

Even Gladstone’s outcome regarding the one TIF district is interesting. The economic development director shared that the TIF was created with the purpose of seeking a developer to redevelop a 1960s era outdated shopping mall. Previously they had attempted to blight the shopping center under a Chapter 353 plan, but the owner of the shopping center sued the city to stop the blight designation. The owner spent approximately \$1 million to remove the five blight criteria used to designate it as blighted. Although the TIF district still exists, it is not considered active, and thus Gladstone has no active TIFs. Gladstone’s policy is to only approve pay-as-you-go financed TIF.

Blue Springs and Grandview also have a preference for pay-as-you-go TIFs. Blue Springs did allow one of the developers to use TIF bonds that were “issued backed by the quality of the developer” (Adams Farm TIF, created in 2007) (Blue Springs 2011, interview). Blue Springs also has a policy of a TIF being no higher than 15% of the anticipated total project costs.

The Assistant City administrator of Blue Springs views the bordering municipalities of Independence and Lee’s Summit as well as Grain Valley as its competitor for retail investment and for shoppers. The economic developer director of Gladstone views competition from a different perspective – she describes competitive pressure in the form of UBG funds and green space. Gladstone cannot compete with the “urban core’s” ability to use UBG (Urban Block Grants) nor the outer-suburbs (including Kansas City in this case) availability to offer green space (Kansas City annexed all the land around Gladstone, thus Gladstone does not have green space).

This group in summary – a much higher level of municipal capacity is noticed in this group. This group of municipalities is significantly larger than the others, and the staffing level is much larger. Their degree of nuances and sophistication in use of economic development tools on a whole is much more evident. Although the bigger size could explain most of these greater staffing capacities/capabilities advantages, it is also important to realize that the Kansas City area is the center of the earliest users with experts with some of the best knowledge of the TIF tool who also had the desire spread the usage of TIF in Missouri. It is also evident that these municipalities in the urbanized area feel competitive pressures from their surrounding neighbors more so than the municipalities in the rural or rural-like communities previously mentioned.

There are more municipalities in the St. Louis area surveyed group (six), which is compatible with the fact that there are more different municipalities using TIF in this area. Five of the six municipalities are located in St. Louis County and the sixth city is in St. Charles County. The St. Louis County municipalities are generally much smaller than the municipalities surveyed in the Kansas area. The municipalities – St. John, Richmond Heights, Clayton, Jennings, and Kirkwood – vary in size, with 2000 census population sizes of 6,8712, 9,603, 12,825, 15,469, and 27,324 respectively. The only St. Louis County municipalities experiencing growth in population from 2000 to 2009 was Clayton (25%). Kirkwood was fairly stable losing only 1.9% population, while the other three lost between 5% and 8%. O’Fallon is located near the outer edge of the St. Louis urbanized area, in the county of St. Charles. It has the largest population of the six municipalities at population of 46,169 (2000 census) and has experienced the largest growth from 2000 to 2009 at 70.8% (2009 est. population of 78,850).

All of these municipalities with the exception of Clayton are relatively early adopters of TIF. St. John was very early, adopting its first TIF in 1989. Richmond Heights’ TIF (1991) was the important St. Louis Galleria TIF, which is an important TIF in the historical development of the statute and the subsequent patterns of its use. O’Fallon soon followed with a TIF in 1992 (Venture), Kirkwood created two TIF districts (Kirkwood Commons in 1994 and Pioneer Place in 1994); and Jennings created two TIF districts in 1997 (Louisa Foods and Stout Industries). Clayton only created a TIF district in 2007, and only because a developer approached the municipality and requested a TIF. Because of the timing of the TIF district (recession) this district was listed as inactive because the developer had difficulty getting financing.

Outside of St. Louis city proper, Jennings is the municipality in the St. Louis area with the highest number of TIFs (7). Jennings is an inner-ring suburb that shares a border with St. Louis. They employ a director of Planning and Economic Development that estimated that he spends approximately 70% of his time on economic development activities. He is also a long-time employee of Jennings, and formerly had the title of director of Public Works. What should be noted about this director is that he formerly was an employee of St. Louis County, which is also an early user of TIF. When he began working for Jennings around 1996 he discovered, through a proactive business retention program that he was starting, that two businesses were in the mist of moving to other counties (Jefferson and St. Charles) (Butler 2006, 22). Through knowledge, capacity, and networks gained through his former county employment, he was able to retain these two companies in Jennings through the creation of these two TIF districts. The county also worked closely with Jennings in the redevelopment of an outdated shopper center (Northland Shopping Center). The county made important land purchases of the shopping center property, assuring that it would be available for repurchase by developers at a reasonable cost when the time came. This shopping center TIF was created in 1999.

St. John is also surprising in its capacity as a smaller municipality of only about 7000 population. Not so surprisingly though, they also have a long-time employee that currently serves as City Manager as well as Police Chief. In this position, he has primary responsibility for economic development, and the Assistant City manager also is the TIF treasurer while the Finance director has responsibility for preparing all financial documents pertaining to economic development programs. They have used TIF for both

industrial development (1989 TIF district along the 170 Innerbelt between St. Charles Rock Road and Natural Bridge) as well as retail project on St. Charles Rock Road (Shop n Save strip mall, TIF created in 2001). The City Manager is a long time participant in the MEDFA organization, and its predecessor, the Missouri Tax Increment Financing Association).

The director of Finance for Richmond Heights estimates that the City Manager and City Attorney may spend up to 10% of their time on economic development, and the Building Commissioner/Zoning Administrator may spend up to 5% of his/her time on economic development. Clayton has a full-time economic development director, as does the city of O'Fallon. Like Clayton, Richmond Height has recently experienced creating a TIF district for a developer that has been unable to get financing.

Richmond Heights created the Hadley Township Redevelopment TIF in 2006. This redevelopment project required the acquisition of a substantial number of residential properties, and thus had high citizen interest and impact. The failure for the developer to obtain financing has left the impacted residential properties in a worst situation – similar to those in Sunset Hill's failed TIF. Richmond Heights has recently provided incentives to two hotels developed in their boundaries, but used Chapter 353 funding⁴⁸ without use of TIF. Gene Norber mentioned the Cheshire Inn transaction in his interview (Norber 2011, interview) stating that the Chapter 353 incentives were used in this project to avoid the TIF approval process of the new county-level TIF.

⁴⁸ The Cheshire Inn is located in both Richmond Heights and the city of St. Louis. Both municipalities granted Chapter 353 funding.

One might find it surprising that the city of O'Fallon, with such a large population while still experiencing explosive growth, only has one TIF which was created in 1992. The city attempted to create a downtown TIF district in 2003 which met with strong citizen opposition, which after a significant struggle, had to be abandoned. They have been active in the use of other incentives, especially Chapter 100 incentives.

Kirkwood's two TIF are related, although the first TIF was intricate and complex. Kirkwood discovered that the Target store in their area was planning on relocating to build a bigger store. Meanwhile, the county was actively seeking a municipality to annex an unincorporated community adjacent to Kirkwood known as Meachum Park. Kirkwood did annex Meachum Park, and this transaction also included involvement of the Missouri Housing agency and the federal Housing and Urban Development Departments, as project included redevelopment of HUD sponsored low-income housing in the Meachum Park area. Target stores were enticed to build their new store in the Meachum Park Redevelopment Project TIF. The vacated property vacated by Target was redeveloped by the Pioneer Place TIF created in 1995 (Kirkwood 2011, interview). They have not created any new TIFs since 1995.

Summary of this group – by municipality size, municipalities in the urbanized areas showed more staffing capacity than similar size municipalities in outstate Missouri. The role of the county-level government was actively visible in a few cases (Jennings and Kirkwood), while the ability to network with others and to participate in organizations such as MEDFA is also evident (St. John, Richmond Heights, Jennings). Again, the importance of leadership and capable personnel is showcased in the sample of municipalities surveyed in St. Louis County (i.e. St. John, Jennings), often overcoming

size (St. John) or budget (Jennings) restraints. Additionally, it is interesting to note that when political pressure makes it difficult to get approval for use of TIF, municipalities have been able to find other economic development tools to partner with private investors (i.e. Richmond Heights, O'Fallon).

The five largest municipalities in Missouri all vary in how they use TIF. Columbia, the smallest of the five (2000 census of 84,531), just created their first TIF in 2009 (the last year covered in this study), while Kansas City, the largest municipality (2000 census of 441,545) established the first TIF commission the same month the TIF statute was enacted and its first TIF in November of 1986. While Kansas City and St. Louis, the two largest municipalities in the state both report a similar number of TIFs (108 and 115 respectively), there is a marked drop in created district in the next size municipalities of Springfield with 2 TIFs and Independence with 17 TIFs. Although 17 TIFs is a big distance from 108 or 115 TIFs, the city of Independence is the third highest user of TIFs (and the fourth largest municipality). The third largest municipality, Springfield, has only created two TIFs, as has the fifth largest municipality, Columbia.

Columbia's recent entry as a TIF user is largely credited to the retirement of a long-time city administrator (Ray Beck) in 2006. This city manager had held that position since 1985 and had been a city employee for 42 years when he retired, and he had a philosophy "not to use public funds for private benefit" (Columbia 2011, interview). Columbia is centrally located in the middle of the state, midway between the state's two large municipalities and on the major east-west Interstate 70. It also is home to the state's main campus of its flagship university (University of Missouri) and only 30

miles from the state capital. Columbia has also experienced a population growth of 21% from 2000 to 2009 (to 102,324).

In 2009 Columbia established its first two TIF districts in its downtown area. Although other developers have requested TIF use on other projects outside the downtown area, the city has established a policy to limit TIF to the downtown area for now (Columbia 2011, interview). The city first TIF is a renovation of an old hotel now known as the Tiger Hotel, which is an historic “turn of the century” hotel. The assistant city manager refers to this project as its “learning tool” regarding TIF use. He also mentioned that the community “had affection” for this property and that the owners had attempted to create a viable business over the last 10 years but had not been successful.

Columbia has also recently opened an IBM facility (2011). In this instance, IBM worked with the Missouri Partnership to find a location in Missouri and to participate in two state-level incentive programs – the Missouri Build Program (\$11.6 million) and the Missouri Quality Jobs Program (\$14.7 million). Another company, ABC Labs, was granted a Chapter 100 incentive in 2006.

The assistant city manager is expected to spend approximately 10% of his time on economic development. The area has a county economic development organization known as REDI (Regional Economic Development, Inc.) that is “charged with attraction, retention and economic gardening for Columbia/Boone County” (Columbia 2011, interview). They have also used outside consultants to do a marketing study (Development Strategies) and a land-use study (Sasaki), as well as legal (Gilmore & Bell) and financial (Stifel Nicholas) consulting. As a large municipality that is the county seat,

the city does not view nearby cities as its competition. Because of Columbia's size, the assistant city manager feels more competitive pressure from larger Missouri cities such as St. Louis, Kansas City, and Springfield (Columbia 2011, interview).

Springfield is in many ways similar to Columbia – it is a large municipality of 151,580 residents (2000 Census), and the county seat of Greene County, with a relatively low number of two reported TIFs, and a large state university in its boundaries (Missouri State University). It is located in southwest area of the state on Interstate 44 (an interstate starting at St. Louis and continuing through major cities in Oklahoma and terminating in Texas). It is also the major urbanized area next to the tourist area of Branson, Missouri. There are many ways in which Springfield is different from Columbia too – starting with its more developed in-house economic development organization and familiarity with TIF use. Besides having an Economic Development Director, the department has a planner (who manages brownfield grants), a commercial loan officer (who specializes in SBA loans) and two other “traditional” staff (who focus on tax abatements). They occasionally use outside consultants depending on the project's need, including outside legal assistance or when an outside consultant can add more credibility (an “expert from a 100 miles away”). This need for an “expert” is sometimes a function of the dynamics of the city's governance. The need for an outside consultant might also be a function of workload considerations, complexity of a project, or a need for a special expertise.

Interestingly, although the city enacted its first TIF in 1994, it ultimately never used it as such, opting instead to fund the infrastructure needs through a sales tax rebate contract. Thus, that TIF district was formally “revoked” in 2010, and is not included as one of the two TIFs reported to the state. The first TIF was a redevelopment for Target

Department Stores and required the moving of a high voltage power line. A half-cent sales tax was levied on the site. The Economic Development Director describes the contracted sales rebate program as “great, easier to do, and only impacting sales taxes.” She states that they have done about ten sales tax rebate contracts (Chapter 70).

Springfield used a series of community-wide strategic planning sessions “in the 1990s” to assist in the development of their comprehensive planning document called “Vision 2020,” and the Jordan Valley Park redevelopment concept arose from this process. The strategic plan (i.e. comprehensive plan) was updated again in 2004. From the original Vision 2020 process, it was known that the community wanted the convenience of a park centrally located inside the city, using Forest Park in St. Louis as their desired model. . The Jordan Valley TIF in 2000 was a redevelopment of a “former blighted industrial area into parks, water features, civic center & exposition hall, recreational ice facility, minor league baseball facility and a business-class hotel and conference facility” (Missouri 2009 Annual TIF Report). Both a local and a state TIF were used and a CID district was also created. John Q. Hammons, a wealthy real estate developer, hotel magnate, and community philanthropist, was involved with the overall development. The Economic Development Director described this project as including a “good old boy network.” This project issued \$19 million in bonds, and the subsequent TIF on a different project has a pay-as-you-go funding (Commercial Street Redevelopment TIF) because the city will no longer “back bonds.” She stated that the city’s “political capital” has been spent.

The Economic Development Director also mentioned that Springfield does actively lobby legislators in Jefferson City. She stated that her interest in lobbying

activity regarding TIF is protecting existing usages and “protecting from other negative, onerous changes” (Springfield 2011, interview). She also mentioned that she testified with Kay Barnes (former Mayor of Kansas City) in lobbying for MODESA, and that she also lobbied for the MODESA Lite version, which they used to retire the debt for a parking structure. She is currently a board member of MEDFA (Missouri Economic Development Financing Association).

Independence is within Kansas City’s urbanized area yet covers more land than St. Louis city⁴⁹ with 78 square miles (Independence 2011, interview), and 2000 census population of 113,288. Although the Community Development Director describes Independence as a “very old city,” she estimates that about half of Independence’s land area is still undeveloped (Independence 2011, interview). The city has experienced a modest growth from 2000 to 2009 of about 7% to an estimated 2009 population of 121,180.

Independence’s first TIF is unique. The city is the hometown of former United States President Harry S. Truman. Thus, the city attracts tourists who want to visit neighborhoods and buildings associated with the President. The older neighborhood was in a state of decline and had the attention of Independence’s governing council. During this time, a non-profit hospital in the area changed ownership to a for-profit hospital, suddenly putting the hospital on the tax-paying roll. A Chapter 353 corporation was created, and a program was devised that the Mid-Town Truman Road Corridor Plan and

⁴⁹ St. Louis city covers 62 square miles of land.

Redevelopment Project TIF⁵⁰ (mostly generated by the change in tax status of the hospital) was used to fund the Chapter 353 corporation, allowing homeowners a source of funding to improve their properties and to obtain tax abatement on the improvements. This seemed to work well until the hospital built a new hospital in Independence, thus abandoning the older hospital. This property is being repurposed, but the Chapter 353 Corporation has been able to reverse the decline that the neighborhood had been experiencing.

