U.S. PIRG Education Fund

# Tax-Increment Financing

## The Need for Increased Transparency and Accountability in Local Economic Development Subsidies

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# Executive Summary

Local and state governments use various tools to encourage development in economically challenged areas. Tax-increment financing (TIF) has been a leading tool used for this purpose. TIF allows cities and towns to borrow against an area's future tax revenues in order to invest in immediate projects or encourage present development. When used properly and sparingly, TIF can promote enduring growth and stronger communities. When used improperly, however, TIF can waste taxpayer resources or channel money to politically favored special interests.

To protect the public interest, governments should impose strong safeguards that ensure that TIF projects are implemented through a transparent, accountable process with clear and compelling goals.

**Governments must use care in choosing when to use tax-increment financing.** The public can benefit from subsidies that bring lasting economic development to declining or stagnant areas. However, tax-increment financing can be wasted on projects that:

- **Fail to achieve public goals:** By definition, TIF diverts money from schools, parks, and other important services. TIF projects certainly won't be justifiable if they are used to support projects that fail to bring the hoped-for investment or harm the community in other ways.

- **Enrich special interests at the public's expense:** Poorly designed TIF programs can give government officials a tool to lavish subsidies on favored or well-connected developers—regardless of the project's public benefits.

- **Encourage development in areas where it is least needed:** TIF is intended to spur redevelopment of areas in difficult economic straits, but the tool has also been used to fuel development of previously undeveloped areas. Fort Worth, Texas, for example, used TIF to lure the big box sporting goods chain Cabela's to a tract of prime, newly developed land that was declared "blighted" due to the presence of a stream and lake on the property.

**The process of awarding tax-increment financing often takes place without sufficient public awareness and input—creating the opportunity for favoritism and corruption.**

- **TIF often lacks transparency:** The public often lacks the tools to evaluate whether a particular TIF project makes sense. In some states, TIF budgets are not published for public review. In addition, not all states require the completion and publication of growth forecasts that would enable the public to evaluate the costs and benefits of TIF subsidies.

- **TIF often lacks accountability:** TIF is undertaken in the hope of generating specific benefits—increased employment, land value, and tax revenue among them. Many TIF laws do not, however, require follow-up reporting that would enable the public to determine if the goals of the project were realized.

- **TIF can create "slush funds" that lack public oversight and accountability:** In some jurisdictions, TIF revenue can be spent at the discretion of mayors or other public officials. Chicago's TIF funds have traditionally been disbursed through a separate budget overseen by the mayor, and not even shared in full with the city council. Funds may be allocated to political allies or pet projects—or may continue to be used for projects inside a TIF district long after the project originally intended to receive the TIF funds was completed.

To prevent these problems, states and municipalities should adopt strong rules governing the use of TIF districts and similar development subsidies. In short, rules should ensure that **TIFs are targeted, transparent, accountable, and democratically governed.**

- **TIF districts must be targeted and temporary.** TIF should only be used in service of a specific development strategy and only in cases where evidence shows that it is likely to succeed. TIFs should not become an all-purpose tool to woo developers. TIF should only be targeted toward areas in special need of development, for projects that are unlikely to occur without public intervention, and with a defined time limit at which point the property's tax revenue will once again be used for general public purposes.

- **Subsidy recipients must be held accountable for meeting goals.** TIF agreements should include measurable targets for success, and regular performance reviews should measure progress towards those benchmarks. Where possible, municipalities should retain the ability to demand return of some or all of the money used to subsidize private investors in the event that development promises are not fulfilled.

- **Information on TIF must be transparent.** Because TIF has long-term implications for a jurisdiction's finances and ability to provide public services, the decision to create a TIF district should come with the highest level of transparency and public participation. In addition, jurisdictions should supply detailed, ongoing information about the finances and performance of TIF projects via the Internet, following "Transparency 2.0" standards of budget and spending disclosure. (See page 17).

- **Citizens must have the tools to evaluate the benefits and trade-offs of TIF.** Governments should account for the costs of TIF districts as part of a jurisdiction's overall budget—enabling the public and decision-makers to evaluate the trade-offs involved in tax-increment financing and the impacts on other public services.

# Introduction

In 2005, a hunting goods superstore opened in Fort Worth, Texas, on a parcel of newly developed land near a highway. The location might have seemed a little questionable—the new store, a Cabela's, would be competing with another such superstore, a Bass Pro Shop, located only 10 miles away, and Fort Worth already had other hunting and sporting goods stores.[1]

But the choice of location makes much more sense when one realizes that it came with $30-40 million worth of taxpayer money attached.

Claiming that the new store would draw more tourists than the famed Alamo, Cabela's asked Fort Worth to construct much of the needed infrastructure for the project at public expense, paid for with a mechanism known as "tax-increment financing" (TIF). Despite a lawsuit from a citizens' group, and protests from other local business owners upset that their taxes would be financing their competitors, the city agreed and went ahead with the project.

TIF—which originated as a tool to spur reinvestment in declining neighborhoods—has emerged in recent decades as an all-purpose stimulant for development that is too often subject to abuse.

In Baraboo, Wisconsin, a TIF district was used to convert a cornfield into a Walmart and lure businesses from neighboring towns to adjacent parcels—a reversal of the traditional role of TIF as a tool to draw new investment *into* previously developed areas that need revitalization.[2] In Chicago, TIF revenue funded an entire "shadow budget" of projects under mayoral control, hidden from the public and even the city council.[3] In California, use of the tool became so widespread that school districts began to sue cities to recover the revenue they were losing to TIF-funded redevelopment schemes.[4]

The failure to restrict TIF to appropriate settings and to impose sufficient public oversight and budgeting rules over TIF funds have allowed what should be a mundane tax policy to instead become a temptation that too many municipal officials find themselves unable to resist—an immediate infusion of cash that often comes with little consideration of long-term costs. Egged on by developers eager for subsidies, cities have pushed the boundaries of TIF far beyond what common sense or good policy would dictate.

With the growing use of TIF, the time has come to reestablish basic principles of good government and responsible use of taxpayer money in the operation of these development subsidies.

# What Is Tax-Increment Financing and Why Does it Matter?

Cities and towns often struggle to spur economic redevelopment in down-and-out neighborhoods. Many governments issue subsidies to encourage developers or other businesses to set up shop in the community, in the hope that, by doing so, they can plant the seeds for broader economic revitalization.

Governments have many tools in their toolbox to encourage development in a particular geographic area. They can use governmental powers such as eminent domain and authority over zoning to ease the way for development. They can invest public money in public projects—such as rail stations, better parks, waste cleanup and improved schools—that encourage redevelopment. Governments also have the ability to directly subsidize particular companies through the tax code to encourage them to locate within a specific geographic area.

Tax-Increment Financing (TIF) is one of the most popular tools local officials use to encourage economic development in a particular area. Like other subsidy programs, TIF can be a powerful tool to encourage economic development—but it can also be misused on projects with few public benefits or to line the wallets of well-connected developers.

Tax-increment financing originated in California in 1952 as a tool for cities to raise money for development in order to secure federal matching funds for their projects.[5] It spread slowly at first; only six other states had adopted similar policies by 1970.[6]

During the next several decades, however, the use of TIF expanded dramatically, as alternative tools that had once been available for municipalities to encourage and direct development—such as federal urban renewal funding—disappeared.[7] During the 1980s and 1990s, more states adopted TIF enabling legislation, and a number of states that had already adopted the policy loosened their requirements for using it, allowing TIF districts to proliferate dramatically. In Illinois, for instance, the number of TIF districts in the state quintupled in a single year after the state loosened the requirements for using the mechanism in 1985.[8]

The volume of TIF bond issuance has dramatically increased over the past two decades, especially outside of California. Between the early 1990s and the late 2000s, the number of TIF bonds in circulation from outside California grew by 260 percent; over $20 billion worth of TIF bonds were issued.[9] At present, every state but Arizona (which repealed its TIF law) allows the use of TIF.

## Basics of Tax-Increment Financing

"Tax-Increment Financing" (TIF) is a term for a process in which municipalities use a portion of future tax revenue from a given area to promote development in that area. States vary widely in their rules for when TIF can be used and how it can be applied, so no single description of TIF is likely to apply universally. But one example of a TIF plan might look like the following:

- A city, hoping to lure new businesses to a commercial district that has stagnated in recent years, looks for ways to invest in improvements, perhaps better street lighting and a new parking garage.

- To raise the funds for that investment, the city draws a boundary around the commercial district, and declares that area a "TIF district."

- Within the TIF district, future property tax revenues are split between the tax districts that ordinarily receive revenue from the area and a special fund that is devoted to projects benefiting only the TIF district. The tax districts—which might include city and county governments, and special districts such as school and parks districts—continue to receive property taxes based on the old value of the property at the time the TIF district was created, while any additional revenues resulting from rising property values are devoted to the TIF district. This is the "tax increment" that gives the mechanism its name.

- In order to begin construction on new improvements immediately, the city may sell bonds secured against the revenues expected to be paid to the special fund over its lifetime. Over time, money flowing into the special fund is used to pay off the bonds.

- At the end of the TIF district's defined lifetime (for example, 20 years), its special status comes to an end and all taxes from the district again flow to the regular tax districts that claim revenue from the area.

Not every state uses TIF revenue in exactly this way, or in only a single way. For instance, in Massachusetts, although cities have the option of issuing bonds and making infrastructure improvements in TIF districts, many choose to pursue an alternate strategy in which they sign an agreement with a developer to not charge taxes on all or part of the increased value of a parcel for a set number of years. [10]

Implementation of tax-increment financing varies widely among states. Among the important distinctions:

- In some states (e.g., Illinois), revenue must be spent by the municipal government in the city in which the TIF is located, while in others, an independent development agency may be created to manage the district. California, the first state to adopt TIF, makes widespread use of this model through its redevelopment agencies.

- States allow various taxes to be diverted. Most states include only property taxes, but others tap a wider variety of revenues, such as the sales tax. In New Jersey, for example, government officials can tap up to 19 separate sources of incremental local and state revenue for use in TIF.[11]

- Overlapping tax districts, and school districts in particular, may or may not have to sacrifice their tax increments as part of a TIF project. Some states require school districts to approve TIF districts that will claim a portion of their revenue; in others, such as Kentucky, school districts may be partially or entirely exempted from participating in TIF districts.[12]

Tax-increment financing appeals to municipal officials because it often seems to be a way to get something for nothing. Cities can finance highly desired economic development using tax revenue that would not have been available to them if the development had not taken place. Taxpayers appear to lose nothing. The local economy hopefully grows, and everyone seems like a winner.

In reality, however, even the most thoughtful TIF projects come with trade-offs:

- TIF agreements may fail to account for future growth in property values caused by factors that have nothing to do with the TIF investment—such as general inflation or pre-existing trends in real estate prices.[13] Failing to account for these factors results in a reduction in the amount of revenue flowing to general government funds compared to what would have occurred without the use of TIF. Other taxpayers then must pick up a greater tax burden or bear the brunt of cuts.[14]

- Development receiving TIF subsidies may impose new demands on municipal government without providing the additional general tax revenue to pay for it. For instance, new housing units might result in new students for local schools, or new demands for police or fire protection, thereby burdening the rest of the community. Overlapping taxing districts such as school districts and county governments—which, in many states, can have their tax increments diverted to TIF projects as well—may have a particularly difficult time responding to these growing needs, forcing them to increase taxes on other taxpayers.

Despite these trade-offs, the TIF mechanism has been embraced around the country. TIF is currently permitted in 49 of the 50 states, with varying restrictions on its use.

Municipalities can use the revenue collected by a TIF district in different ways in different states and depending on their strategies for improving the district: [15]

- If the goal is to use a large initial capital improvement to jump-start development, such as a shopping mall or rail station, the municipality will likely issue bonds to help fund the improvement and then pay them back with revenue from the tax increment.

- If the goal is to subsidize a private developer's investment in the area, the city may negotiate an agreement under which the developer receives payments from the TIF revenue over time until a certain portion of their investment has been paid for. Alternatively, in states like Massachusetts where TIF revenue is disbursed in the form of tax abatements, the city and the developer can sign an agreement stating that a certain portion of the property taxes on a new development will not be collected for a set period.

- If the city wishes to undertake a series of smaller projects to promote development in the district, revenue accruing to the district may be used as a continuous stream of funding, which allows the city to undertake various projects as sufficient revenue becomes available.

In essence, TIF represents a way to divert future tax revenue to finance current new development projects or retain existing businesses.

TIF districts can either result in productive investments that spark much-needed economic revitalization or be unproductive wastes of taxpayer resources. To ensure that TIF projects advance the public interest, the public and decision-makers need to be aware of the many potential ways that TIF can go awry.

# Tax-Increment Financing: Identifying the Pitfalls

Tax-increment financing can be a boon to the public, or it can be a vehicle for corruption, favoritism and wasteful subsidies. There are many potential pitfalls to the use of TIF as a tool to subsidize development—pitfalls that cities and states can avoid only by adopting sound strategies for public investment through TIF and effective practices to make sure those investments deliver benefits for the broader public.

## Tax-Increment Financing Sometimes Fails to Benefit the Public

Tax-increment financing is only an effective tool if it is used properly to achieve ends that advance the public interest.

Laws governing the use of development subsidies often give broad leeway for cities to decide when such subsidies should be used. Unfortunately, this leeway sometimes enables cities and towns to use TIF in ways that waste taxpayer money.

### Tax-Increment Financing Can Fail to Bring "New" Investment

In order to be a worthwhile use of taxpayer resources, a city must judge that a development would not happen *but for* the issuance of a subsidy. In practice, this is a difficult counterfactual to prove one way or the other.

Much of the appeal of tax-increment financing to cities is that the subsidy appears to be "free money"—that is, the tax increment that is invested in a given development project would not have been available to the municipality otherwise. The appearance of "free money" is magnified given the potential of municipalities in many states to "capture" the tax increments of overlapping jurisdictions—such as county governments and school districts—for use in the financing of TIF projects.

However, if the development would have happened in that area even without the subsidy, the logic of tax-increment financing breaks down rapidly:

- The money dedicated to the TIF district is not "free," but in fact comes from funds that would otherwise have been available to pay for police, firefighters, schools, parks and other municipal services—forcing either a reduction in service quality or an increase in taxes for other taxpayers.[16]

- These funds are also wasted, because taxpayers give money to benefit private actors without any demonstrable public benefit in return.