The city has a separate Economic Development corporation that has the responsibility of attracting businesses and other economic activity. The Community Development director stated that Independence does not use outside consultants. The City-Manager's office has economic development responsibility, and his office has the following staffing to assist in this charge: an economic development manager, a deputy city manager, an assistant city manager, and the city manager.

Although the city has a comprehensive plan, this plan is generally only used for legal purposes. For guidance and decision-making, the governing board relies on its strategic vision document which consists of four strategic goals. Although this document is fairly succinct and under a page in length, a truncated version of the four goals is: 1) to develop and support vibrant neighborhoods and a high quality of life, 2) to foster a viable local economy with an expanding employment and tax base, 3) to ensure long-term financial stability, and 4) to meet existing and emerging transportation needs through the

⁵⁰ Independence's first TIF

timely maintenance of City infrastructure

(<http://www.ci.independence.mo.us/citycouncil/StrategicGoals.aspx>).

The Community Development director stated that the city had implemented an internal policy of pay-as-you-go about four or five years earlier, and the city does not help private developers in obtaining financing – developers are expected to get their own financing based on their own credentials. She also observed that only one TIF has been approved in the three years she has been with the city. The city has four “large” 353 corporations, which are mostly used in residential areas, and they also have some CIDs.

St. Louis city is its own county and located on the eastern border of Missouri with Illinois, containing 62 square miles with the Mississippi River as border on one side and St. Louis County surrounding the remaining sides. This dynamic is most notably different from the largest Missouri metropolitan city of Kansas City, which has 315 square miles and located on Missouri’s western border and contained in four separate counties (Jackson, Cass, Clay, and Platte). Kansas City has grown substantially through annexation, most notably since the 1960s (resulting in its location in multiple counties) (Kansas City 2011, interview). Conversely, St. Louis’ boundary was set in 1876 by state law⁵¹, which separated St. Louis city from its county, creating a city within its own county. St. Louis and Kansas City essentially report about the same number of TIFs in the 2009 Database with St. Louis reporting the most (115 and 108 respectively). As mentioned earlier in Chapter Four, St. Louis had only created four TIFs by 1999, thus most of these St. Louis TIFs were created in the last decade of this study.

⁵¹ Commonly referred as the Great Divorce of St. Louis city from St. Louis county.

St. Louis does have a separate organization that manages much of its economic development responsibilities. The St. Louis Development Corporation (SLDC) is an “umbrella organization” that is the home of or provides staffing to the following: the TIF Commission, the Planned Industrial Expansion Authority (PIEA), the Industrial Development Authority (IDA), the Port Authority, the Land Reutilization Authority (LRA), Land Clearance for Redevelopment Authority (LCRA), Enhanced Enterprise Zone Board (EEZ), the Preservation Board, and its Planning Commission, among others. SLDC does not usually use outside consultants, but will use consultants occasionally for a specific job. An example mentioned was that the City had recently retained a consulting company to develop a land-use and marketing plan for the “North Riverfront” area (St. Louis 2011, interview).

The mission of SLDC as listed on their website is “fostering economic development and growth in the City of St. Louis through increased job and business opportunities and expansion of the City's tax base,” and later stated as “to stimulate the market for private investment in City real estate and business development and improve the quality of life for everyone who lives, works, and visits the City” (<http://stlouis-mo.gov/government/departments/sldc/about-SLDC.cfm>). The city does not have a real comprehensive plan, but uses a land-use plan in its place. The city updated its land-use plan in 2005, having relied on its 1947 Comprehensive Plan until then. The newer plan is titled “The Strategic Land Use Plan of the St. Louis Comprehensive Plan.” Both plans are essentially land use plans and not comprehensive plans, and the City does not have an economic development plan. All incentive plans/proposals must go through and be approved by the Planning Department (St. Louis 2011, interview).

St. Louis' emphasis in the earlier years of this study was on using real estate tax abatements. The Director of Commercial Development for SLDC stated that before the 1990s this was the most commonly used tool, and Chapter 99 tax abatements were especially used for smaller projects. The City's first TIF is St. Louis Marketplace, located near their border with Maplewood. He states that its original use was retail, but the location was not good for this purpose. Additionally St. Louis Marketplace opened with "a number of national retailers" such as Kmart, PACE, Builders Square, and Phar-Mor Drugstore. He mentioned the 1990 TIF project also had the misfortune of many of these national retailers going bankrupt in the first three to five years of the TIF project. The \$15 million in TIF bonds issued were backed by the city. The Commercial Development Director states that the City did not lose money even though it was not considered a successful retail project, and the property is currently 95% occupied and has more employees in total than when it was primarily retail space (St. Louis 2011, interview). He recalled the city began using TIFs more regularly in the late 1990s and early 2000s.

The City had a high number of vacant buildings downtown in the 1990s of about 120 and by adding TIF to their economic tool box for blight removal, they have been able to lower that number to about 20 buildings (St. Louis 2011, interview). These projects are also often paired with historic tax credits and or brownfield credits. The director also compared the overall pattern of TIF designation between St. Louis and Kansas City, stating that Kansas City has more TIF "districts" while St. Louis has more TIF "projects," again likely due to the high rate of residential projects St. Louis has. He mentioned that

St. Louis has only four “district” type-TIFs, and he named three of them – Grand Center, Lafayette, and the Delmar Loop.

The Director of Commercial Development estimated that approximately 65 – 70% of the City’s TIFs are residential projects. The City does not have a specific size the project should be – they let the developer determine this – but in general he believes that the projects needs to be at least \$3 million to have a positive “cost-benefit” report. He states that this high rate of residential projects is explained by developer demand – these are the type of projects “brought” to the City by developers. He generally describes the TIFs created by the City as “low-risk” now, since the City has not backed in bonds since the St. Louis Marketplace project, and the projects meet the “but-for” test.

Given the high rate of residential projects, it is interesting to note the impact of the St. Louis School District representation on its TIF Commission. The Director of Commercial Development states that the relationship with the St. Louis School Board is “interesting” and notable for how cooperative the School Board representative usually was with the City’s representatives. He credits two reasons for this cooperative relationship – that the “but-for” was truly met, and therefore there was really no “downside” to doing the TIF project, and that even though many of these projects were residential, they added very few students to the school district. He stated that in the last five years more residential projects have been low-income, and now perhaps 10% of the residential projects are low-income (identifiable because they also use low-income tax credits).

Regarding the City's downtown area, the director of Commercial Development has two major concerns – the lack of parking space and the lack of new buildings, with the last building being built in 1989. Parking space is a big complaint of major law firms housed downtown, and the lack of new office space is a competitive concern in retaining and attracting new businesses. He is also surprised that there are not any electronic retailers located in the City's boundaries, and believes that the City is generally underserved by retailers. He noted that many of the TIFs formed in the last three years are inactive due to the developers' inability to obtain financing. The City has a dedicated lobbyist that lobbies both in Jefferson City and at the federal level. With respect to the TIF statute – he likes it like it is, and would not want it to be changed in any way.

Kansas City could be said to be the center of TIF use in Missouri. It is now the largest city in Missouri, it is one of the two largest creators of TIF districts/projects in Missouri, it created its TIF Commission the same month the TIF statute was enacted, and the case that validated the TIF statute was from Kansas City. Kansas City surpassed St. Louis as the largest city in Missouri with the 1990 census – although both cities were losing population, Kansas City loss was less⁵² (U.S. Census), and since 1990 Kansas City's population has stabilized, even growing slightly. Kansas City and St. Louis had similar square miles in 1950.

Kansas City has an economic development organization, the Economic Development Corporation of Kansas City (EDCKC) to serve as an umbrella to many of its economic development programs. The organization's website state this 501c4

⁵² St. Louis' population peaked with the 1950 census of 856,796, and its 2010 census is 319,294. Kansas City's population peaked with the 1970 census of 507,087 (during an active annexation program), and its 2010 census is 459,787.

organization was established in 1987 and houses six statutory programs (including TIF, LCRA, MODESA, Port Authority, EEZ, and a loan program). The webpage also states they have 30 staff persons, and their mission is to “drive economic development and create an environment in which businesses and residents prosper...”

(<http://edckc.com/about-edc/>).

The Executive Director noted that the first TIF, 10th & Troost (the *Dunn* case), was never “activated” and has since been terminated. Consequently, he considers the first TIF as the TIF that was proactively implemented to “stop decline and remove blight in a largely African-American community known as the Eastside” (Kansas City 2011, interview).

In Kansas City all plans must be approved by the City’s Commission for Zoning & Land Use. Although they do not have an economic development plan, they do have a written plan called the “Focus Plan” (Forging our Comprehensive Urban Strategy), which was written in the early 1990s and guides their activities and functions as their comprehensive plan (Kansas City 2011, interview). The new mayor has plans to update this document. This document required many different citizen workgroups collaborating over time to develop the original plan⁵³ and will require the same effort to revise it.

The Kansas City uses outside consultants and routinely issues a request for proposal every two years to keep a list of pre-qualified consultants available for use as needed. The lawyer for the TIF Commission is the only outside consultant that is usually hired by retainer. Developers are also required to pay the costs associated with Kansas

⁵³ <http://www.kcmo.org/CKCMO/Depts/CityPlanningandDevelopment/AdoptedPlans/FOCUS/index.htm>

City assessing the merits of their proposed TIF project and must make an initial deposit of \$20,000. Kansas City estimates this function costs about \$35,000 to \$60,000, and the developer is notified as funds are spent and more money needs to be deposited. As an example of associated costs, the Executive Director mentioned they recently mailed notices to 600 property owners, costing \$5 each. The cost-benefit analysis is done in-house – the cost-benefit model used is one custom made for Kansas City by an outside consulting firm.

Kansas City does have some municipal backed TIF bonds, about eight to ten projects, mostly downtown hotel projects begun in the 1990s (Kansas City 2011, interview). The last project that has bonds backed by the credit of Kansas City is the Power and Light District in 2004. The Power and Light District is also notable for its use of MODESA. He stated that Kansas City lobbied heavily for MODESA so it could be used with this project (recall that the Springfield interviewee mentioned they also lobbied with Kansas City for MODESA). Kansas City retains a lobbyist in Jefferson City. The Executive Director mentioned that this lobbyist was also instrumental in Kansas City's ability to be excluded from the county-level TIF amendment a few years earlier.

As evident with the Power and Light District TIF⁵⁴, the Executive Director stated that Kansas City typically uses a series of economic development tools – and many of those tools require state approval and implementation. TIF is considered a “real-estate financing” tool, and job creation or retention programs are frequently paired with TIF if appropriate – the Missouri Build program was given as an example of a job program.

⁵⁴ This TIF's proper name is Gailoyd and is listed as two TIFs.

Other commonly paired tool is Chapter 353, which is controlled through the PIEA, and/or tax abatements through the LCRA and/or the EEZ⁵⁵. The LCRA can use a lease-buyback strategy for facilities, freeing the tenant from owing property taxes (as the government entity owns the building and thus property taxes are not even assessed), but allowing the tenant to purchase the building for a perfunctory amount (generally \$1) after the lease expires. Chapter 353 is commonly used on projects that do not generate revenues such as housing projects (and not retail).

Kansas City has a new mayor who desires to send the message to developers and businesses that the city is again “open for business” (Kansas City 2011, interview). The new mayor, Sylvester James, has replaced Mark Funkhouser (former city Auditor who became mayor in 2007). The former mayor’s platform was that restraint was needed regarding the use of incentives, and the Executive Director characterizes former Mayor Funkhouser’s position as being anti-development. Mayor James has opted to appoint all new members to the TIF Commission, and fortunately the new Chair has served on the Commission before and thus brings “institutional memory” (Kansas City 2011, interview).

Kansas City feels a great deal of competitive pressure from the neighboring state of Kansas. In addition to Johnson County (Kansas) being the one of the five richest counties in the country (Kansas City 2011, interview), the Executive Director asserts that the current first-term governor of Kansas is encouraging Johnson County to “poach” businesses from Kansas City, Missouri.

⁵⁵ These are likely the programs that Gladstone referred to as competitive tools unavailable to them.

Kansas City consciously annexed unincorporated land “north of the river” in the 1960s with the desire to build “high-end” housing and multi-housing units (Kansas City 2011, interview). To this end, TIF is often used to help build infrastructure in these areas. Prospect North is one of these projects and was briefly mentioned as a “negative poster child” by the Gladstone interviewee. When asked about this project, the Executive Director stated that Prospect North was a casualty of the developer’s capacity to perform. He stated that this TIF went bankrupt because a key person in the developer’s organization died and those left within the organization were unable to replace his abilities (Kansas City 2011, interview).

Summary of the five largest municipalities – they all have the capacity they need to meet their economic goals. Columbia and Springfield have some features in common, including being the economic engine of their urbanized area which is surrounded by a large rural community. Springfield is still almost 50% larger than Columbia, and thus has more in-house capacity and even much more in-house experience using incentives, based on Columbia’s recent entry into using economic incentives. Independence is in-between Columbia and Springfield in size, and is located in an even larger urbanized area anchored by Kansas City. And yet, it has some similar features – primarily access to a large area of undeveloped land. All three of these larger municipalities have well-developed economic development organizations/councils that supplement and partner with these cities, thereby adding to their capacities.

Yet, although each municipality has some common characteristics, it is evident that each municipality’s prior history, prior and present leadership, and prior and present political dynamics also significantly impact each of these large municipalities’ use of TIF

and other economic development incentives, resulting in fairly customized pattern of TIF usage among the largest municipalities.

Consultants / Professional Interviews

Five consultants, all well-known within the Missouri economic development community, were interviewed to gain from their experience and to have access to their insights regarding some of the themes present and or emerging from the research. Three of them are general economic development consultants, and they range from working in a one-person organization to being a planning division for a firm that also includes an architectural division. The other two professionals specialize in either the legal or bond financing aspects of economic development. The five interviewees are (in alpha order): John Brancaglione (Vice President, PGAV), Mark Grimm (Attorney, Gilmore & Bell), Larry Marks (Principal, Development Strategies), Gene Norber (President, Economic Development Resources), and Laura Radcliff (Senior Vice President, Stifel Nicholas).

John Brancaglione has many years of experience with economic development and urban planning including dating back to the federal Urban Development Action Grants of the 1970s. At the time of the interview, his company had consulted on over 400 TIFs nationwide, about 100 of them in Missouri. He views his firm's customer as the municipality (versus the developer) in most cases, but even when he has been first approached by the developer, the ultimate customer is the municipality (including county-level government). He believes that about 90% of TIF projects are municipality driven and arises from their planning efforts, which identify opportunities. Even more predictive than municipal size (or form of government) in determining whether a

municipality is likely to use a TIF is the “aggressiveness” of the municipality. Also important, Brancaglione states, is whether there is cohesiveness among the various components of leadership (mayor, councils, etc.) within their government, and whether their government is “stable.” Among his clients is a small town of Orangeville, IL (2000 census of 751), and Chicago.

Brancaglione states that the municipal characteristic that most impacts a municipalities *need* for a TIF is shifting demographics. In these instances, municipalities have properties that are no longer functional – and inner-ring suburbs are an example of this phenomenon. “Industry wants to locate where workers live, and move out, resulting in a decline in an industrial/commercial base” (Brancaglione 2011, interview).