When development subsidies are invested in projects that might have taken place without the subsidy, the public benefits can rapidly vanish. A study of the overall costs and benefits of development subsidies found that when benefits are directed towards a project that had even a 20 percent chance of taking place without the subsidy, the net impact on tax revenue over the long term will almost always be negative.[17]

In Chicago, a coalition of community groups studied 36 of the city's TIF districts and found that property values had been rising even before the city stepped in to issue subsidies. Once those trends were considered, they found that the city had spent $1.3 billion to achieve a return of $1.6 billion in tax revenue—in other words, the city had gained $300 million in tax revenue over the long term, but only by diverting a very large amount of revenue from school districts, municipal government, and other government entities in the short term.[18]

Legal requirements designed to assure that a given development would not have occurred without creation of a TIF typically provide little direct public protection because such statements are nearly impossible to challenge. Communities in Illinois, for example, are required under state law to demonstrate that redevelopment of an area would not have occurred "but for" the creation of a TIF district.[19] Minneapolis requires applicants for TIF funds to provide detailed financial information about the project.[20] At worst, these requirements provide a fig leaf of public accountability that public officials hide behind to avoid imposing stricter targeting rules. At best, such requirements can spur local officials to put forward a concrete rationale for creation of a TIF district, and may expose the least justifiable TIF proposals to the light of public scrutiny before they are approved.

## Tax-Increment Financing Can Serve Narrow Private Interests without Broader Public Benefit

TIF can be lucrative to private developers seeking locations in which to build. But, from the public's perspective, TIF is meant to benefit broader public goals. A clear evaluation of a TIF project's benefits to the public, however, can often become lost in public officials' rush to deliver new economic development.

Especially during trying economic times, public officials are anxious to be associated with development initiatives that are seen to bring jobs and economic activity. Eagerness to bring in new development (or retain an existing business), however, may lead governments to be overly generous in providing subsidies that are not justified by the level of public benefits delivered.

Adding to the potential for overly generous subsidies is the fact that municipalities, and even states, can find themselves engaged in bidding wars with neighboring jurisdictions, generating a race to the bottom that can impose large costs, even for the apparent "winner."

Government officials may also make poor decisions because they lack the technical capacity to evaluate developers' business models that claim to demonstrate their investments will produce large future returns. And the public may give more attention to where development locates than to the hidden costs that may have been incurred in attracting this development. Politically then, it should be no surprise that municipalities can often "overpay" for development—offering greater subsidies than the public benefits of a project would justify—or fail to ensure proper accountability.[21]

The potential for overpayment is further magnified when governments can tap multiple sources of revenue for subsidies. In New Mexico, for example, the state overhauled its TIF law in 2006 to enable governments to divert increments of the city, county and state portions of the gross receipts tax, in addition to local property taxes, to TIF projects.[22] And, as noted earlier, New Jersey allows for as many as 19 revenue sources to be tapped for TIF projects. The more sources of revenue that can be tapped, the greater the potential for governments to make bigger, riskier bets on proposed development schemes and to engage in economic subsidy "arms races" with neighboring jurisdictions.

### Tax-Increment Financing Can Steer Investment Away from Areas Most in Need of Help

Tax-increment financing was originally conceived as a tool to spark new investment in blighted neighborhoods that suffer from chronic underinvestment. Such neighborhoods can suffer from vicious cycles of economic decline for a variety of reasons. Toxic waste in need of cleanup may scare away developers. Derelict buildings, abandoned properties and rampant crime may discourage investment, no matter how low the price of land. By providing a mechanism to improve public infrastructure in these areas, or provide a direct financial incentive to developers, TIF can potentially provide a way to escape the viscious cycle of disinvestment and economic decline. TIF enables governments to give blighted areas a "shot in the arm" that would ideally lead to sustained revitalization and economic growth down the line.

Governments can also use TIF to unlock economic potential in other ways—encouraging the revitalization of a former military base or economically struggling downtown area, sparking development in efficient locations close to transit and other amenities, or providing affordable housing that allows taxpaying families to remain in a municipality.

However, while TIF may spark "new" economic development in some cases, it also redirects investment into the TIF district that would otherwise have gone elsewhere. Research in Illinois has shown that land outside the boundaries of TIF districts experiences slower growth than land in cities with no TIF districts.[23]

TIF, in short, makes sense as a public policy tool when used as part of a development strategy that delivers broad public benefits and unlocks economic potential that is currently languishing. Poorly targeted use of TIF, on the other hand, actually works *against* the public interest by sucking investment out of areas that need it and diverting it elsewhere.

In recent years, states have consistently moved to weaken the criteria used to determine when TIF can be used. A 2003 study found that 16 states had moved in recent years to weaken the restrictions they place on the use of subsidy districts, generally by removing the requirement that TIF be used only in "blighted" areas, or by weakening the definition of blight significantly.[24] Looser definitions promote more widespread use of TIF. Several states have expanded eligibility to include retail stores.[25] In Maine, any district in which 70 percent of the land is zoned for commercial or industrial use is eligible for TIF, while in Missouri, at least one district was declared blighted for the sole reason that the homes it contained were over 35 years old.[26]

The lack of clear criteria to guide the use of TIF results in municipalities wielding the tool in battles with neighboring municipalities for new development and sometimes subsidizing projects that work against the interests of existing businesses.

In Fort Worth, Texas, for example, the large hunting goods store Cabela's was able to secure $30-$40 million worth of public investment in a new superstore by promising that the shopping center would draw more visitors than the Alamo. The project was sited on newly developed land in an attractive location, which was declared "blighted" because of the presence of a stream and lake on the property. Existing hunting goods stores in the area felt that the city was unfairly subsidizing a competitor that could put them out of business. They even filed an unsuccessful lawsuit that tried to declare the TIF to be an inappropriate subsidy.[27]

The use of TIF to subsidize development on previously undeveloped "greenfield" parcels is particularly problematic. Greenfield locations are appealing to developers, but impose significant infrastructure costs on the public when compared to more central locations. Rather than being able to make better use of existing, underused infrastructure in already built-up areas, greenfield developments require new expenditures on roads, sewers, power lines, and other infrastructure elements to support the new development. Low-density greenfield developments are more costly to support and maintain than both the rural infrastructure they replace, and the urban infrastructure they compete with—although these costs are not passed on to developers.[28] Greenfield development also places new stresses on the operating budgets of schools (which may need to open new school bus routes), sewer authorities and trash collectors (which need to expand their services to new areas) and transportation departments (which need to maintain new roads).

TIF revenue is frequently used to pay for the construction of much of the new public infrastructure required for previously undeveloped "greenfield" development, but at the cost of diverting the tax income that would ordinarily pay for the maintenance and other ongoing expenses occasioned by the new development.

The benefits promised by TIF districts come from directing development toward locations that provide broad public benefits and in unlocking the economic potential in declining neighborhoods and business districts. Poorly targeted use of TIF can actually make matters worse by further sucking investment out of the places that need it the most.

## TIF Can Saddle Local Governments with Additional Costs if Growth is Less than Anticipated

If a municipality issues bonds on future TIF revenue and the developments fail to generate sufficient additional growth, local government may be forced to use its general tax revenue on an expensive bailout. Although TIF bonds are generally secured only against the revenues allocated to that specific TIF district, governments often feel compelled to bail out TIF bonds at risk of default out of the fear that allowing a default would prevent them from doing similar TIF deals in the future, or might result in higher interest rates on future general obligation bonds.[29] In the late 1970s, for instance, when Proposition 13 dramatically reduced tax income for TIF districts in California, the state legislature and numerous municipalities moved to bail out TIF districts across the state, at significant cost.[30] The city of Arvada, Colorado, for instance, suffered a credit downgrade when investors grew worried about bonds issued on revenues from a slow-developing TIF district, even though the city ultimately avoided defaulting on the debt.[31]

## TIF Districts Can Create "Slush Funds" for Political Patronage

As noted above, TIF district budgets are typically "off-budget" and need not adhere to the ordinary rules of municipal budget oversight. Politicians may therefore be more likely to misspend TIF funds. Where restrictions on the use of TIF funds are loosest, the opportunities for political patronage broaden. In most states, tax increments collected by TIF districts must be spent within the district where they are raised, but a few states allow funds to be shifted around from district to district within cities—creating the potential for a mayor to shift funds away from the districts of political opponents and toward the districts of allies.[32]

Patronage can also take place through the assignment of subsidies within a district. Some TIF laws allow developers to receive subsidies based not only on the additional tax revenue produced by their own developments, but also on the additional revenue from other nearby properties, which are judged to have increased in value because of their proximity to the development. Successful developments can raise value in surrounding property in this way—a store located next to a thriving shopping center is more valuable than one located next to an empty lot—but their contribution to surrounding property values is best determined by objective review.

In some cities, political figures can decide to subsidize individual developments with tax increments from other nearby properties, making it possible for such subsidies to be dispensed on the basis of favoritism, rather than merit. In Chicago, for instance, the city council and planning department can decide that a project merits subsidies exceeding the increased revenue it alone is expected to produce.[33]

## The Process for Creating and Managing TIF Districts Often Fails to Protect the Public

Even in situations when development subsidies are appropriate tools for sparking investment, they can be misused. TIF district subsidies around the country tend to be issued in ways that lack transparency, democratic governance, and accountability to the public.

### The TIF Process Often Lacks Transparency

Development subsidies are like other forms of municipal spending—taxpayer money is committed and municipal credit is (indirectly) put on the line. Just like ordinary spending, revenue lost to TIF districts has a bottom-line effect on municipal budgets: each dollar must be made up for with other higher taxes or cuts to municipal public programs.

Unlike ordinary spending, however, TIF subsidies typically are issued outside the framework of the municipal budget, and can even be used to circumvent ordinary restrictions on municipal borrowing.[34]

TIF district spending is typically far harder for residents to follow and monitor than ordinary spending. Ordinary budget transparency requirements generally do not apply to TIF districts. TIF districts may be overseen by relatively obscure agencies with little public disclosure. Alternatively, mayors or other officials may make decisions about TIF districts outside of normal budget processes. TIF district budgets are separate from general municipal budgets; they are "off-budget." In some cases, such as Chicago, even aldermen might be unfamiliar with the specifics of how a city spends its TIF revenue.[35]

The lack of transparency is especially worrisome given the rapid spread of TIF districts to constitute a significant and growing portion of many cities' taxable property. In California, entire municipalities can be legally placed inside a TIF district (an inherently inappropriate use of TIF, since it effectively caps the city's general fund property tax revenue, and diverts all additional revenue above the base amount into a separate fund).[36] In Chicago, meanwhile, about 30 percent of the city's land was inside TIF districts by the end of Mayor Richard Daley's tenure in 2011.[37]

The use of TIF can also circumvent public control over municipal borrowing authority. Municipal officials often are required to seek voter approval to approve municipal bond issues, a safeguard to ensure that cities' ability to issue debt is closely overseen by the public. TIF bonds, however, can be issued without voter approval in some states.[38] As noted above, credit rating agencies are disinclined to discriminate between a city's TIF debt and its general debt when issuing -important credit assessments that determine the interest rate municipalities pay on loans. In such cases, a TIF default would have consequences similar to those of a general default for a city's credit.[39]

## TIF Districts Are Often Created with Little Accountability for Results

TIFs are intended to deliver a range of benefits from job creation to development of new housing units. Agreements between municipalities and developers have failed at times to clearly establish that developers are responsible for actually delivering the promised benefits if they are to receive the subsidies promised to them in the bargain.

In best practice, development subsidies are proposed with specific development goals and expected results in mind. Citizens could rest easier if they knew that if recipients of public subsidy agreements do not deliver on anticipated results, then money will be returned to the taxpayer. At present, however, developers are rarely held responsible for meeting those goals, and can typically retain the subsidies they receive, even if they clearly fail to meet the expectations under which the project was undertaken.[40]

Practically speaking, governments' ability to "claw back" funds allocated to TIF projects may be limited. Local governments will still need to pay investors who bought municipal bonds that were issued against anticipated TIF revenue to finance up-front improvements. Or governments may have done a poor job articulating specific goals for the TIF project. But in some circumstances, states have created a measure of accountability—Minnesota, for example, requires meaningful action on TIF-funded projects within three years, while some communities in Massachusetts (where TIF generally takes the form of tax abatements, rather than underwriting bonds) have adopted clawback provisions in TIF agreements.[41] And, even in states where clawbacks may be impossible, governments can insist that recipients of TIF funds provide regular updates on their progress in achieving the economic development or other goals of the project.

# The Public Needs Stronger Guidelines and Greater Accountability in Tax-Increment Financing

Tax-increment financing can be a powerful tool to help government spark new economic life in economically struggling areas. The power of TIF, however, also leads to the potential for misuse—fostering a mutually destructive "race to the bottom" for new investment; steering development toward areas that least need help; or simply rewarding well-connected developers and political allies.

To protect the public interest, governments should only use TIF in limited circumstances, ensure that the designation of TIF districts is done with full transparency and accountability, and provide ways to measure whether TIF districts are actually delivering on their promises.

## TIF Should Be Targeted and Temporary

The ideal outcome of a TIF district is that a jolt of investment sparks new economic activity in a stagnant area, creating economic activity that benefits the broader community and increases the value of land within the district when it returns to the tax rolls. Poorly targeted use of TIF, however, can actually produce the opposite effect—sucking further investment out of economically challenged areas to facilitate new "greenfield" development. In addition, without strong targeting rules to limit the situations in which TIF can be used, it becomes yet another tool in the arsenal of municipalities locked in mutually destructive competitions to attract new economic activity and jobs, whatever the cost.

State governments, which create the legislation that governs where and how TIF is used, are responsible for adopting strong requirements to limit the use of TIF, including the following:

- The maximum duration over which a TIF district can remain in place should be firmly fixed. Even before the maximum duration expires, tax revenue from TIF districts should return to the tax districts that normally claim it as soon as the investments envisioned in the initial development plan have been paid for, rather than being reserved for additional discretionary spending within the TIF district.

- Before a TIF district is approved, municipalities should be required to demonstrate that:

    - o Investment in the district would not take place without a subsidy.

    - o The designation of the district has a public interest rationale and is consistent with the jurisdiction's economic development strategy.

- States should place a cap on the percent of a municipality's land—both by area and by land value—that can be included in TIF districts, in order to ensure that use of these tools is actually targeted to the parcels where it is most needed and to prevent cities from implementing TIF districts that are merely designed to "capture" revenue from other, overlapping taxing districts.

- In states where TIF revenue gets pooled into separate budgets, municipalities should file a plan detailing their intended use of TIF revenue from a district beforehand, with analysis of the expected outcomes of the plan. Once a district has been approved, spending should take place according to the initial plan, unless that plan is changed through a public, democratically accountable process, with unspent funds returning to the jurisdictions from which they were diverted.