In discussing the city of St. Louis Brancaglione made several statements. In general he views St. Louis’ use of TIF as “reactionary” and not pro-active. In reference to St. Louis’ slow start regarding TIF usage, he stated that St. Louis had an attitude very similar to that of the city of Memphis – “tax abatements will fix everything.” But he stated that as a result St. Louis city had a high vacancy rate in their downtown area until they started using TIF. He explained that downtown projects tend to be “too hard” because of outdated electrical, elevators, plumbing, etc. Tax abatement does not provide borrowing ability (i.e. upfront cash) to remedy those situations but TIF does. He stated that the vacancy rate improved significantly after St. Louis began to use TIF and other

tools besides tax abatements. He stated that the city's use of other tools coincided with a report⁵⁶ done by the SLDC that recommended such.

He did not think it unusual that St. Louis city did not have a comprehensive plan other than what is essentially a land-use plan. He said that until recently the city of Chicago has been operating under David Burnham's 1909's "Plan for Chicago." He stated that it was very difficult to develop any plan for all of Chicago because the city had many strong neighborhood organizations. He could see the potential for a similar problem in St. Louis, of which he could identify a few strong neighborhoods such as the Central West End and Lafayette.

He mentioned the West County court case as important, particularly because it further clarified the "but-for" clause. Brancaglione states that "the beauty of the West County case," is that the 'but-for' clause does not mean that "nothing else would happen," but could be viewed in light of its current use and could consider the decline of revenue generated by another use compared to its current use. Using West County as an example, he believes that the West County Mall would have been torn down in another 10 years and redeveloped as an office park, which would have generated less income for the municipality compared to what it was generating at that time as a mall.

Brancaglione mentioned the addition of EATs as an amendment that has had the most impact on TIF usage. He stated that capturing sales tax for TIF usage was a suggestion of the Clayton School Board during the Galleria project. He views the addition of the "economic development" purpose for TIF usage as "not smart," primarily

⁵⁶ St. Louis Development Corporation released a report dated December 1997 named "St. Louis City Use of Tax Abatement: Preliminary Analysis and Recommendations."

because it is not constitutionally supported, and thus bondsmen do not consider this use a “clean” bond. Another amendment that he feels was “detrimental and unnecessary” is the county-level TIF commission – he asserts that there are other provisions of the statute that if enforced would reduce intra-county competition.

Gene Norber of Economic Development Resources is a planner by training (Harvard University) with a background as a shopping center developer before becoming a consultant. His clients include municipalities as well as developers or businesses. He generally has developed long-term relationships with his municipal clients, and his clients are primarily in the St. Louis or Chicago areas, generally in inner-ring suburbs. The size of municipalities he has worked with ranged between 350 to 40,000 in population, but typically his municipal clients range between 5000 to 20,000 (Norber 2011, interview).

He sees projects initiated both by municipalities and developers and could not estimate how frequently projects are initiated by either party – “municipalities have plans they are trying to fulfill and developers are constantly seeking business tenants” (Norber 2011, interview). He stated that developers tend to be aware that some incentives may be available and make inquiries about such, but not necessarily demands with a set expectation. He stated that incentive amounts seem to evolve as discussions take place between the municipality and the developer regarding “what each party is looking for or otherwise expecting” (Norber 2011, interview).

Norber believes that municipalities usually need “assistance with the mechanics of the tool” (Norber 2011, interview). Additionally, they often need assistance or practice with “the art of negotiating the deal” (Norber 2011, interview). Staff capacity is

the biggest predictor of a municipality probability of using a consultant. Most municipalities do not have the need for a full-time person with the ability to determine and present cost figures for TIF, and even when that capacity is available in-house, that staff person generally has other responsibilities that may crowd out their ability to do so. Using economic development tools require “crossing the t’s and dotting the i’s” (Norber 2011, interview).

The Galleria project’s impact on shaping “TIFs as we know it” stands out in Norber’s mind also (previously mentioned by Brancaglione). He recalls that “everybody in town worked on that project,” including people from the state department. His role included critiquing (i.e. “looking hard at”) the developer’s projection of sales and costs and working closely with the city manager of Richmond Heights. He recalled that the Clayton School Superintendent (Don Senti) pushed hard to have sales taxes included for capture in the project in order to pay the project off faster. With respect to court cases, Norber felt that the *Dunn* case, which validated the constitutionality of the statute, had the most impact of any court case.

Larry Marks is one of three principals at the consulting firm of Development Strategies. Development Strategies describes their firm’s purposes as “guiding effective decisions in economic, community, and real estate development,” which they accomplish by providing “research, planning, counseling, and appraisal” services (<http://www.development-strategies.com/about/aboutin.htm>). Development Strategies clients are mostly developers or businesses (he estimates 90%) and he views the processes of economic development including TIF use as definitely being developer

driven. Typical functions performed by their firm include: cost-benefit-analysis, blighting designation, revenue projections, and “but-for” analysis.

Half of their business is in the St. Louis area (with the remaining being in the Midwest or coastal areas). He notes that Chapter 353 was the economic development tool most often use by his clients until the mid-1990s, when TIF began replacing Chapter 353s because there was “more money in TIFs” due to multiple revenue streams and its ability to fund infrastructure and development costs (Marks 2011, interview). He has noted a recent trend back to Chapter 353s.

Marks’ experience is that although there is generally some “give and take” between municipalities and developers, developers are frequently able to receive the incentive amount that they request. St. Louis city seems to “take a closer look” at the figures requested than some other municipalities. Marks also noted a difference in how TIF is use in St. Louis and Kansas City and believes this is largely due to how differently each city interprets the statute. He observed that Kansas City allows TIFs for new construction and new buildings, while St. Louis limits TIF to rehabilitation, renovation, and infrastructure only.

Marks shared some other comments, including the negative impact the present recession has had on the financial analysis of potential projects. He describes this as follows: developers cannot get tenants → developers cannot get financing or interest rates are higher → project less profitable → project requires a higher TIF amount to be profitable → but revenues generated by TIF are projected to be lower as a result of the

recession. He also remarked that the East-West Gateway report regarding incentives has “diminished enthusiasm” for TIF.

Relatedly, he states that the general population does not understand TIF, thereby leading to their belief of TIF being a “give-away.” He is concerned that the whole conversation about whether or not to use a TIF is wrong. He believes He states that a public discussion on the topic of how we tax and how we distribute/redistribute these taxes needs to take place. This conversation should include how the federal government stopped funding local infrastructure, and also should include the proposed legislation in the legislature regarding ‘point of sales taxes versus pool cities’ in St. Louis County and its impact on municipalities and citizen services (Marks 2011, interview).

Mark Grimm is an Attorney for a public finance law firm. Gilmore & Bell state on their website that they represent governmental entities “as bond counsel in municipal finance transactions and as special counsel for economic development projects” (<http://www.gilmorebell.com>). Municipalities generally retain his firm’s services early in the project in order to get procedural assistance. He states that creating a TIF district/project has many procedural requirements, and one of the biggest mistakes he has seen municipalities make is not having adequate counsel to ensure that procedures are properly done. Improper procedures in TIF creation can either result in the TIF being invalidated or expose the municipality to financial liability (Grimm 2011, interview).

He views the addition of EATs as easily the most impactful amendment to TIF – “nothing else comes close” (Grimm 2011, interview). A distant second place would be the state TIF, placed distantly because it is used so seldom (Grimm 2011, interview). A

barrier to TIF use is that a few amendments and court decisions have slanted TIF use to becoming “developer dependent” (Grimm 2011, interview). By this is meant that it is the developer who must submit the “but-for” affidavit and it is the developer who must submit the cost-benefit analysis report.

Regarding court cases, he views both the *Dunn* and the *Quiktrip* cases as important because they upheld the TIF statute. He is concerned about the impact of the *Shelbina* court case on the use of TIF because the decision seems to invalidate project descriptions that are either inadequate or too broad. This decision will make it harder to do area-wide redevelopment of a downtown or similar area one parcel at a time (Grimm interview, 2011). He considers it “ironic” that the *Shelbina* court decision along with the “but-for” affidavit and the cost-benefit analysis responsibilities being given to the developer have together made it harder for a municipality to be the “driver” of their development.

Laura Radcliff is a Senior Vice President in the public finance division of Stifel Nicholas, an investment banking firm. Although she estimates that about half the time the developers are her clients and the other half of the time their client is the municipality (or governmental entity), she also estimates that about 85% of TIF projects are initiated by the developer and only 15% are initiated by the municipality. As a general rule, she finds that the a project needs to be a minimum of \$3 million to be above the breakeven point (big enough to absorb the cost of doing a TIF and still make a positive return) (Radcliff 2011, interview). She also emphasizes that the market is really important – the market needs to be there!

Radcliff states that the biggest risks or mistakes she has seen municipalities make fall in the following categories: 1) wrong team of professionals, 2) wrong project size, 3) incorrect determination of TIF eligible costs, 4) improper procedures, 5) selling bonds that cannot be repaid, 6) erroneous projections, and 7) wrong bidding requirements and/or accepting the lowest bid. She also felt that perhaps a municipality may need to take into consideration more qualitative factors (versus only quantitative factors) because they should want to protect their reputations. She also mentioned that sometimes municipalities elect to extend their risks beyond TIF bonds by guaranteeing bonds, and mentioned Kansas City as an example.

Another cause for concern that Radcliff mentioned is that some developers have been “caught between construction bonds and TIF bonds” (Radcliff 2011, interview). This is generally a problem with construction bonds that were taken out before 2008 with the expectations of being paid off by (or converted to) TIF bonds – but the market changed before this transaction could occur. The market change (i.e. recession) lessened the projected revenue stream incomes, thus resulting in a reduction of the maximal amount of TIF bonds the project could obtain. This has had a negative impact on the finances of those developers as well as the impacted projects.

Legislators Interviews

Four legislators were interviewed in an attempt to get a legislator’s perspective on the historical development of the TIF statute and its use. All four legislators have served on one or more of the three legislative TIF committees mentioned in the historical development of the TIF statute chapter – the 1996 and the 2000 Missouri House of

Representatives Interim Committee studying Tax Increment Financing hearings or the 2005 Missouri Senate Interim Committee. The legislators and their position on these committees are as follows: Henry Rizzo, chair of the 1996 House Interim Committee and co-chair of the 2000 House Interim Committee; Timothy Green, the other co-chair of the 2000 House Interim Committee and a member of the 2005 Senate Interim Committee; Carl Vogel, member of both the 1996 and 2000 House Interim Committees; and John Griesheimer, chair of the 2005 Senate Interim Committee.

All four legislators had the same understanding of the purpose of TIF – to assist cities with decline. Rizzo (from the Kansas City area), when asked to summarize his overall opinion of the TIF statute selected “great” (Rizzo 2011, interview), while Griesheimer, a representative from the Washington, Missouri area selected “good” (Griesheimer 2011, interview). Both Vogel (Jefferson City area) and Green (St. Louis area) selected “mixed” as their overall opinion of the TIF statute (Vogel 2011, interview; Green 2011, interview).

Rizzo served as chair or co-chair of the first two legislative interim committees (studying TIF). Rizzo was acutely aware of the lack of developer’s interest in Kansas City and views TIF as an important tool in attracting developers to invest in cities, and this largely accounts for his selection of “great.” He believes that the changes to the statute have generally “improved” the statute over time. He can think of no negative changes, and views amendments that strengthen the “but-for” test as one that has improved the statute. He would like to see more state scrutiny of TIF, particularly regarding the processes and procedures occurring at the TIF commission level. He also would like to see the state investigate bonding procedures. Otherwise, he views the

current statute as “very user-friendly” but in constant need of guarding against the potential for abuse. He is concerned when municipalities and developers use “the letter of the law” versus the spirit of the law.

Carl Vogel served as a member on the same two committees that Rizzo chaired and co-chaired. Although he also agrees that over the years the TIF amendments have served to improve the Act, he feels the overall impact of TIF is mixed because of the following “stumbling blocks” 1) the definition of blight, 2) the “but-for” concept, and 3) the use of TIF in retail, especially retail moving around in the same areas. He sees the “same old” political/philosophical arguments in the debate over TIF use – why should new developers/businesses have access to tax breaks not available to older developments/established businesses, and elected officials should not pick winners and losers. He feels the legislature has been successful in better defining TIF. Although he feels that the statute is “rather onerous” to use, he feels that the more distressed communities still have access to TIF usage through their relationship with a developer (Vogel 2011, interview). A good side effect of the TIF process not being particularly user friendly is the likelihood that it will assist the municipality in choosing only competent developers (Vogel 2011, interview).

Vogel adds a more rural perspective, stating the importance of transportation routes and municipal growth. He stated that job opportunities are related to transportation access. He mentioned an internal “mindset” struggle that rural communities often have as a result of new highways and the growth that often follows as a result. That struggle is the friction that often arises as original residents want to

“control growth” and have a tendency to want to keep things “the same,” while newer residents are not as tied to tradition and customs.

Timothy Green is a St. Louis County resident and served on the 2000 House Interim Committee (as co-chair) and on the 2005 Senate Interim Committee (as a member). His “mixed” opinion of the TIF statute follows closely the issues addressed in the hearings by the St. Louis area constituents regarding intra-county competition and concerns about TIF use abuses. In addition to having a “mixed” view of the TIF statute overall, he believes that changes to the TIF statute over time has resulted in a more diminished or corrupted Act.

In particular he is concerned about the definition of blight, and is disappointed that the legislature has been unable to amend the definition to reflect a “true” meaning of the word. He also views the “but-for” clause as problematic. He states it is hard to know what would have happened otherwise, and companies are hired to tell the municipalities and developers “what they want to hear” (Green 2011, interview). He stated that the current definition of blight is supported by a court decision (which he did not name) which allows the definition of blight to be essentially “in the eye of the beholder,” and this determination has been instrumental in developers “shopping for TIFs among neighboring communities” (Green 2011, interview).

He gave the example of the recent loss of a WalMart store which straddled the border of both St. Ann, Missouri and Bridgeton, Missouri to a different location in Bridgeton (a move of about one mile) as an example of the “loose” definition of blight, and how it can result in a “bad use.” Other bad uses mentioned were the location of the

St. Louis Mills TIF project in a flood plain and the assertion that the former Mayor of St. Peters “TIFFED the whole city” (Green 2011, interview). He lists the Buzz Westfall Shopping Center (in Jennings, Missouri) as an example of a good use of TIF. The former Northland Shopping Center was in a “low income community and in disrepair with no tenants” (Green 2011, interview).

Green mentioned he was pleased he was able to get the county-level TIF Commission amendment passed – an amendment that he authored. His main regret is that he was unable to get the county-level TIF amendment to apply to all of Missouri. The aim of this amendment was to avoid municipal competition for investments and to hinder developers from “shopping” for incentives (Green 2011, interview).

To Griesheimer, TIF has being a “vital” tool for both large and small cities, and although he thinks of the TIF law as “not perfect,” he believes the law as amended now curbs most of its abuses. He credits much of the improvement in the TIF law to the amendments made in 2007 and 2009, with the most important of these changes being the requirement for a county-level TIF at least in the St. Louis area. He stated that the 2005 Senate Interim Committee hearings quickly became a “rural versus urban battle” because TIF did not appear to be abused in rural areas. While St. Louis area participants characterized the area as a “hotspot” for TIF abuse, the position of out-state hearing participants was “if it ain’t broke don’t fix it” (Griesheimer 2011, interview). He stated that the importance of the county-level TIF commission amendment may currently be masked as a result of the economic recession, which has had an effect on dampening economic development overall, including the use of TIF. He expects that the positive

impact of the county-level TIF commission will become more evident as the economy recovers.

He regrets that he was unable to get enough support from other legislators to modify the definition of blight. And although he also is aware that the “but-for” is still problematic, with “beauty being in the eye of the beholder,” he states that the “but-for” clause needs to be left in the Act. He also would have like to have been able to ban TIF use on greenfield development state wide, but again, good not garner enough support of other legislators.

Hypothesis

The Fourth Hypothesis asked a question about a municipality’s ability to implement a TIF district, and postulated that municipalities who were not able to either hire staffing with higher capacity or hire the specialized outside expertise would find it difficult to create and implement a TIF district. The hypothesis was stated as:

HIV – Use of TIF by a municipality is limited by a municipality’s ability to hire particular internal staff or retain specialized outside assistance.

The TIF Annual Report database clearly showed a positive, significant relationship with TIF use and municipal size. Although this does not directly answer this question, municipal size is often related to budget size, which can be an indication of staffing capacity. This would seem to support the hypothesis but this is an indirect assumption. The TIF Annual Report database did not include the type of information to address this question directly, and so the intention was to collect information from the interviews to answer this question. The number of completed responses from municipalities does not

lend itself to quantitative analysis outside of the summary statistic presented at the beginning of this section. Additionally, since the survey is of TIF-using municipalities only, it does not allow for comparison against non-TIF using municipalities. Thus, this question cannot be answered in any conclusive way as a result of this research, but the following additional anecdotal information can be gleaned.

Of the four cities (Cabool, Kirkwood, Independence, and Maryville) that stated that they did not use outside consultants, only Cabool stated that they would like to have access to the expertise provided by outside consultants but they could not afford it. Of the remaining three municipalities that stated that they do not use outside consultants, one could consider the partnership that Maryville has with its county's economic development organization fulfills this need. Similarly Independence also partners closely with its municipality's economic development council, which enhances its own in-house capability. It is important to recall that the city of Independence has the next highest numbers of TIF outside the two largest municipalities with 17, so experience is a teacher. An interesting aspect is the long institutional history the city of Independence has with economic development tools – a former mayor of Independence is Richard King, who was considered one of the state's leading experts in TIF and other economic development tools before his death in 2006. In addition to being a former mayor (1974-1978) Richard King held two positions with the state in the early 1980s – he was Executive Assistant to the Governor (1981-1982) and Director of the Department of Revenue (1982-1985).

Other than the four municipalities just mentioned, the sample of municipalities all supplemented their own staffing with the use of outside consultants. As the grouping of cities became larger in rural areas, more ability could be seen, although in instances it is

questionable whether that increased ability was sufficient. This supposition gathers support from the action of the State Department of Economic Development, which specifically targeted the larger rural-like municipalities to provide support and assistance in developing knowledge, skills, and experience with the economic development tools based on each community's needs.

The sample of similar sized municipalities in St. Louis County did not get this same type of assistance from the state, but its absence did not seem to be that noticeable. These urbanized area municipalities (in the under 20,000 population category) seem to have either specific capacity – i.e. an economic development person (Clayton, Jennings, O'Fallon), a long-term staffer with economic development experience (Kirkwood, Jennings, St. John) or county-level assistance (Jennings, Kirkwood).

The larger municipalities that were sampled were from the Kansas City urbanized area (with the exception of O'Fallon). Those municipalities also had good capacity, which is likely due to their size (i.e. and corresponding budgets). But one cannot discount location – Kansas City has played an important role in the development and use of TIF in Missouri.

The five largest municipalities all had either large staffs or had moderate staffing paired and supplemented by an economic development council. It is clear that these larger municipalities have internal staffing with capacity and ability to focus on economic development as deemed necessary and or desirable, and they make the necessary arrangement to hire outside consultants as needed.

The outside professionals (consultants, lawyer, banker) all had clients that saw value in and had ability to hire them. Brancaglione felt that a municipality possessing an aggressive attitude was a key predictor of whether it would be a TIF user, as well as a certain degree of harmony among the governing council and/or executive leadership. Grimm stated that a municipality that did not utilize an experienced public finance lawyer really should have one in-house or risk creating procedural mistakes that could leave them financial liable or risk creating an invalid TIF. Radcliff mentioned other pitfalls that would make creating a TIF without adequate professional skills and know-how a financial disaster. Also, although not tightly connected, some consultants indicated that TIFs were more likely to be municipality driven if the municipality had a plan (economic development or comprehensive) that they were attempting to implement.

Three of the four legislators felt the statute currently is “user--friendly” which would lessen the need for a higher level of capacity and staffing if that were to be the case. The fourth legislator had a very opposite response, calling the requirements needed to access the Act as “onerous,” and implying that municipalities that did not have adequate staffing could relying on the capacity of a capable developer. Of course, in this type of scenario, the development is not likely to be municipality- driven.

Although this analysis is not quantitative and lacks a control group (i.e. non-TIF users), these interviews seem to support the hypothesis that staffing capacity (internal and external) available to a municipality impacts its ability to create and implement a TIF. These TIF users either had adequate staffing or were able to supplement staffing with outside professionals. Outside professionals could identify a clear need for their services, even among municipalities with adequate and knowledgeable staffing. Additionally and

perhaps even more specifically, leadership also seem to matters. It would seem to indicate that if this expertise/experience/capacity could be operationalize as an independent variable, adding it to the logit models specified in the previous section of this chapter could improve its explanatory power. But these are only impressions and are not claims that the hypothesis is supported conclusively.

Next Chapter Preview

The final chapter integrates the findings of this chapter with those of the last chapter and puts them into context by themes, issues, or topics. It also puts the findings in the context of the literature review.

Chapter Five – Analysis of Findings and Conclusion

This chapter pulls together the results of the findings of the previous two chapters – the historical development of the TIF Act as researched, and the assessment of who is using TIF and the patterns of TIF usage along with adoption patterns. It is expected that in some areas the qualitative information in the historical development of the statute chapter will add context to the quantitative data in the TIF usage patterns chapter, and vice-versa. But in many instances the findings of the research are still inconclusive and can benefit from further insight provided from the interviews of professionals in the field, or from legislators involved with the legislation.

Firstly, this chapter will recap the hypotheses and related findings. Next, one will find an analysis and review of the findings, organized by themes. Under the general topic of “Who is Using TIF and TIF Adoption Patterns” are the themes of: 1) who is using TIF; 2) patterns of adoption; 3) leadership, capacity, learning, and planning; and 4) other economic development tools. Under the general topic of “Historical Development of the Statute,” the themes discussed are: 1) important amendments and court cases; politics and interest groups; risks, bonding, and municipal pitfalls; 4) original intent, current intent. The last topic is an analysis of this research and policy change concepts with an emphasis on the Hacker Four Modes of Policy Change.

Recapping the Hypotheses and Results

The four hypotheses have been introduced in Chapter Two and reviewed immediately after the research findings related to each hypothesis. This section just recaps the earlier stated results.

Hypothesis 1

HI: Changes to the TIF statute broadened the availability of its use by local governments, especially to local governments that did not fit the original “targeted” definition.

There were a few amendments that did broaden or attempt to broaden TIF usage for other purposes or users, such as the economic development criteria and amendments aimed at assisting rural governments with their technical abilities to access TIF as a redevelopment tool. Thus this research supports this hypothesis. However, the need to change the statute to allow broader usage in most cases was not necessary, because the definition of blight, which was an allowable purpose, did already allow broader use of TIF than originally intended.

Hypothesis 2

HII – TIF using municipalities are more likely to have a higher poverty rate.

The research showed mixed results. Support was found for this hypothesis in urbanized areas, using a logit regression analysis that used percent person below poverty as the representative independent variable. This finding was largely influenced by how St. Louis County uses TIF, as St. Louis County has a significant number of municipalities with a TIF district. Support for this hypothesis was not found in the urban clusters, with the poverty variable having a significant opposite relationship. Thus this hypothesis is supported but with qualifiers.

Hypothesis 3

HIII. Waves of adoption of TIFs by particular types of municipalities followed court decisions and statute amendments that lowered risks for that particular type of user/usage/investment. In other words, An adoption wave pattern by type of municipality (size of population, growth of population, percent poverty) can be observed in an ordered logit regression.

The described ordered logit regression analysis only found the population variable significant and the model had very low explanatory power. Smaller municipalities tended to be later adopters. The research findings suggests missing variables that if were added could improve the effectiveness of this model, and perhaps the model could be better specified.

Hypothesis 4

HIV – Use of TIF by a municipality is limited by a municipality's ability to hire particular internal staff or retain specialized outside assistance.

This question could was not addressed quantitatively, but the anecdotal information gleaned from interviews of 21 municipalities, and professionals in the field seem to lend support that municipality capacity, either in-house or with the addition of outside professionals, is an important factor in being able to effectively create and implement a TIF project or district. Legislators also were sensitive to this need as they added amendments to have the Department of Economic Development attempt to make technical information about TIF usage more readily available and understandable, and to provide programs to assist municipalities in their abilities to using the statute. The legislators also enacted other TIF-like statutes, some with the aim of making the incentives more readily accessible. Anecdotally there appears to be support for this hypothesis.

Who is Using TIF and TIF Adoption Patterns

Who is Using TIF in Missouri

The quantitative study shows that TIF is being used by municipalities of all population, rural and urban, rich and poor. Even so, there are characteristics that make it much less likely that a community is a TIF user. Population size does matter—the bigger the community, the more likely they are to have a TIF district. Communities that are relatively small (under 1000) population are highly unlikely to have a TIF, and even municipalities under 2500 population are not likely to have a TIF either. This finding supports that of others (Forgey 1993, Mason and Thomas 2010). Approximately one-third (119 of 342) of all Missouri municipalities over the size of 1000 population (2000 U.S. Census) have adopted a TIF at some point in the study period.

The sheer number of TIFs constituted by the two major metropolitan municipalities (Kansas City and St. Louis) account for about 45% of the total TIF districts in this study (108 and 115 respectively of 496). The other 117 municipalities constituted the remaining 273 TIFs. Although TIF use is commonly studied either in the two major metropolitan areas (St. Louis and Kansas City), there are 45 counties outside of these two areas that also contain at least one TIF. For TIF using communities in the more rural areas it is very noticeable that almost all of them are located within five miles of a road that is considered a major thoroughfare.

Pattern of Adoption, Usage

TIF is being used primarily in the metropolitan areas of Kansas City and St. Louis. This appears to be in accord with the original intent as expressed in the HB1411.

In the 2009 Missouri Annual TIF Report, 45% of TIFs were located in these two cities, and 82% were located in the eight counties within these two metropolitan areas.

Although Kansas City established a TIF Commission as soon as the Act was enacted, it was four years later before it attempted to establish its first TIF district. Apparently, as Michael White had said in his 1985 lecture, TIF would not be considered a useable program until it had been deemed constitutional by the Missouri State Courts, ideally the Missouri Supreme Court. In practice, this seems to be a necessary pre-condition to attract bond money. This milestone was attained in 1989.

In addition to Kansas City being an early and frequent user, so were other larger municipalities in the Kansas City area such as Grandview, Independence, and Lee's Summit. Yet even in the late 1980s and early 1990s there were some smaller and outstate municipalities such as Kirksville and Hannibal⁵⁷ who became early adopters of this new tool. St. Louis first used TIF in 1990 in the St. Louis Marketplace project. It has been noted that St. Louis was a very infrequent user of TIF until the 2000s.

Why was St. Louis slow to use TIF in the 1990s? In 1985 Michael White discussed that Chapter 353 was just then becoming used with any regularity. This had been St. Louis preferred tool (along with Chapter 99). Perhaps it is also a function of the experience St. Louis had with its first TIF project, the St. Louis Marketplace. The St. Louis Marketplace project was not considered a success by many during that time, and its "failure" had quite a few negative consequences. The St. Louis Marketplace project bonds were backed by the "full faith and credit" of St. Louis city, which is not usually the

⁵⁷ Hannibal used this TIF to build a levy for flood protection.

case (at least not now) with TIF bonds. The retail project also was born in a recessionary period and a few of the “big box” national retail tenants of the St. Louis Marketplace went out of business such as Builder’s Square and PACE. The TIF bonds for this project just recently expired, and though the project is popularly considered a failure, the director of Commercial Development said that the city did not lose money on the project (St. Louis 2011, interview). It is probable that problems with this first project, along with St. Louis’ comfort with the Chapter 353 were factors in St. Louis’ slow pattern of TIF usage.

Yet Brancaglione noted that St. Louis was not able to get forward momentum in its aims to revitalize its downtown area using Chapter 353 alone. He compared St. Louis’ attitude as similar to Memphis’ that “tax abatement will fix everything.” What tax abatements did not provide was upfront funding like TIF funding could. Brancaglione noted that downtown revitalization frequently involves replacing old and outdated building systems such as electrical, plumbing, and elevators (items that benefit from upfront funding). A report written by the St. Louis Development Corporation in December 1997⁵⁸ recommending the use of TIFs seemed to be a catalyst.

The report mentioned two salient problems that needed addressing: 1) that between tax abated, tax-exempt, and blighted properties (11%, 23% and 25% respectively), the city only had about 41% of their land left from which they could expect to collect property taxes; and 2) everyone who applied for tax abatement felt entitled to it, making it difficult politically to reject an application. This describes St. Louis’ problem with “erosion of targeting” with respect to its Chapter 353 economic development tool.

⁵⁸ Titled “St. Louis City Use of Tax Abatement: Preliminary Analysis and Recommendations.”

As part of its findings, this document recommended that St. Louis limit tax abatement to certain type of projects and a shorter time period (i.e. retargeting, in effect), and that TIF become used more regularly by the city in other types of projects, mentioning downtown specifically. Parts of these recommendations were based on observations of Kansas City's experience with TIF.

Persons in Kansas City were much more proactive with TIF from the start, including taking a significant role in drafting the initial legislation and subsequently defending its constitutionality. Kansas City's TIF Commission was formed in 1982, and as the legislation was being validated, communities in the Kansas City area began to create multiple TIF districts (i.e. Kansas City, Independence, Grandview, Lee's Summit). After Kansas City and St. Louis, these larger suburban municipalities in Kansas City are the next most frequent users. The Kansas City area municipalities were the trendsetters for this legislation, and some of these persons also took responsibility in spreading information about how to use TIF for other municipalities. This was evident in the 1985 lecture White gave to the Midwest Research Institute and the formation of the Missouri Tax Increment Financing Association later (1991). Of which many Kansas Citians were founding board members.

Kansas City had an interesting bubble pattern in the late 1990s and early 2000. Its peak creation of TIF districts were in 1999 and 2000, with 31 TIF projects in total. This is in contrast to zero TIF projects in 2001. Attempting to "digest" these 31 TIF projects could partially explain the lack of creating any TIFs in 2001. A closer look at the TIFs created in 1999 and 2000 shows the problem of variation in what constitutes a reportable TIF district or project. The 22nd & Main area constituted 10 TIF districts, Brush Creek

constituted four TIFs, River Market constituted three TIFs, and Hotel Phillips and 19th & Terrace each have two of the 31 TIF districts. These five areas accounted for 21 of the 31 TIF districts created in those two years by Kansas City. It is possible that these spiked numbers just reflect a new strategy in TIF district formation by the city.