- State rules should require that land targeted for TIF districts must meet criteria for actual blight or economic stagnation, and that previously undeveloped land cannot be placed in TIF districts.

- States should index the fixed assessed value of land in TIF districts to inflation, and should consider indexing it to the existing trend of property value increase when districts are established in areas where property values are already increasing. These measures help ensure that the incremental revenue raised by TIF districts actually represents improvement prompted by investment in the district, and not the product of pre-existing economic trends.

- States should set time limits for the commencement of redevelopment activity within a TIF district. Minnesota, for example, automatically decertifies TIF districts in which no meaningful activity occurs within three years of the creation of the district, reduces the tax increment for properties where no construction has occurred within four years, and requires all construction to be completed within five years.[42] Such time limits can ensure that funds generated by TIF are used only for the purposes for which they were originally intended.

No set of state requirements will perfectly direct the use of TIF districts. States should aim to put in place guidelines that will eliminate the worst abuses, and then ensure that the public has the information necessary to judge individual cases. As discussed below, this is best done by requiring robust transparency and democratic control throughout the process of creating and operating such districts.

## TIF Should Be Governed by Open, Democratic Processes

The creation of a TIF district is a decision with long-term implications for a jurisdiction and its residents. It is important, therefore, that residents have access to clear, accurate information with which to evaluate TIF proposals and the ability to make their voices heard.

To ensure that the public is able to vet TIF proposals and help shape them, TIF laws should:

- Require that information about TIF proposals be publicized before any decisions are made, with enough time for residents to review proposals.

- Require local governments to hold public hearings and accept public comments as part of the process of approving a TIF district.

- Present information on new and existing TIF districts as part of the overall municipal budget, so that voters and elected officials can evaluate TIF spending in the same context as general municipal spending.

- Require reauthorization of the TIF district if the city wishes to change its development strategy in the TIF district. Initial approval by voters or other elected bodies should not be treated as *carte blanche* to send revenue from the TIF district on any and all development projects.

- When tax revenue that would flow to overlapping tax districts—like school or parks districts—is affected by a TIF district, those entities, and their taxpayers, should be given a voice in decisions about creating and ending TIF districts.

## Information on TIF Districts Should Be Easily Accessible to the Public

Information on TIF districts is generally available to citizens with the tenacity to obtain it from obscure government publications and agencies, and the expertise to understand it. However, because the creation of a TIF district is a decision with long-lasting implications for a municipality, government officials must go the extra mile to make sure that such information is easily accessible and understandable to the general public.

In recent years, governments around the United States and around the world have embraced "Transparency 2.0"—a new standard of comprehensive, one-stop, one-click budget accessibility and accountability. Cities and states that have adopted Transparency 2.0 principles have developed transparency websites that enable citizens to find government spending information that is:

- **Comprehensive** – including all the various ways governments spend money, including the provision of subsidies to private actors.

- **One-stop** – aggregating all information on government spending into a single website.

- **One-click –** providing searchable, downloadable information that can be accessed by citizens without requiring a pre-existing knowledge of budgetary nomenclature or bureaucratic structure.

At minimum, jurisdictions with TIF programs should create websites that provide key information about TIF that meets the standards of Transparency 2.0. Ideally, information on TIF revenue and spending should be included in a transparency website that includes all aspects of municipal spending.

With regard to TIF districts, governments should provide:

- Budget information about all TIF districts in a city, school district, or state, and about each individual TIF district, accessible online.
- Information on each TIF district should include:
  - The overall goals of the TIF district
  - The value of the TIF
  - The specific benefits (in terms of jobs or other measures) that it is expected to produce
  - The most current information on what benefits have been produced to date
  - The identities of all recipients of TIF funds
  - Regular reports on the progress of the project.
- Funds raised through TIF districts should be covered by at least the same transparency requirements that apply to ordinary municipal spending.
- Tracking of city spending in TIF districts should include not only direct outlays, but also subsidies provided in the form of selling land at below market value, allowing delayed repayment on loans, or issuing loans at favorable rates.

## Developers Should Be Accountable for Keeping their Promises

Tax-increment financing provides potentially lucrative subsidies that benefit developers. Cities frequently plan TIF districts with a specific developer in mind; when they do not, specific developers are eventually selected for the projects.

In return for the benefits they receive, developers need to commit to delivering on specific goals, and, at minimum, provide regular reports on their progress toward meeting the goals of the TIF district.

- The designation of a TIF district should be accompanied by a detailed plan delineating the responsibilities of the various actors, laying out the public interest rationale and goals of the project, and providing metrics by which success or failure can be measured.
- Where possible, developers should be contractually bound to deliver on the promises they make in exchange for TIF subsidies they receive. For jurisdictions that bond against anticipated TIF revenue, this type of requirement is likely impossible to enforce, but jurisdictions that generate TIF revenue on a pay-as-you-go basis should establish strict conditions that developers must meet before being guaranteed access to the tax increment.
- Any exemptions, grace periods, or other potential loopholes should be spelled out clearly upfront. The public should have the opportunity to comment on any significant changes from the terms of an agreement.

# Appendix: Details of State TIF Legislation

All data in this appendix is drawn from Council for Development Finance Agencies, 2008 TIF State-By-State Report, December 2008.

## Alabama – Georgia

| | Year Authorized | State Statute | Terminology | Eligible Tax Revenue Sources | Financing Options |
|---|---|---|---|---|---|
| **Alabama** | 1987 | Sections 11-99-1, et. seq. | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Pay As You Go, General Funds |
| **Alaska** | 2001 | Sec. 29.47.460 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Pay As You Go, Loans, Appropriations, Special Assessments |
| **Arkansas** | 2001 | §§ 14-168-301 et seq. | Tax Increment Finance (TIF) | Property Tax, PILOTs | Appropriations, Redevelopment Bonds |
| **California** | 1952 | California Community Redevelopment Act | Tax Increment Finance (TIF) | Property Tax | Pay As You Go, Tax Allocation Bonds, Loans |
| **Colorado** | 1972 | 31-25-107-Urban Renewal authority, 31-25-807-Downtown development authority | Tax Increment Finance (TIF) | Property Tax, Sales Tax | Loans, Appropriations, Special Assessments, Revenue bonds |
| **Connecticut** | 1972 or prior | Chapter 132 | Tax Increment Finance (TIF) | Property Tax (municipalities), Sales Tax (state) | GO Bonds, Special Assessments, Special Revenue Bonds |
| **Delaware** | 2002 | Title 22 Municipalities, Chapter 17 Municipal Tax Increment Financing Act | Tax Increment Finance (TIF) | Property Tax, Allows Pledge of Any Other Assets | GO Bonds, Pay As You Go, Loans, Special Assessments, May Pledge Any Other Assets |
| **District of Columbia** | 1998 | D.C. Code Section 2-1217.01 et seq. | Tax Increment Finance (TIF) | Property Tax, Sales Tax, Catchall allows DC to pledge other assets/funds | GO Bonds, Pay As You Go, Loans, Special Assessments, DC May Pledge Other Assets/Funds |
| **Florida** | 1969 | 163.330-163.463 | Tax Increment Finance (TIF) | Property Tax | Pay As You Go, Loans, Special Assessments |
| **Georgia** | 1985 | Redevelopment Powers O.C.G.A. § 36-44-8 | Tax Allocation District (TAD) | Property Tax, Sales Tax | Private Activity Revenue Bonds, Pay As You Go |