Municipalities in St. Louis County are the other major users of TIF usage. Many note the structure of St. Louis County as being a major reason for intra-county competition for investment dollars. There are 90+ municipalities located within the 524 square miles of this county during the study time period. The earlier users of TIF were in the inner-ring suburb areas such as Jennings, Maplewood, Richmond Heights, Ferguson, Cool Valley, and St. John. The outer-rings tended to adopt TIF more in the later 1990s. Wildwood, one of the two cities of greater than 30,000 in the entire state without a TIF, is one of the county's most recently incorporated cities, being incorporated in 1995. It contains large areas of greenfields, being largely undeveloped.

The adjacent county of St. Charles also warrants mention. The major cities in St. Charles – St. Charles, St. Peters, O'Fallon, and Wentzville spread out from St. Louis and St. Louis County via Interstate 70. This county has been among the fastest growing counties in the United States throughout the study period. All four of these cities have at least one TIF. O'Fallon was an early user in 1992, but a later attempt to create another TIF in 2003 met with opposition, and it has not implemented any new TIFs. However, they are in the process or have recently (2009) issued Chapter 100 bonds for real and or property tax abatement for three companies (MasterCard International, Centene Corporation, and Fireman's Fund/SJ Progress Point, LLC) (O'Fallon municipal survey, 2011). The letter from a St. Charles city official (included in the 1997 Report of the

House Interim Committee Studying Tax Increment Financing) foreshadowed how St. Charles County municipalities were to use TIF – primarily for development on undeveloped land.

The other two municipalities in the top five largest cities (besides Kansas City, St. Louis, and Independence) are Springfield and Columbia. Their patterns are totally different than the others, and they only have two TIF districts each. Columbia's TIF districts are most notable, only coming about as late as 2009, the last year in the study. It seems that one of the most important factors in Columbia's having a TIF even now is the retirement of a long-time city manager in 2006 (Columbia 2011, interview). Springfield has experienced governing councils that have supported TIF use and at other times governing councils that have opposed TIF use. The economic development administration has found the sales tax abatement contract a useful and less controversial too to use in partnership with private retail investors (Springfield 2011, interview).

In the more rural counties there is likely to be only one or two TIFs in the entire county (45 counties with 58 TIFs). These rural municipalities are located close to main transportation arteries of the state, and about half the time the municipality will be a county seat. Intra-county competition in these areas tend to be low – in fact, these municipalities are often considered “economic engines” for their areas, which may include the entire county. In many of these cases the county government works together with the municipality creating the TIF district, although there have been cases where this cooperation did not exist. These cases were evident in court cases where the county was reluctant to remit taxes to TIF accounts, as in the *Quiktrip*, *Desloge*, and *Shelbina* court cases.

The logit regression analysis showed a different relationship with poverty and TIF use between communities situated in areas with over 50,000 people (urbanized areas) than those under 50,000 but more than 2,500 (urban clusters – these numbers are calculated by adjacent census block density, not official boundaries). In urbanized areas, TIFs are more likely to be used in communities with higher poverty percentages. In urban clusters, TIFs are more likely to be used in communities with lower poverty percentages. This could possibly explain some of the mixed results of earlier studies that indicated in some studies that TIF use seems to be associated with fiscal stress (Mann 1999), in some studies TIF use seem be to fund infrastructure needs associated with growth (Anderson 1990, Man 2001), while others found a relationship with TIF use and low-income communities (Chapman 2001, Dye 1997).

In this study the important of considering the degree of rurality of the municipality was made evident. Brancaglione's professional observation is that an important indicator of TIF use would be changing demographics – similar to the changes taking place in inner-ring suburban areas. TIF use by inner-ring municipalities was particularly noted in this analysis, and St. Louis County's pattern of use dominated the regression analysis for urbanized areas, with higher poverty rate communities using TIF. The municipal interviews seemed to indicate that urban clusters were more likely to use TIF as an economic engine, and perhaps they needed to have a minimal amount of fiscal capacity (which is associated with staffing capacity) to be able to be proactive in this manner. It is clear that municipalities located in urban clusters use TIF for redevelopment purposes also (i.e. mostly downtown projects) but it is not as clear if they are impacted by changing demographics to the same degree that inner-ring suburbs

appear to be. The urban clusters use of TIF being higher among municipalities with lower percent poverty levels might be a better fit for Reese's (1997) and Peter and Fisher's (2004) supposition that cities that are economically better off are more able to devote resources to economic development. Another factor that might warrant a closer look given these opposite relationships with TIF use and percent poverty is Guehlstorf and Thiesing's finding related to administrative capacity, political culture, and "other complicating factors," where they found that in a relatively small sample, "moderate administrative capacity and "high complicating factors" were more represented among Illinois TIF using cities in the St. Louis metropolitan area (than non-TIF using cities in the same area).

Leadership, Capacity, Learning, and Planning

Leadership played a crucial role in determining when Columbia first adopted a TIF, and is likely to play a strong role in other municipalities as well. In fact, this is likely one of the missing variables of the logit regression models for both whether a TIF had been implemented or not, and in which time period a TIF was first initiated by a TIF-using municipality. Tony St. Romaine, current Assistant City Manager of Columbia, stated that the former manager (Raymond Beck) had been City Manager for about 22 years, and did not believe in providing incentives to developers or corporation. Under this philosophy, the downtown area had continued in a state of slow decline and, in essence, one long-serving city manager prevented TIF use in Columbia throughout his tenure which ended in 2006.

When asked what municipal characteristic separated TIF-using municipalities from non-using ones, Brancaglione answered that TIF-adopting municipalities tend to be more “aggressive” in mindset. He thought size of community is secondary to this trait. As an example, he mentioned his clients ranged from as large as Chicago to as small as Orangeville, Illinois (about 500 population) (Brancaglione 2011, interview). He feels another municipal characteristic that is important is that the government – mayor, alderpersons, and/or city administrators – gets along.

An obvious case where leadership matters is Kansas City, where mayoral candidates discuss the merits of economic development prominently in the 2007 mayoral campaigns (Grenz, 2007). This scenario whereby either mayoral and/or councilperson elections have been significantly impacted by questions of public subsidies of private development projects has also been seen in smaller cities such as O’Fallon, Olivette, Florissant, Sunset Hills, and Rock Hill. When an issue such as TIF usage is considered ripe for campaigning, it may also be divisive, and the characteristic of municipal cohesiveness or lack thereof may also be visible in these examples.

An interview with a smaller rural community such as Cabool gives an impression of the importance of personnel throughout time. Some time ago they had an economic development person who set up their first and only TIF district in 1993. They are adding one business at a time as they find interested businesses. The district started with a Dairy Queen in 1993, and recently added a Subway (fast food restaurant) in 2007. They have wanted to hire another economic development person for a while but their budget is too tight. They have little in the way of retail in their community, and must drive about 15-

20 minutes to purchase clothing (Cabool 2011, interview). Noticing the modesty of these two Cabool TIF projects (Subway and Dairy Queen) is hard to miss.

Jennings and Maplewood in the St. Louis area have had an important key employee in place throughout the 1990s and 2000s. Maplewood's city manager has provided leadership that has improved Maplewood's bottom line significantly during his twenty-five year tenure. At one time he was President of the Missouri Tax Increment Financing Association, in addition to also having held the Presidency for other municipal organizations such as the Missouri City Managers Association and the St. Louis Area City Management Association. The city of Jennings hired a director of Public Works with experience from the St. Louis County Government. He has used his experience and county government networks fairly efficiently to assist the city of Jennings in some significant economic development projects. Although these examples are anecdotal, it gives a strong impression that having a knowledgeable, capable person in the right place at the right time is an important, although hard-to-measure variable. Operationalizing such a variable, as well as operationalizing a variable for municipal "aggressiveness" and "cohesiveness" would likely improve upon the regression models in the previous chapter.

Many municipalities add to their knowledge and capacity through the retention of outside consultants on an as needed basis. Most of the municipalities interviewed (17 of 21)⁵⁹ said they used outside consultants at least on occasion. Kansas City routinely announces a Request for Qualifications (RFQ) every two years in order to have an up-to-date list of pre-qualified outside consultants. All of the cities that used an outside

⁵⁹ Municipalities interviewed that indicated that they do not use outside consultants: Independence, Maryville, Kirkwood, and Cabool.

consultant at least occasionally were satisfied with their consultant's services except one. Of the four municipalities indicating they do not use outside consultants, Independence and Kirkwood have in-house capacity and Maryville is a county seat that contracts with their county's economic development organization (Nodaway County Economic Development). The small rural town of Cabool (2000 population 2168) is the municipality that states they cannot afford an outside consultant or an in-house economic development person, and thus the city administrator devotes approximately 30% of his time on economic development.

These outside consultants/professionals were usually a combination of economic development consultants, municipal or economic development lawyers, and/ or public financing banker. It was not unusual to find a city using one firm to establish the existence of blight and another firm to do the cost-benefit analysis; or one firm to help follow the legal procedures, and another to help structure a sellable bond. Sometimes, as one municipality's economic development director put it, it is good to hire an "expert from 100 miles away" even if you can do it in-house (Springfield 2011, interview). Sometimes an external expert's opinion has more weight in a governance body than a familiar staff person's opinion.

Organizational membership in certain groups seems to provide exposure to various economic development tools and how they are being used in municipalities, providing learning opportunities from the actual experiences of other municipalities across the state. Also, outside professionals and consultants are often conference presenters, sharing general information that can be useful for many attendees. Besides the learning that can occur within conference presentations, attendees have opportunity to

dialogue and learn from each other. Two important statewide organizations that provide these types of support are MEDFA (Missouri Economic Development Financing Association) and the Missouri Municipal League. Many municipalities depend on these organizations to keep them informed about state legislative issues and court decisions pertaining to economic development. Both organizations maintain lobbyists.

Planning is a task associated with management and leadership. The TIF Act in many places encourages planning, requiring that a redevelopment plan be approved and that the plan be compatible with a city's comprehensive plan. It also requires that a cost-benefit analysis be provided to all taxing districts that assesses the potential impact for their individual taxing districts. Thus, the TIF Act presumes a city already has a comprehensive plan. Some cities also have economic development plans, or an economic development plan as a chapter in their comprehensive plan.

It is no surprise that some smaller municipalities may not have the budget to hire personnel to perform planning functions or to hire an outside firm to do so for them. They might only have a comprehensive plan if they are required to have one in order to use an economic development tool. But based on the largest cities in Missouri, one wonders if there is also a size when a municipality is almost too large to have a comprehensive and/or economic development plan.

St. Louis city has been guided by their 1947 Comprehensive Plan until very recently, when in January 2005 they adopted a new land-use plan called the Strategic Land-Use Plan, 2005 (note: still not a comprehensive plan). There have been amendments to the 2005 Strategic Land-Use Plan, but no strategic updates per se. On St.

Louis city's website, they readily discuss this. In the introduction to their new land-use plan, they state:

In 1947, more than fifty years ago, the City of St. Louis adopted a land use plan. The City has been living with this outdated land use plan ever since. Now, the City's Planning and Urban Design Agency is proposing a new land use plan. A plan prepared by professional land use planners based upon continuing consultation with the City's twenty-eight aldermen, who are closely connected with the aspirations and dreams of the people who live in each of the City's neighborhoods and the businesses that make up our City's economy.
<http://stlouis-mo.gov/government/departments/planning/planning/adopted-plans/strategic-land-use/introduction.cfm>

This statement inadvertently acknowledges that both the 1947 Comprehensive Plan and its replacement are really land-use plans. It hints at the difficulty of obtaining agreement among the 28 aldermanic wards by stressing the advantages of having "continuing consultation" with aldermen who have constituents that evidently have differing "aspirations and dreams."

The newest mayor of Kansas City, Sylvester James, has made updating their FOCUS plan a priority (Gonzales 2011, interview). FOCUS stands for *Forging Our Comprehensive Urban Strategy*. FOCUS was the result of a two-stage, five-year process started by former mayor Emmanuel Cleaver in 1992. It was a very citizen participatory process, culminating in a plan approved by Kansas City's City Council in October 1997. There is no mention of a comprehensive plan before this one. It appears that Kansas City has relied on its City's Commission for Zoning and Land Use to approve all economic plans (Gonzales 2011, interview).

Brancaglione did not find the lack of existence of a true comprehensive plan for the state's largest two cities at certain times during the study period surprising. He stated

that Chicago also had until fairly recently relied on Daniel Burnham's 1909 comprehensive plan⁶⁰. This resulted largely from the inherent difficulty of creating a single plan in a city that has many strong neighborhoods (Brancaglione 2011, interview). This scenario could explain why Missouri's two largest municipalities find it challenging to construct a comprehensive plan or a comprehensive economic development plan than is politically acceptable to all constituents.

Even comprehensive planning in the next two largest municipalities seems to be time consuming and with a large amount of citizen input necessary. Springfield has a comprehensive plan called *Vision 20/20*. It was the result of a major citizen participation planning initiative in the 1990s. This process was updated, again involving citizen participation, and the latest version is known as the *2004 Vision 20/20* document. Independence has a comprehensive plan that was approved in 1993 (and it has later amendments). This plan is primarily used to meet legal obligations such as those associated with implementing a TIF, but the city has a strategic vision composed of four strategic goals that guide the decision-making of the governing council and city administrators in general (Clark 2011, interview). Seemingly, devising a comprehensive plan is a major undertaking – perhaps even more so for the largest cities.

Other Economic Tools

Hal Van Slyck (Missouri Department of Economic Development) has noted the decreased use of TIF in the last few years of the study period (2007-2009). This slowdown of TIF use is largely thought to be due to economic recession. Some

⁶⁰ Titled "Plan of Chicago," authors Daniel Burnham and Edward H. Bennett

professionals and legislators believe the requirement of a county-level TIF Commission in the St. Louis area (East-West Gateway area) has also had a dampening effect. Hal Van Slyck has also noted an uptick in the use of CIDs (Community Improvement Districts). This tool, although created nearly 10 years ago and mentioned by Richard King as having distinct advantages (such as being able to use funds for “maintenance” expenses, i.e. some operational expenses), is just now getting real usage (again, that slow start to actual usage of an economic tool).

Along with the increased usage of CIDs, municipal survey respondents mentioned using Chapter 100 Tax Abatements instead of TIFs on quite a few projects (O’Fallon, Columbia, Jennings, Grandview), and a resurgence in the use of Chapter 353 Tax Abatements either alone or with a TIF (Richmond Heights, Excelsior Springs, Grandview). Municipalities reported using TDD’s in conjunction with TIFs (Blue Springs, St. Johns, Richmond Heights). Some municipalities have found that sales rebate contracts (Chapter 70 Sales Tax Reimbursement) are sufficient, and use them instead of TIFs for some projects, especially retail projects (Springfield, Gladstone). Additionally, it should be noted that other tools such as MODESA and MORESA have many of the features of TIF and are intended to be an alternative option to using TIF.

Historical Development of the Statute

Important Amendments and Court Cases

The amendment that had the most impact on the TIF Act is the sales tax amendment. This is a unanimous selection of all the professionals interviewed

(Brancaglione 2011, Grimm 2011, Marks 2011, Radcliff 2011, Norber 2011). Although a casual observer may assume that this came about as developers looked for additional funds to capture in order to make more projects “doable,” it is important to know the role school districts played in lobbying for this amendment. This amendment was strategic on their part – the more funds captured from non-property taxes, the faster the TIF district would get paid off and the sooner they could benefit from the new property’s tax increment.

But like most decisions or most solutions, there are pros and cons. This amendment happened just as TIF use had been validated, municipalities were attempting to readjust to less funding from federal and state governments, and the prominence of the sales tax was increasing as a funding source for local governments. There was already a motivation for local governments to look at increasing retail within their boundaries to improve their revenue streams.

The ability to use TIF as a competitive tool, or conversely, the ability for developers to use TIF to “negotiate” for a better deal by pitting one locality against another was an unintended consequence of this amendment. This regional competition to have sales tax generated within a particular municipality’s boundaries creates a competition that in many respects is harmful at a regional level (East-West Gateway Council of Government, 2009). The 1997 amendment attempted to curtail this intra-county competition by not allowing the amount equal to the prior year’s EATs generated

by that retailer to be included in any new EATs calculation⁶¹. The 1997 amendment also added a limitation for the economic development purpose, stating that under this purpose development “will not be solely used for development of commercial businesses which unfairly compete in the local economy” (99.805(5)). The later was designed more to curtail “big box” retail establishments from driving small “mom and pop” type of businesses out-of-businesses, especially in smaller towns. Yet, attendees to legislative hearings in Jefferson City from the St. Louis area continued to express intra-county competition as a problem in subsequent legislative hearings.

In 2007 the state legislature made a new attempt to resolve the St. Louis area problem. The 1997 amendments did not seem to be effective enough to quell the problems that were still dominating state legislative hearings about TIF (2000 House hearings and 2005 Senate hearings). From the 1990s, TIF representation by the local government had been slowly eroded by increased representation from other taxing districts, and then county-representation. This dilution did not seem to be sufficient. The East West Gateway Council of Governments recommended that county-level TIF commissions be formed. Although the Chair of the Senate Commerce committee, John Griesheimer, desired such a committee for the entire state, he was only able to have the county-level TIF applied to the St Louis area (i.e. service area of East-West Gateway Council of Governments, less Franklin County).

⁶¹ Specifically, 99.805(4) reads “Economic activity taxes,”....For redevelopment projects or redevelopment plans approved after December 23, 1997, if a retail establishment relocates within one year from one facility to another facility within the same county and the governing body of the municipality finds that the relocation is a direct beneficiary of tax increment financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes which are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to its relocation to the redevelopment area;

Another important amendment occurred in 1997. One aim of the amendment was to strengthen the “but-for” test. At this point a municipality could just perfunctorily make a “but-for” statement and it would be accepted as true, or, at least having met the legal requirement. The legislature meant to make this a more serious criterion by requiring the developer to sign an affidavit to the effect that “but-for” the TIF the project would not be done. Additionally the amendment required a cost-benefit analysis that would consider the impact of the TIF district to all taxing districts involved. These requirements were made on the developer.

Professionals in the field believe that although well-meaning, this requirement also had unintended consequences. Requiring that the “but-for” affidavit and the cost-benefit analysis be submitted by the developer created a power-shift from the municipality to the developer according to Grimm (Grimm 2011, interview). Although it is probable that the legislature required this responsibility of developers in order to spare municipalities the burden of this cost, the unintended consequence is that now the developer is an indispensable component of constituting a TIF district. Now the formulation of a TIF district is not completely in a municipality’s control. It is possible that a municipality that is proactively identifying and seeking development/redevelopment projects may have to “negotiate” somewhat with a potential developer since it is they (and not the municipality) who are the necessary “designator” of the “but-for” requirement.

This ‘power-shift’ may present problems in many cases, but it does not seem to be an issue in Kansas City (again, perhaps a function of strength of size and capacity).

Kansas City expects a developer to deposit into the city’s account generally from \$35,000

to \$60,000 to reimburse the city for doing the initial research and analysis to consider the project and suggested tax incentive (Gonzales 2011, interview). A \$20,000 deposit is paid up front, and this account is replenished as expenses are incurred. Kansas City has had a cost-benefit model custom made for them, and in most cases do cost-benefit analysis in-house (Gonzales 2011, interview).

One other legislative amendment mentioned in interviews of consultants and legislators. It is the 2007 amendment that created county-level TIF commissions in the St. Louis area counties (with the exception of Franklin County). John Griesheimer, chair of the 2005 Senate Interim Committee Studying TIF viewed this change alone as being “huge” and probably underestimated. He believes this change will have a strong impact in reducing inter-municipality competition, but it may be underappreciated at this time due to the general poor economic conditions (recession, etc.) Both Griesheimer and his co-chair of the committee, Timothy Green, had wanted the county-wide TIF commission provision to apply statewide, but politically were only able to have it apply to the St. Louis area.

Two (of the three) economic development consultants interviewed do not underestimate the county-level TIF commission, and mentioned its passage as unfortunate. Larry Marks mentioned that in some projects Chapter 353 is being preferred to TIF in order to avoid the county-level TIF commission. A project mentioned as a possible example of this was the Cheshire Inn (located in both St. Louis and Richmond Heights). Brancaglione felt that the county-level TIF commission was unnecessary because the Act already included provisions to limit intra-county competition, and perhaps the better action would have been to better police those provisions.

When asked what court cases they deemed to have had the most impact on TIF usage, the cases that were mentioned are *Dunn*, *QuikTrip*, *J.G. West*, *Shelbina*, and *Centene* cases. The professionals interviewed mentioned these cases for the following reasons: 1) *Dunn* supported the validity of the statute (Brancaglione, Grimm, Norber); 2) *Quiktrip* also upheld the validity of TIF (Grimm); J.G. West further clarified the “but-for” clause (Brancaglione); *Shelbina* restricts the creation of TIF districts in a pro-active approach (Grimm)⁶²; and *Centene*⁶³ and its impact on the “social liability” purpose (Norber). Brancaglione stated that the West County case (*J.G. West*) made clear that “but-for” did not necessarily require that “nothing else would happen,” but could be in light of current and/or other use. Grimm remarked that it was ironic that legislation and court decisions make it harder for municipalities to be the drivers of TIFs (referring to *Shelbina* court case and the “but-for” affidavit and cost-benefit analysis legislation).

Politics and Interest Group Lobbying

It is clear that political actions shaped the statute to what it is today. The statute was first enacted as a result of a shift in federal policy which resulted in less money being remitted to states and towns. Local governments found themselves in the midst of a tax resistant citizenry, and Missouri citizens passed a constitutional amendment known as the Hancock Amendment. TIF was devised to give particular local governments a tool in which to attract private investments. The architecture of the statute did not expressly

⁶² The Courts stated in the *Shelbina v. Shelby County* case that one could not establish a TIF district before it had identifiable projects. A strategy of some TIF districts prior to this decision was to build a desirable infrastructure that would attract projects (thus the projects would be “identified” later, after the district’s establishment).

⁶³ *Centene Plaza Redevelopment Corp. v. Mint Properties*, 2007, is an eminent domain case under Chapter 353.

limit usage to this targeted group of local governments, and overtime, other groups began to use TIFs, some more frequently than others.

The presence of lobbyists was felt – both to limit use of the statute to its original targeted group, and to “leave it alone.” Both groups were effective – somewhat. Ironically, the momentum for change is to change TIF use back to its original intent, as it seems that the statute as written never was, in practical terms, limiting. Although some changes have been made in this direction, these amendments have been “contained.” Examples of this containment are varied. For instance the 1997 amendment to add restraint to the usage of the “but-for” test has not demonstrably stopped any projects from being granted TIF money. In fact, the Missouri Appeals Courts had to chastise the City of St. Peters for asserting that its 370 District TIF would not have been done “but-for” this TIF, because bonds had already been acquired beforehand (*Great Rivers Habitat Alliance*, 2008). Kansas City’s lobbyist was able to keep the 2007 amendment that created a county-level TIF commission away from being applicable to them (by containing it to the East-West Gateway service area only) (Gonzales 2011, interview).

It is also revealing to see how much drafting of legislation occurred outside of the legislature. And this little feature might have been the key to why erosion of targeting was so invisible, and so effective. The lobbyists and outside professionals seem to be submitting both the legislative bills and “drafting” the actual statutes. These interest groups being an integral function of this procedure alone can help explain why the pro-development groups, i.e. – the “growth machines,” were able to use TIF without new amendments.

It is interesting to note the strategic use of one type of tool by both legislators and interest groups – “the report.” Woven throughout this research is the strategic commissioning and placement of studies and reports. Reports and studies were commissioned or done in many cases to impact the discourse regarding TIF use in one way or another. Legislators held hearings and then issued reports on those hearings which included recommendations. In particular, the 1996 and 2005 legislative reports and the recommendations they contained seemed to precede actual related changes in the law⁶⁴. The Brookings Institution report on TIF use was often mentioned in the St. Louis discourse and the Kelsay study was found in TIF discourse in the Kansas City area. St. Louis city’s adjustment to more regular TIF use was preceded by a report that recommended such. The East-West Gateway study has also had impact, with one professional particularly mentioning the “diminished enthusiasm” the report has had on TIF usage. Reports may have been used just to report facts and findings. It is clear that in addition to providing information, these studies and reports were used as effective tools to influence and perhaps change the direction of public discourse about TIF usage, and to lessen or reduce resistance to amendments that were proposed – i.e. agenda setting.

It is significant to note that the historical development of the definition of “blight” is a significant barrier to “targeting,” and the lack of a concrete way of truly determining what development would take place otherwise is also a barrier to targeting. It is relevant that legislators and community supporters of “blight removal” envision one set of

⁶⁴ Granted, it is not clear if these legislative hearings were held to get information and the reports reflected this information, or if the legislators wanted to make these recommendations and the hearings were held to give stronger support to these recommendations.

expectations while the legal definition which determines the allowable determinations of what constituents blight invokes a wider set of circumstances unanticipated by those legislators and community persons. But this disparity is understood by the drafters of the legislation – and they know that by following the letter of the law they have access to a broader use of blight than the general citizenry expects, and thus have little need to pursue wider criteria to access economic tools that can be used with a blight determination. Many efforts have been made to revise the definition of blight in the Missouri legislature but they have been unsuccessful. The definition of blight has been confirmed at the highest court of the land in 1954 and has decade of jurisprudence accepting the definition as is. Path dependency and institutionalization are barriers to change at this point in time.

The courts look closely at the wording of the statutes, and legislatures responded to court decisions. The administrative branch responded to legislative requests. The legislators interviewed made references to the battle of the out-state / in-state constituents, which apparently had different needs and desired different outcomes than each other. An example of this was the restriction on greenfield development, which was a “hot-spot for abuse” in St Louis (Griesheimer 2011, interview). But he stated that out-state Missouri felt “it ain’t broke so don’t fix it” (Grieshemier 2011, interview). Carl Vogel, the former Senator from the Jefferson City area had a more rural perspective. His perspective of a typical TIF using municipality is a rapidly growing community, rural in mindset but is experiencing population growth because of new highways and naturally occurring growth. The rural mindset causes the citizens to want to remain the same, but

they also know that they have got to manage their growth (i.e. conflict of the old and the new) (Vogel 2011, interview).

Risks, Bonding, and other Municipal Pitfalls

Risks and investing, investing and risks go hand-in-hand. Investors typically want to avoid risk unless it can be measured and they can get paid for taking it. Risks associated with legislation that eventually is deemed invalid is in most cases considered a bad investment and is avoided by businesses. This behavior is seen in the inactivity of the TIF Act until the Act was validated by the Missouri Supreme Court. This behavior is also seen in the economic development purpose being infrequently used. Brancaglione explained that the economic development purpose was “not smart” because bondsmen do not consider bonds associated with these types of TIF projects “clean” because they are not “constitutionally supported” (Brancaglione 2011, interview).

In this respect, it seems that legislators should want to be very cognizant in constructing economic development statutes. It seems that if they could construct the statutes in such a way to assure validity or to provide an avenue whereby the validity could be confirmed more quickly would be advantageous. Recall the TIF Act was enacted during a recession which had passed and had a chance to return again before it began to be used.

Recently some developers have been caught on the wrong-side of a risk as a result of the 2008 recession. Laura Radcliff⁶⁵ mentioned some developers have taken out

⁶⁵ Laura Radcliff is Senior Vice President at Stifel Nicolaus as a public finance banker.

construction loans that were intended to be converted to other types of loans (perhaps TIF bonds) but because of the economic downturn, have been unable to convert those construction loans (Radcliff 2011, interview).

Municipalities take risks too, and can make mistakes which increase their risks. Grimm mentioned the biggest mistakes that he has seen municipalities make is in not following TIF procedures correctly, which can result in a TIF being invalidated, or exposing the municipality financially (Grimm 2011, interview). Radcliff listed the following as the biggest mistakes she has seen municipalities make: 1) wrong team of professionals; 2) wrong size of project; 3) procedural mistake, 4) mistake of TIF eligible costs; 4) selling bonds that can't be repaid, and 6) erroneous revenue projections.

Original Intent, Current Intent

The Real Property Tax Increment Allocation Financing Act of 1982 was designed to provide distressed urban areas within an economic redevelopment program which would make redevelopment more competitive with development on undeveloped land or less financially distressed areas. To many people, this is still the aim of the program and its use should be limited to this aim. Twenty-seven years is a long-time for a program best use to remain its original intent.

As it was, TIF use was almost immediate after its constitutional validation, and was used by urban and non-urban areas alike, although it is most often used by the two major urban cities. Though the "intentions" were expressed in legislation, these intentions were not expressed concretely in the wording of the statutes. The statutes, as worded, allowed TIF to be used by non-urban, non-distressed municipalities who were

already searching for ways to partner with the private sector to bring or enhance investments in their municipalities. These communities did not have to expand the TIF Act to get access to its benefits – they already had access, through following “the letter of the law.” Many feel that the broad definition of what constitutes blight provided access to the “unintended,” such as West County Center. Another concern was the “but-for” test, and how it was deemed to have been met. Others were concerned that the economic development purpose would provide this entry. What is certain is that a tool that was designed to give urban distress areas a targeted advantage has been eroded from the start.

This erosion was willingly expanded by the legislators in the mid to late 1990s to accommodate more rural communities. Legislators noticed that a few rural communities expressed a need that was partially filled with TIF use. Legislators later facilitated legislation (i.e. MORESA and MODESA Lite) that was more tailored to smaller communities. This expansion to non-rural areas did not seem to meet with opposition. It could be because TIF use in the non-metropolitan area is still relatively low compared to urban areas.

Additionally, urban areas are not typically competing with rural areas for the same investment opportunities, and thus the advantage the TIF Act sought to provide was not relative to rural development or rural redevelopment. Urban redevelopment generally competes with surrounding areas, such as outer-ring suburbs. Legislation was able to preserve this advantage somewhat in the St. Louis area by disallowing TIF use on “greenfield” developments in the East-West Gateway of Governments service area. Missouri also has the interesting challenge of having its two largest metropolitan areas on state boundaries lines. Kansas City is acutely aware of and concerned about competition

for investment dollars with the Kansas state metropolitan area (Gonzales 2011, interview).