## Alabama – Georgia (cont'd)

| | Approval Agencies | Requirements for District Creation | Max. Length of District | Site Specific TIF Allowed? | Area Wide TIF Allowed? |
|---|---|---|---|---|---|
| **Alabama** | City Council, County | Blight Requirement, Public Hearings | 30 years | Yes | Yes |
| **Alaska** | Municipality | Blight Requirement | No limit | Yes | Yes |
| **Arkansas** | City Council, Town Council, Quorum Court of the County | Blight Requirement, Feasibility Study, Public Hearings | 25 years | Yes | Yes |
| **California** | Community Redevelopment Agency Board | Blight Requirement | 50 years | Yes | No |
| **Colorado** | Some limited involvement of county and school districts | Blight Requirement, Public Hearings, Impact Report to County | 25 to 50 years depending on the statute | Yes | Yes |
| **Connecticut** | City Council, State | Feasibility Study, Creation of Local Development Agency | Bonds must be repaid in 40 years. District doesn't expire. | Yes | |
| **Delaware** | School Board/District, City Council, County, Delegated by bond issuer | Blight Requirement, "But For" Test, Feasibility Study, Public Hearings,Consistent with Comprehensive Plan | 30 years | Yes | Yes |
| **District of Columbia** | City Council | But For Test, Cost-Benefit Analysis, Feasibility Study, Various Recommended Criteria | In TIF agreement. | Yes | Yes |
| **Florida** | Community Redevelopment Agency Board | Blight Requirement, Public Hearings | Bonds must be repaid between 7 and 40 years. | Yes | Yes |
| **Georgia** | City Council, Community Redevelopment Agency Board | Public Hearings, area has not been subject to growth/development | Not specified; until redevelopment costs are paid | Yes | Yes |

## Alabama – Georgia

| | Public Hearings Required for TIF District Authorization? | Public Hearings Required for TIF Deal Approval? | Qualified Types of Projects | Eminent Domain Use Allowed? | Special Features |
|---|---|---|---|---|---|
| **Alabama** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **Alaska** | No | No | Not specific, all could apply | Yes | Very broad statute. Very few limitations or clarifications on details |
| **Arkansas** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **California** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes, but cannot use eminent domain to acquire single-family residences | 20% of TIF receipts must go to Affordable Housing |
| **Colorado** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **Connecticut** | Yes | No | Commercial, Industrial | Yes | |
| **Delaware** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **District of Columbia** | No | No | Residential, Commercial, Mixed-Use | No | |
| **Florida** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | No | |
| **Georgia** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes | Tax allocation bonds, notes, or other obligations shall mature at such time or times not more than 30 years from their respective dates. |

## Hawaii – Louisiana

| | Year Authorized | State Statute | Terminology | Eligible Tax Revenue Sources | Financing Options |
|---|---|---|---|---|---|
| **Hawaii** | 1985 | Division 1. Title 6 Subtitle 1 Chapter 46 Part IV 46-101 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Pay As You Go, Loans, Tax increment bonds in general |
| **Idaho** | 1987 | Title 50, Chapter 29, Idaho Code | Revenue Allocation District (RAD) | Property Tax | Private Activity Revenue Bonds, Pay As You Go, Loans |
| **Illinois** | 1978 | 65 Illinois Compiled Statutes5/11-74.4-1 | Tax Increment Finance (TIF), Special Tax Allocation Fund | Property Tax, Sales Tax (for certain historic districts) | GO Bonds, Private Activity Revenue Bonds, Pay As You Go, Loans, Special Assessments, Developer Notes; Special Revenue Bonds; Special Service Area Taxes |
| **Indiana** | 1975 | 36-7-14 et seq. and 36-7-25 et seq. | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Loans, Special Assessments |
| **Iowa** | 1970 | Chapter 403 | Tax Increment Finance (TIF) | Property Tax, Sales Tax | GO Bonds, Pay As You Go, Loans, Appropriations, Special Assessments, TIF Revenue Bonds |
| **Kansas** | 1976 | 12-1770 et seq | Tax Increment Finance, Sales Tax and Revenue districts (STAR) | Property Tax, Sales Tax, Economic Activity Tax, PILOTs, Private Sources, Transient Guest, State or Federal | GO Bonds, Private Activity Revenue Bonds, Pay As You Go, Special Obligation Bonds |
| **Kentucky** | 2000 | 65.7041-65.7083, 65.490-65.499 and KRS 65.680-65.699 limited to development areas established before March 23, 2007 | Tax Increment Finance (TIF) | Property Tax, Income Tax, Sales Tax, Corporate Income Tax, Limited Liability Entity Tax | GO Bonds, Pay As You Go, Loans, Special Assessments |
| **Louisiana** | 1988 | Chapter 47 Section 8000 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds |

## Hawaii – Louisiana (cont'd)

| | Approval Agencies | Requirements for District Creation | Max. Length of District | Site Specific TIF Allowed? | Area Wide TIF Allowed? |
|---|---|---|---|---|---|
| **Hawaii** | County, Redevelopment agency - if agreement in place | Consistent With Redevelopment or Other Existing Plans | Determined by ordinance, not until bonds paid off | Yes | Yes |
| **Idaho** | City Council, Community Redevelopment Agency Board | Blight Requirement, Feasibility Study, Public Hearings, Consistency with Comprehensive Plan | 24 years | Yes | Yes |
| **Illinois** | Joint Review Board (advisory capacity), City Council | Blight Requirement, "But For" Test, Public Hearings, in certain cases, Joint Review Board override by 60% of city council; Housing Impact Study; Map of Land Uses to be funded | 23 years | Yes | Yes |
| **Indiana** | City Council, County | Blight Requirement, "But For" Test, Public Hearings, (Either Blight or Opportunity for Economic Development Required) | 25 years | Yes | Yes |
| **Iowa** | City Council, County | Blight Requirement, Public Hearings, Slum Finding or Economic Development Finding | 20 years | Yes | Yes |
| **Kansas** | School Board/District, City Council, County (if affected), State if STAR Bonds sought | Cost-Benefit Analysis, Feasibility Study, Public Hearings | 20 years | Yes | No |
| **Kentucky** | City Council, County, State if the state chooses to participate | Blight Requirement, "But For" Test, Cost-Benefit Analysis, Feasibility Study, Public Hearings | 30 years | Yes | Yes |
| **Louisiana** | TIF Commission | Public Hearings | 30 years | Yes | Yes |

## Hawaii – Louisiana (cont'd)

| | Public Hearings Required for TIF District Authorization? | Public Hearings Required for TIF Deal Approval? | Qualified Types of Projects | Eminent Domain Use Allowed? | Special Features |
|---|---|---|---|---|---|
| **Hawaii** | Yes | Yes | Not Specific As to Type - Broad | Not specified | Very broad statute |
| **Idaho** | Yes | No | Residential, Commercial, Industrial, Mixed-Use, Public Facilities | Yes, After Kelo, can no longer use condemnation for economic development exclusively. | |
| **Illinois** | Yes | No | Residential, Commercial, Industrial, Mixed-Use, Public/Instituti onal; Vacant Land | Yes | Public registry requirements, public buildings restrictions, no blighting farmland in certain circumstances, intermodal projects greatly facilitated if near a Class 1 railroad, post establishment reporting requirements. |
| **Indiana** | Yes | Yes | Residential, Commercial, Industrial | Yes, In blighted areas only | |
| **Iowa** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes, Recent limitations in the economic development context | |
| **Kansas** | Yes | No | Commercial | Yes | Provisions for bioscience development districts and STAR Bond projects |
| **Kentucky** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | No | Potential for state participation |
| **Louisiana** | Yes | No | Residential, Commercial, Industrial, Cultural | Not Specified | |