Do all communities need economic development tools that allow them to partner with the private sector, and if so, what form should those tools take? The state acted to give this targeted advantage to distressed urban areas in the early 1980s, when urban areas clearly needed it. Yet other changes were occurring around the same time. Funding for local governments was being devolved downwards. This left local governments looking for solutions to retain their local funding sources and to make up funding that they no longer could expect from the federal or state governments. Sales taxes became available at about this time, and it was natural for municipalities to attempt to capitalize on this opportunity. In addition to a redistribution of funding occurring among the levels of governments, capital had become more mobile. Especially in the urban areas, the competition was no longer just a neighboring municipality, but perhaps even another country. But this is also true in out-state Missouri, where the small city of Strafford recently competed against a German city (among others) for a John Deere core remanufacturing facility. So although there was a clear need in the targeted urban group, there was a new need being generated among the non-targeted group.

Yet this competition for capital does have a “race-to-the-bottom” capacity that does need structure and governance from a more regional or higher level. As White stated in his 1985 talk which referenced Chapter 353 tax abatements – it is unreasonable to think that a municipality (or developer, for that matter) will not try to use any tool legally available to it. The creation of county-level TIF commissions and limitation of development on greenfields in certain areas are examples of the legislature’s attempts to

provide this type of structure and regional governance. And thus we have come to an “evolved” intention of TIF – to be used as part of an economic development tool box, as well as redevelopment, as stated by Brancaglione in his 2000 newspaper commentary.

The newer evolved intention has left the gate and is not likely to be put back in. Possibly the best those who are “originalists” can hope for is to keep the restriction on TIF usage that they currently have now. It is unlikely that they will be able to roll-back TIF usage to the original intent. But originalists should also be aware that the front seems to have moved away from the TIF statutes – the erosion they fear is likely to occur in statutes outside of the TIF Act.

This Research’s Addition to Policy Change Framework

This research has followed the development of a statute, The Real Property Tax Increment Allocation Redevelopment Act, from its enactment in 1982 through 2009 – 27 years. Observations have been made along this research and analysis regarding the importance of policy change concepts such as incrementalism and path dependency which have been evident throughout this research. Perhaps the most impactful evidence of path dependence is the judicial jurisprudence of the definition of blight. The contour of the definition of blight was firmly planted in the *Berman v Parker* decision, a decision made in the 1950s at the highest court in the land. This decision has the features of a self-reinforcing policy-feedback, and has been reinforced by the court system’s institutional custom of following “precedence.” Legislators and other political actors have noted the impact of the definition of blight on how TIF was actually used in municipalities, and interest groups formed to fight this perceived erosion of targeting that

the definition seemed to let occur. But try as they might and did, political actors were not successful in modifying the definition of blight.

Evidence of incrementalism was seen throughout the 27 years of amendments – perhaps mostly in defining redevelopment plans and how they were to be approved by a community. Another area that saw incremental changes was the exclusion of certain taxes. Interestingly, the TIF commission membership specifications had incremental changes that over time, in some cases, have resulted in a fundamental change.

This research highlights the importance of court decisions in the policy change process, at least for policies regarding economic development. There is strong evidence that capital investors look to lower risks by using the pre-condition of validation by the courts before “trusting” an economic development program with their financial investments. This has had the undesirable effect of slowing the actual usage of economic development tools, including TIF, since these validating court cases generally happen many years after the statute’s enactment. Investors and practitioners of economic development have shown that they will even avoid using certain provisions of a statute if its use has not been specifically affirmed via a court decision – case in point, the economic development criteria of the TIF statute was seldom use, and in the projects it was cited as a criteria, it was usually in combination with another criteria that had been supported by a court decision.

The importance of the courts in economic development can also be seen in Hacker’s 2 x 2 Modes of Policy Change framework. Hacker’s model has as one of the independent variables the amount of flexibility that the administrative or bureaucrats

have in “designing” how the program is implemented. This flexibility was clearly impacted by the decisions of the courts in the numerous cases the Missouri court system heard involving TIF projects. Administrators (via municipal officials and governing councils) operated freely in the upper right-hand corner of “conversion” unless a successful court challenged restrained their breadth of decision-making. This can be seen in the formulation of redevelopment plans which were eventually reined in by court decisions of the *Ste. Genevieve*, *St. Charles West*, and the *St. Peter* cases. It is also clearly a factor in the McKee Northside project. In essence, the court decision in McKee lower court and Appeals court decision (which likely is following precedence of the earlier *Shelbina* court case) has in effect closed or is closing the door for St. Louis city’s administrators to “convert” the TIF statute in the proposed way, and if they lose the case at the Missouri Supreme Court level, they will not be able to continue the project in its current configuration and still receive the desired incentives.

When the desired usage could not be implemented in the conversion quadrant (upper right-hand), then if the composition of the legislative and executive branch allowed, political actors tended to move into the layering quadrant (lower left quadrant) to “add” a new provision or modification. This movement may have been prompted by a court decision that closed the door for the administrator to use their own discretion in the conversion quadrant. Examples of this could be the *Quiktrip* case, where the court case ruled that County administrators could not withhold any taxes not exclusively exempted by the statute. Subsequently, legislation was periodically ‘layered’ to exclude certain taxes.

Sometimes it was clear that a desired provision was not flexible enough to be implemented by administrative discretion within the conversion quadrant. In these instances, again if the political dynamics of the legislature and governor's office allowed, attempts were made for these provisions to be permissible via the layering quadrant or the revision quadrant. An example of this would be the addition of the economic activities taxes to the TIF statute. Municipal administrators did not have the flexibility to do this on their own, but the legislators and governor were willing to add this provision. Another example of layering would be the addition of the economic development criteria to the statute, or the several changes to the TIF commission composition. An unsuccessful attempt at layering was made by those who wanted to change the definition of blight with the aim of restricting TIF usage.

Hacker's 2x2 framework is also informative regarding Peter and Fisher's erosion of targeting concept. It has been stated that targeting of erosion was expected to take place as other political actors that were not part of the "target" worked to gain access to the advantage. In this particular case, lobbying to gain the tax advantages of the TIF statute was not necessary because the statute did not need to be changed for others not targeted to also use it. As compared to the "original intent" and the spirit of the law (versus the letter of the law), using the blight or conservation criteria allowed the TIF statute to be used in more ways than just stopping or reversing decline in urban areas. Court decisions allowed administrators and bureaucrats the flexibility to make decisions within the boundaries of the letter of the law. And these are the boundaries that are typically relevant with respect to economic development policies. Administrators and bureaucrats were able to convert the original intent and broaden it to cover purposes that

are legally allowed by the definition of blight that has evolved through a half-century of legal jurisprudence.

An important insight to this occurrence could be gleaned from Hacker's (2004) supposition regarding resistance to change. In the TIF statute's case, the statute was easily converted by the "other" users of TIF because its availability for these uses were not expressly excluded. Thus interests groups did not need to form to gain access to the TIF tool – to the contrary, interest groups formed in an attempt to limit TIF use to its originally intended target users, and an opposing interest group formed to retain access to TIF in its broader context. Hacker's article containing the 2x2 focused primarily on social welfare policy (instead of economic development policy), but he stated the following:

In sum, although the prospects for internal policy change [conversion or drift quadrant] are shaped by a policy's specific characteristics, formal policy change [layering or revision quadrant] depends principally on whether the basic political structure and partisan context privileges the status quo. When it does, pragmatic advocates of change may find it more attractive to adapt existing policies to their ends than to wage a frontal assault. For this reason, *political settings that militate against authoritative change* [layering or revision] *encourage reformers to seek conversion or erosion of existing policies*. In these contexts, not only do reformers find it difficult to establish new policies or replace existing policies, but they are also better able to block efforts to close gaps between a policy's original aims and its actual effects." (247)

Although interest groups attempted to restrict TIF use to its originally targeted use of redevelopment in declining urban areas, this attempt had only seen the modest of accomplishment and is considered by many to be unsuccessful overall. In the case of economic development policy, it could be said that the precedence of court jurisprudence regarding the definition of blight was a key factor, if not the key factor, in privileging the

status quo. Municipalities (and their allies in this case, the developers) were able to successfully block any efforts that would significantly “close gaps between a policy’s original aims and its actual effects” (Hacker 2004, 247).

As one legislator contemplated – if only the spirit of the law could be the guiding force instead of the letter of the law. Regarding economic development policy, the spirit of the law is not likely to be sufficiently restrictive. If limitation or targeting is desired, it is strongly suggested that this desire be backed by the letter of the law.

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Appendices

Appendix A—TIF Act Amendments by Subchapter and Year

Appendix B -- Interview & Survey Discussion Guides

Appendix C -- Missouri Maps

Appendix B

Discussion Guide – *Consultants*

1. What services do you offer (division specific)? What other services does your organization provide (outside of your division)?
 2. Approximately how many TIF projects have you consulted on?
 3. Who is your customer? (developer, business organization, municipality). If more than one, what percentage of your business is each?
 4. How do you handle potential conflict of interests? (developer/municipality; municipality/municipality; etc.)
 5. In what geographical areas do you work? (states, nationally, etc.)
 6. How long have you been a consultant for TIF projects? What percentage of your business (division level) deals with TIF projects?
 7. How often do you think TIF projects are initiated by the municipality (in MO.)? How often do you think TIF projects are initiated by the developer? How often do you think TIF projects are initiated by the business?
 8. How often are you able to make an objective evaluation of what the TIF amount should be? How often does the developer or business makes its own evaluation and request? Are you asked to validate this amount? If so, how often have you estimated a higher amount/lower amount?
How often does the municipality accept/approve your recommended amount? How often have they approved a higher amount, and why did they do so? How often have they approved a lower amount, and why did they do so?
- (If they work with municipalities)
9. When you work with municipalities, which titles of employee do you frequently find yourself working with?
 10. How much of a teaching function do you find yourself performing with the level employee that is your inside contact? How often is that person able to “supervise” your work, or otherwise meaningfully evaluate your work? What do you find is the ideal arrangement?
 11. At what point are you generally retained? (A developer contacts you, a developer contacts the municipality, a municipality decides it needs more revenue and wants to develop an economic development plan, you notice a need and solicit the municipality to develop an economic plan, etc.)

12. How long is the average engagement? How often is the arrangement a long-term retainer for economic development in general versus project by project? (%)
13. What observations would you like to share about your experience being retained by municipalities? (Their needs, their challenges, etc.)
14. What municipal characteristics do you think make a difference in a municipalities needs for TIF usage? What municipal characteristics do you think make a difference in how a municipality would use an outside consultant such as yourself?

(If they work with developers)

15. What functions are you to perform for developers? Do they vary much by specific developers? – If so, what conditions exist for that difference? Approximately how many developers have you worked with? What is the average number of TIF projects you have worked on with each developer?
16. Do they ever ask you to work on a contingent basis? What is the normal retaining arrangement?
17. What observations would you like to share about your experience being retained by developers? (Their needs, their challenges, etc.)

(If they work with businesses)

18. What functions are you to perform for businesses? How do they vary among different business clients and what conditions exist for that difference? Approximately how many business clients have you worked with? What is the average number of TIF projects you have worked on with each business client?
19. What observations would you like to share about your experience being retained by business clients? (Their needs, their challenges, etc.)

(other)

20. Have you been asked / called to be an expert witness for a court case? Please state the court case and what you were asked to answer.
21. As a consultant organization, have you lobbied (outside of an association) for any amendments or changes to the TIF Act? What were they, and why?
22. Are there any “user” barriers to usage of TIF that you feel are unintended? What are they, how does that impact its use, and how can it be fixed?

(if consultant is a law firm)

23. How long has your firm been in this type of business (tax increment financing consulting)?
24. Is your law firm the lawyer on record for all of the municipal's/developer's/business' legal needs? (if not) what are the parameters of your services to any particular client who also uses your economic development skills?
25. What do you find are the more significant barriers in the law for using TIF for economic development at the municipal level? Is this good or bad? (identify which with each barrier identified)
26. What service do you provide that you find most valuable to your clients?
27. Describe the characteristics of a municipality that absolutely needs your services. Describe the characteristics of a municipality that may be able to get by without the services of a firm like yours.
28. What is the biggest mistake a municipality/developer/business may make if they don't have legal assistance of an experienced legal firm?
29. Is your firm's expertise dependent on the reputation of 1 or 2 lawyers, or would this specific area of practice exist regardless of the employment of 1 or 2 specific persons? (if not, please identify the few specific persons.)

(if consultant is a financial services/bond financing firm)

30. How long has your firm been in this type of business? (tax increment financing)?
31. At what point is your firm usually retained for services?
32. Who usually recommends your participation – outside consultants, law firms, other clients, developers, etc.?
33. At what \$ project size do you recommend the services of a firm like yours? Why?
34. What do you find to be the biggest risks in using TIF? (to the municipality, to the developer, to the business, to the bond owner?)
35. What is the biggest mistake that municipalities/developers/businesses make when selecting a bond financing company?
36. Is there a type of municipality/developer/ business that should not use bond financing, or should not use TIF? What is that type, and why?

Discussion Guide -- **Legislators**

1. What is your opinion of TIF (Real Property Allocation Act of 1982)?
(open-ended)
(summarize as great /good/ mixed/ not good/ bad)
2. How would you describe the original purpose of the TIF ACT, and how would you describe its purpose now?
3. Has the Act been improved over time or has it been diminished (i.e. corrupted)?

(open-ended)

(summarize as improved/diminished)

- a. What changes do you think have improved the Act, if any?
- b. What changes do you think have diminished the Act, if any?

4. Are there changes that have been proposed but were not made?
(yes/no)

If so, what were they, when were they proposed, who proposed them, who were the advocates for that change, and why do you think the proposed change /proposed changes was/were unsuccessful?

5. a. Describe the typical community that IS using TIF.
(open-ended, probe for size of pop., physical size, administrative capacity, ?)
- b. Describe the typical community that SHOULD BE using TIF – is it the same as the community that is actually using TIF, or different? If different, why do you think that is? (If different, look for “but-for” concerns, broadening of target, blight definition concerns, competitive disadvantages, ?)
6. Practically speaking, how “user-friendly” do you consider the ACT to be? (user-friendly, not user-friendly) Why? If not user-friendly, do you think this helps limit its use to the intended user, or hinders the intended user from benefiting from it?
7. Are there any parts of the statute that you feel :
- a. Should be stronger/improved (yes/no)
 - b. Should be weakened (yes/no)
 - c. Narrowed (yes/no)
 - d. Broadened (yes/no)
 - e. Deleted due to no longer necessary (i.e. outdated) (yes/no)
 - f. Deleted because it is counterproductive (i.e. did not perform as designed) (yes/no)
 - g. Clarified (yes/no)
 - h. ?

Please elaborate, explain any yes response.

8. Should any additions be added to the statute?
(yes/no) If yes, please explain.
9. What changes to the Act (if any) do you think substantially changed who could use TIF or substantially changed how TIF was used?
10. Can you describe how the following changes came about to the best of your memory?
(probe for interest groups involvement, beneficiaries)

- a. Local sales tax available for capture
 - b. State TIF (sales tax & earnings tax) available for capture
 - c. Inclusion of “economic development” as an allowable purpose
 - d. Exclusion of “greenfields” in St. Louis area only
 - e. ?
11. I recently ran across the charge of the Joint committee on tax policy to conduct a study to “allow municipalities within the state to engage in tax increment finance-like projects with optional tax abatement in any area of such municipality regardless of the existence of blight.” Are you familiar with this charge, and if so, can you explain how it came about?
 12. Do you think that the “but-for” clause serves any useful purpose, theoretically and/or practically? (distinguish answer between theoretical and practical)
 13. Which lobbyists/ interest groups contact you regularly about economic development issues – TIF, Tax abatements, etc.?
 14. Have you or anyone else identified any other changes to the TIF ACT that is currently being considered, or that you think may be considered in the future? If so, please explain (What & Why).
 15. Are you considering any new economic development tools that would replace, or complement TIF? If so please describe, and explain why it is being considered. (replacement, complement)
 16. Is the TIF statute still current, i.e. relevant for today’s problems? Can your answer be related to explaining why there was a need for specific new incentive statutes for example, the Ford Plant in Kansas City or the Northside/Paul McKee project in St. Louis?

Discussion Guide: *Municipal TIF Telephone Survey*

1. When was the first TIF project ever approved? (check record, if different, verify).
2. How did the first TIF project come into existence?

Did the city proactively do a strategic plan, decide which projects would be appropriate, and look for a developer? (yes/no)
If yes, did the RFP come first, or did you consult with a developer about the possibilities, and then develop a RFP?
3. Who keeps your records regarding your TIF projects?
4. Do you have records on all TIF projects ever approved, not approved?

5. Does the city have an economic development plan? When did the city develop its first economic development plan? Was it first developed before a redevelopment plan was needed?

6. Do you have an outside consultant for economic development?

If no, why not? (cost too much, budget too tight, prefer in-house for proprietary information, project was not big enough, we have expertise in-house, etc.) Do you have internal staff that has responsibility for economic development? If so, what is their title? What percentage of their time is devoted to economic development (annual basis)?

If yes, what are their names/company names? Are they on retainer or do you use the same one as needed? If more than one, how do you decide who to use and when? When is the first time each one was used, when was the most recent time one was used? If you use only one, why do you prefer that particular consultant/company? (try to verify for each project listed by that municipality)

If yes (cont.) Why do you use outside consultants? (more cost effective, experienced gathered among varied clients, can use as needed, recommended by developer, knows the specifics regarding meeting statute regulations, can do it quicker, etc.)

If yes, are you satisfied with the services they have provided? Have they enhanced your municipality's ability to evaluate projects and /or make a better decision?

If yes, does the project needs to be a certain size? Are there other criteria that determine when you prefer to use an outside consultant?

7. How much risk did the initial TIF represent to the municipality? Why? Has the degree of risk been reduced over time? If yes, what conditions exist that has caused the amount of risk to be reduced? If no, what conditions exist that has caused the amount of risk to stay constant/increase (circle one)?

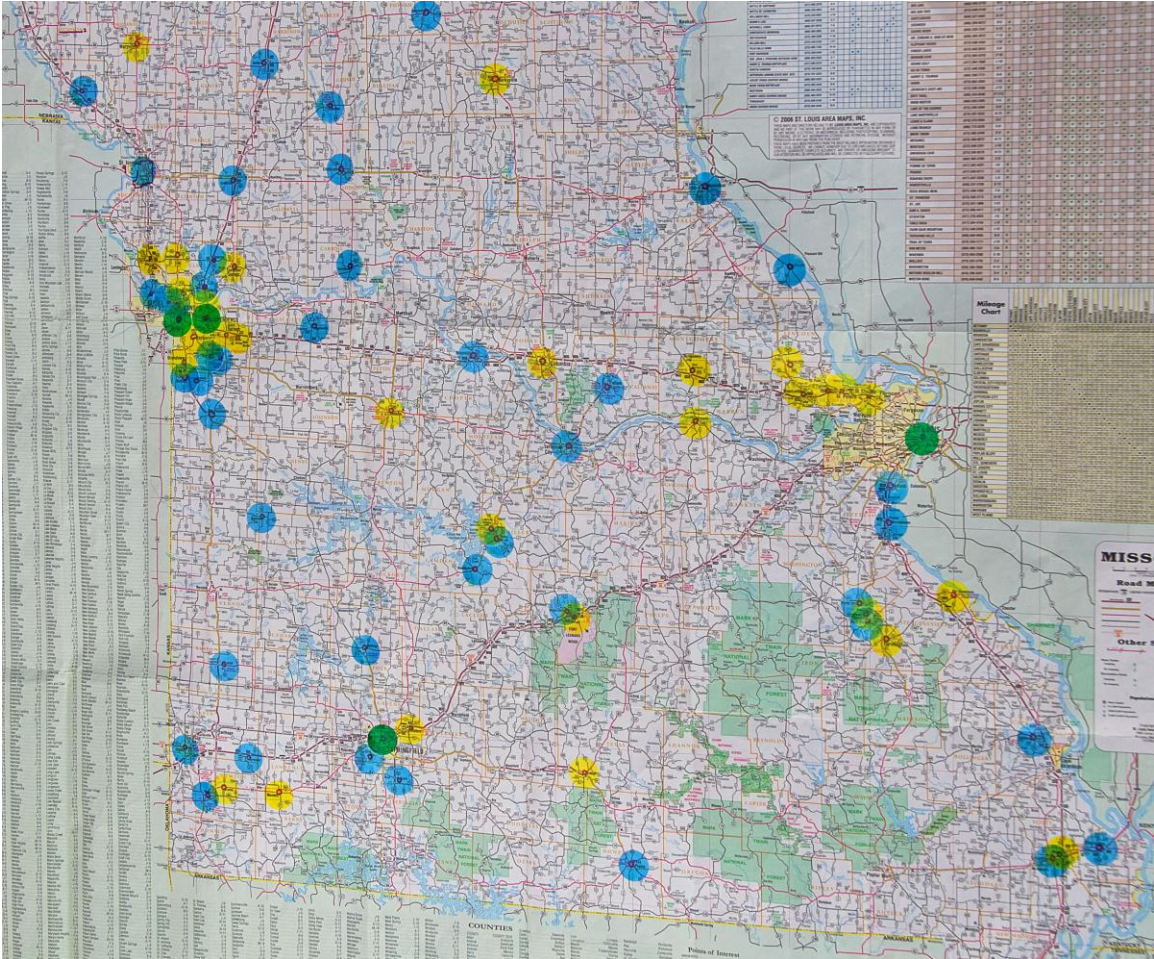
8. Has the city ever lobbied or worked with a lobbyist or organization that lobbies to make any changes to the TIF legislation (i.e. interest group)? What changes, and what lobbyist/lobbying organization/interest group? Are there any changes that currently need to be made to the TIF Act in your opinion? If so, what would they be, what impact would that have, and who could benefit from this change/these changes?

9. How did the following TIF projects come into existence? (List projects on TIF report.) What other economic tools/ incentives were used in each case?

10. Have you had any other major economic development projects since 1985 that did not use TIF? What were they? What conditions existed that TIF was not needed? What other economic development tools were used, if any?

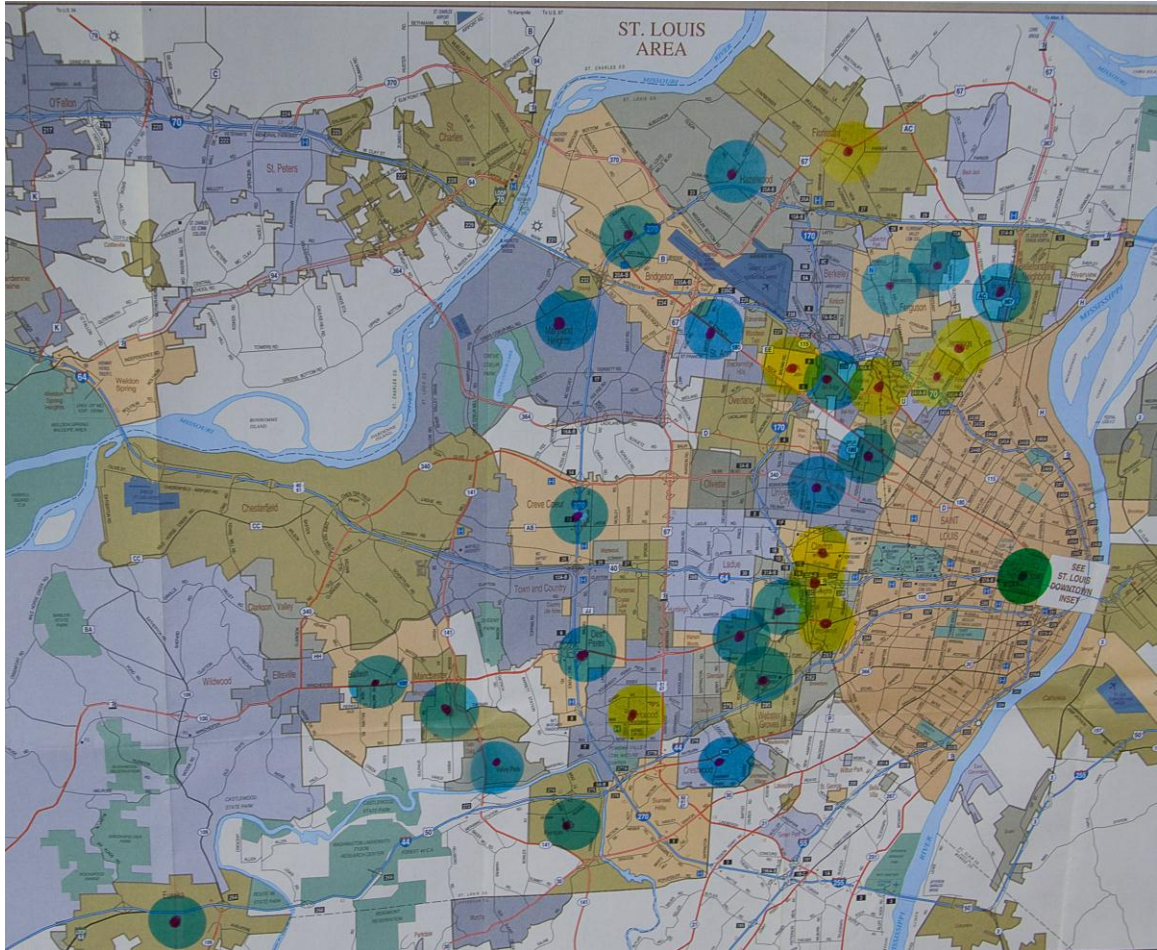
Appendix C

Map of Missouri with Municipalities using TIFs Marked (except in St. Louis County)



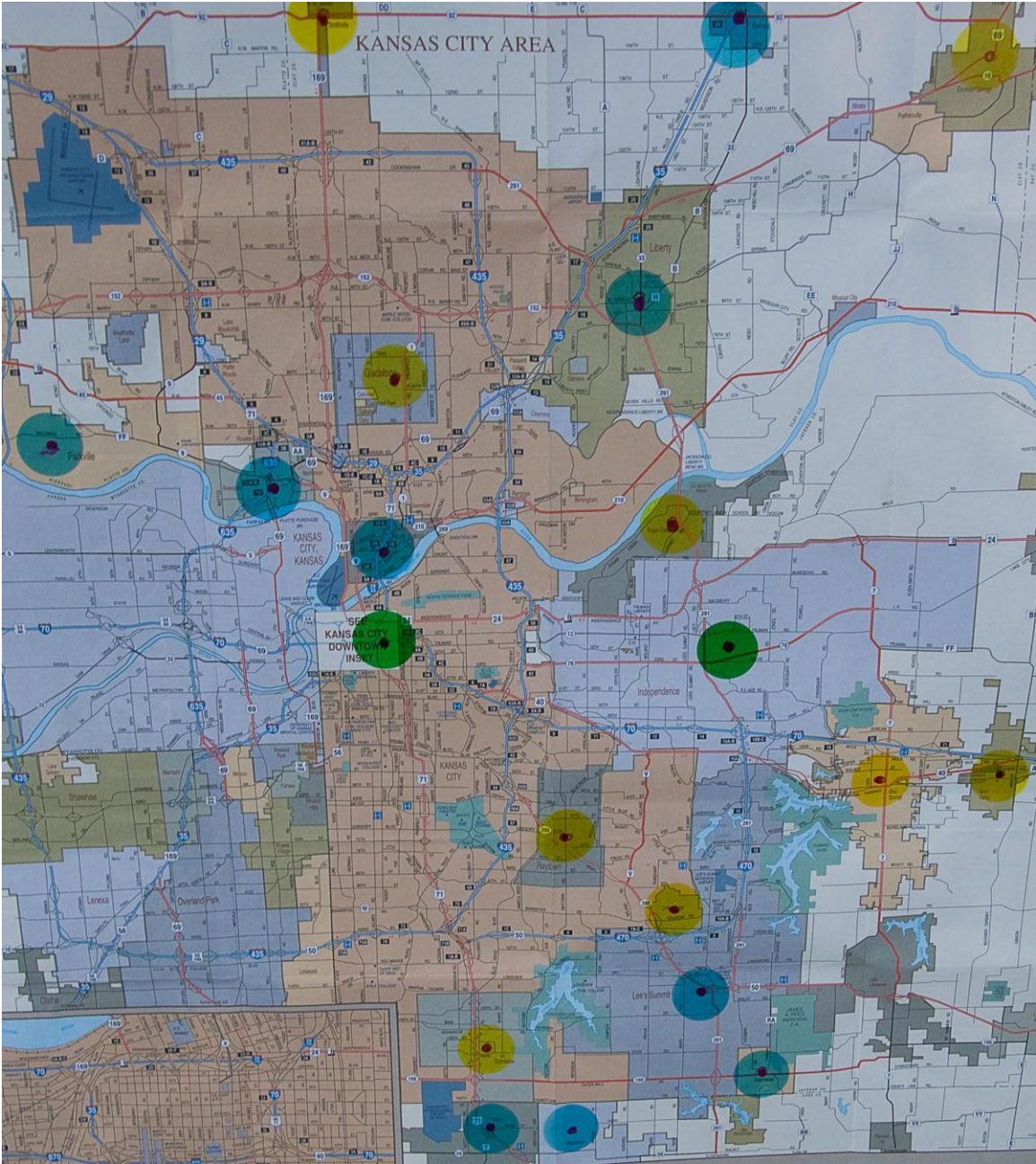
(yellow dots denote municipality selected for survey/interview randomly, green dots denote municipalities interviewed because size of 100,000 + (2000 census), blue dots are all other TIF-using municipalities)

Map of St. Louis City and St. Louis County with municipalities using TIFs Marked



(yellow dots denote municipality selected for survey/interview randomly, green dots denote municipalities interviewed because size of 100,000 + (2000 census), blue dots are all other TIF-using municipalities)

Map of Kansas City Area with Municipalities Using TIFs Marked



(yellow dots denote municipality selected for survey/interview randomly, green dots denote municipalities interviewed because of size of 100,000 + (2000 census), blue dots are all other TIF-using municipalities)