## Maine – Minnesota

| | Year Authorized | State Statute | Terminology | Eligible Tax Revenue Sources | Financing Options |
|---|---|---|---|---|---|
| **Maine** | 1977 | 30-A, Chapter 206 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Revenue Bonds, Notes, Special Assessments, Grants |
| **Maryland** | 1980 | Maryland Economic Development Article, Title 12. Local Development Authorities and Resources, Subtitle 2. Tax Increment Financing Act (Sections 12-201 et seq.) | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Revenue Bonds, Special Assessments |
| **Massachusetts** | 2003 | Chapter 40Q | District Improvement Financing (DIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Pay As You Go |
| **Michigan** | 1975 | Downtown Development Authority (Act 197 of 1975), Tax Increment Finance Authority (Act 450 of 1980), Local Development Finance Authority (Act 281 of 1986), Brownfield Redevelopment Financing Act (Act 381 of 1996), Corridor Improvement Authority Act (Act 280 of 2005), Historical Neighborhood Tax Increment Finance Authority Act (Act 530 of 2004), Neighborhood Improvement Authority (Act 61 of 2007), Water Resource Improvement TIF (Act 94 of 2008) | Tax Increment Finance (TIF) | Property Tax | Private Activity Revenue Bonds, Pay As You Go, Loans |
| **Minnesota** | 1979 | Section 469.174 - 469.1799 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Pay As You Go, Loans, Interest Reduction Programs |

## Maine – Minnesota (cont'd)

| | **Approval Agencies** | **Requirements for District Creation** | **Max. Length of District** | **Site Specific TIF Allowed?** | **Area Wide TIF Allowed?** |
|---|---|---|---|---|---|
| **Maine** | City Council, State | Blight Requirement, Public Hearings, Suitable for Commercial Uses | 30 years | Yes | Yes |
| **Maryland** | City Council, County | Public Hearings, Resolution must designate area; pledge of revenue. | Not specified | Yes | Yes |
| **Massachusetts** | City Council, State, Town Board of Selectmen | Feasibility Study, Public Hearings | 30 years | Yes | Yes |
| **Michigan** | TIF Commission, City Council, Community Redevelopment Agency Board, State | Public Hearings | 30 years or project plan completion | Yes | Yes |
| **Minnesota** | City Council, County, Governing Body of Authority | Blight Requirement, "But For" Test, Public Hearings | Up to 26 years of increment collection | Yes | No |

## Maine – Minnesota (cont'd)

| | Public Hearings Required for TIF District Authorization? | Public Hearings Required for TIF Deal Approval? | Qualified Types of Projects | Eminent Domain Use Allowed? | Special Features |
|---|---|---|---|---|---|
| **Maine** | Yes | Yes | Commercial, Industrial | Not specified | |
| **Maryland** | Yes | | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **Massachusetts** | Yes | No | Commercial, Industrial, Mixed-Use, Residential | Yes | |
| **Michigan** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes, very restrictive | Several TIF statutes, each with their own purpose, powers and restrictions |
| **Minnesota** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes, very restrictive in recent years | |

## Mississippi – New Jersey

| | Year Authorized | State Statute | Terminology | Eligible Tax Revenue Sources | Financing Options |
|---|---|---|---|---|---|
| **Mississippi** | 1986 | 21-45-1 | Tax Increment Finance (TIF) | Property Tax, Sales Tax | GO Bonds, Private Activity Revenue Bonds, Pay As You Go, Loans, Special Assessments |
| **Missouri** | 1982 | Chapter 99, Sections 800 - 865 | Tax Increment Finance (TIF) | Property Tax, Income Tax, Sales Tax, Gross Receipts Tax, Economic Activity Tax (50% Sales/Utility/Earnings), PILOTs (Property Tax) | GO Bonds (requires voter approval), Private Activity Revenue Bonds, Pay As You Go, Loans, Appropriations, Special Assessments, TIF Revenue Bonds |
| **Montana** | 1974 | Title 7 Section 15 Chapter 42 | Tax Increment Finance (TIF) | Property Tax | Private Activity Revenue Bonds, Pay As You Go, Loans, Special Assessments, Tax Increment Bonds |
| **Nebraska** | 1978 | Chapter 18, Section 2101.01 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Loans |
| **Nevada** | About 1959 | Chapter 279 for Redevelopment Agency and Chapter 278C for Tax Increment Areas in City or County | Tax Increment Finance (TIF) | Property Tax | Loans, Revenue Bonds |
| **New Hampshire** | 1979 | 162:K | Development District | Property Tax | Private Activity Revenue Bonds |
| **New Jersey** | 2002 | 52:27D-459 et seq. | Revenue Allocation District (RAD) | Sales Tax, PILOTs, Payroll or Wage Taxes, Lease Payments, Parking Tax | GO Bonds, Loans, Revenue Bonds |

## Mississippi – New Jersey (cont'd)

| | Approval Agencies | Requirements for District Creation | Max. Length of District | Site Specific TIF Allowed? | Area Wide TIF Allowed? |
|---|---|---|---|---|---|
| **Mississippi** | City Council, County | Cost-Benefit Analysis, Public Hearings | 30 years | Yes | Yes |
| **Missouri** | City Council | Blight Requirement, "But For" Test, Cost-Benefit Analysis, Public Hearings | 23 years | Yes | Yes |
| **Montana** | City Council, County, Urban Renewal Authority | Blight Requirement, Cost-Benefit Analysis, Feasibility Study, Public Hearings, Infrastructure Deficiency in Industrial Cases | 15 years with maximum extension of another 25 years for bond. Districts can exist for the longer of 15 years or the term of any outstanding associated revenue bonds, however, bonds may not beissued after 15 years of district existence. | Yes | Yes |
| **Nebraska** | School Board/District, City Council | Blight Requirement, "But For" Test, Cost-Benefit Analysis, Feasibility Study, Public Hearings | 15 years | Yes | No |
| **Nevada** | | Blight Requirement | 45 years for Redevelopment Areas and 30 years for Tax Increment Finance Areas | Yes | Yes |
| **New Hampshire** | City Council, Board of Selectmen (town) | Public Hearings | Life of Bonds | Yes | No |
| **New Jersey** | Community Redevelopment Agency Board | Blight Requirement, "But For" Test, Cost-Benefit Analysis, Public Hearings | Not specified | Yes | Yes |

## Mississippi – New Jersey (cont'd)

| | Public Hearings Required for TIF District Authorization? | Public Hearings Required for TIF Deal Approval? | Qualified Types of Projects | Eminent Domain Use Allowed? | Special Feature |
|---|---|---|---|---|---|
| **Mississippi** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | No | TIF can be used for private development, however the TIF debt is taxable |
| **Missouri** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | Under certain circumstances, a portion of the state sales tax or state withholding taxes for a project can be captured, with state approval |
| **Montana** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes, may only be utilized by authorized jurisdictions to facilitate public works projects. | Urban Blight; Industrial Infrastructure Deficiency; Aerospace Needs; Technology Company Needs |
| **Nebraska** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **Nevada** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **New Hampshire** | Yes | No | Commercial, Industrial, Mixed-Use | No | |
| **New Jersey** | No | No | Commercial, Industrial | Yes | |

## New Mexico – Ohio

| | Year Authorized | State Statute | Terminology | Eligible Tax Revenue Sources | Financing Options |
|---|---|---|---|---|---|
| **New Mexico** | 1978 | Sections 5-15-1 through 5-15-28 NMSA 1978, Sectopms 6-18-1 et. seq., NMSA 1978 and the Tax Increment for Development Act, Laws 2006, Chapter 75 | Tax Increment Finance (TIF) | Property Tax, Gross Receipts Tax | Private Activity Revenue Bonds, Pay As You Go, Loans, Tax Increment Revenue Bonds |
| **New York** | 1984 | 18-C | Tax Increment Finance (TIF) | Property Tax | Tax Increment Bonds |
| **North Carolina** | 2004 | All references to North Carolina General Statutes. Financing: Chapter 159 Article 6; City Redevelopment: 160A-515.1; City and County Development: 158-7.3 | Project Development Financing | Property Tax | GO Bonds (Require Referendum), Pay As You Go, Appropriations |
| **North Dakota** | 1973 | Chapter 40-58 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Special Assessments |
| **Ohio** | 1976 | Title 57. Chapter 5709, Chapter 725, Chapter 1728 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Pay As You Go, Loans, Appropriations, Special Assessments |

## New Mexico – Ohio (cont'd)

| | Approval Agencies | Requirements for District Creation | Max. Length of District | Site Specific TIF Allowed? | Area Wide TIF Allowed? |
|---|---|---|---|---|---|
| **New Mexico** | City Council, County, State, State Board of Finance, New Mexico Finance Authority & Legislature | But For Test, Cost-Benefit Analysis, Feasibility Study, Public Hearings, No Net Expense | 25 years from the point of bond issuance | Yes | Yes |
| **New York** | City Council, County, Legislative Body of Creating Municipality | Blight Requirement, Cost-Benefit Analysis, Feasibility Study, Public Hearings, Compliance with Redevelopment Plan | Silent, but ground leases may not exceed 99 years | Yes | Yes |
| **North Carolina** | City Council (City only if issuer or party to joint agreement), County, State | But For Test, City Redevelopment Requires Blight or Similar | 30 years | Yes | Yes |
| **North Dakota** | City Council | Blight Requirement, Public Hearings | 15 years | Yes | Yes |
| **Ohio** | School Board/District, City Council, County | Blight Requirement (only required for certain TIFs) | 30 years | Yes | Yes |

## New Mexico – Ohio (cont'd)

| | Public Hearings Required for TIF District Authorization? | Public Hearings Required for TIF Deal Approval? | Qualified Types of Projects | Eminent Domain Use Allowed? | Special Features |
|---|---|---|---|---|---|
| **New Mexico** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | No | No more than 75% of new revenue for bond repayment. Local tax use requires only local approval. State Gross Receipts Tax use requires State Board of Finance approval. When GRT is bonded, then requires NMFA Board & state legislature approval. |
| **New York** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | Special State legislation can create municipal redevelopment authorities which can include multiple municipalities, state authorities can be utilized with State legislative authorization. The school portion of real property taxes are excluded from paying for TIF debt. |
| **North Carolina** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes, under general law | Can pledge any revenues available to issuer including sales tax payments from State, so long as not a pledge of full faith and credit of taxing party |
| **North Dakota** | Yes | | Residential, Commercial, Industrial | No | |
| **Ohio** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes | There are other TIF statutes that can be utilized in an urban redevelopment context in addition to the statutes cited |

## Oklahama – Texas

| | Year Authorized | State Statute | Terminology | Eligible Tax Revenue Sources | Financing Options |
|---|---|---|---|---|---|
| **Oklahoma** | 1992 | Local Development Act Title 62. Chapter 9. Section 850-869 | Tax Increment Finance (TIF) | Property Tax, Sales Tax, Other Local Taxes by Consent of Juris | GO Bonds, Private Activity Revenue Bonds, Loans, Appropriations, Special Assessments |
| **Oregon** | 1960 | Chapter 457 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds |
| **Pennsylvania** | 1990 | 1990, July 11, P.L. 465, No. 113, § 1 | Tax Increment Finance (TIF) | Property Tax, Sales Tax, Gross Receipts Tax, PILOTs, Any Ad Valorem Tax | Pay As You Go, Loans, Special Assessments, TIF Revenue Bonds |
| **Rhode Island** | 1956 | Chapter 45, Section 33.2 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Loans |
| **South Carolina** | City: 1984 County: 1999 | Cities: Title 31 Chapter 6 (Sections 31-6-10 and following), Counties: Title 31 Chapter 7 (Sections 31-7-10 and following) | Tax Increment Finance (TIF) | Property Tax, PILOTs, Utility revenues, Assessments, Redevelopment Project Revenues | TIF acts contain bond provisions |
| **South Dakota** | 1978 | Chapter 11-9 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Loans |
| **Tennessee** | 1945 | 13-20-2 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Pay As You Go |
| **Texas** | 1983 | Chapter 311 of the Texas Tax Code | Tax Increment Finance (TIF)/Tax Increment Reinvestment Zone (TIRZ) | Property Tax, Sales Tax | Pay As You Go, Loans, Tax Increment Contract Bonds, Municipal Bonds |

## Oklahoma – Texas (cont'd)

| | Approval Agencies | Requirements for District Creation | Max. Length of District | Site Specific TIF Allowed? | Area Wide TIF Allowed? |
|---|---|---|---|---|---|
| **Oklahoma** | City Council, County, Review Committee | Blight Requirement, "But For" Test, Public Hearings, Project Plan Required | 25 years | Yes | Yes |
| **Oregon** | School Board/District, City Council, County, State, All Taxing Agencies | Blight Requirement, Public Hearings | Not specified | Yes | Yes |
| **Pennsylvania** | School Board/District, TIF Commission, City Council, County, Local Municipality | Blight Requirement, Feasibility Study, Public Hearings | 20 years | Yes | Yes |
| **Rhode Island** | Community Redevelopment Agency Board | Blight Requirement, "But For" Test | 25 years | Yes | Yes |
| **South Carolina** | School Board/District, City Council, County, Each Affected Taxing Entity | Blight Requirement (not required for Counties), Public Hearings | Not specified | Yes | Yes |
| **South Dakota** | Planning Commission | Blight Requirement, Feasibility Study | 15 years | Yes | Yes |
| **Tennessee** | TIF Commission, City Council, County | Blight Requirement | Limited in the redevelopment plan | Yes | Yes |
| **Texas** | City Council, Community Redevelopment Agency Board, County | "But For" Test, Cost-Benefit Analysis, Feasibility Study, Public Hearings | 40 years | Yes | Yes |

## Oklahoma – Texas (cont'd)

| | Public Hearings Required for TIF District Authorization? | Public Hearings Required for TIF Deal Approval? | Qualified Types of Projects | Eminent Domain Use Allowed? | Special Features |
|---|---|---|---|---|---|
| **Oklahoma** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | Can be used for educational buildings. Must produce annual report |
| **Oregon** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **Pennsylvania** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **Rhode Island** | Yes | No | Residential, Commercial, Industrial | Yes | 45-33.2-18 Annual report. – No later than September 1 of each year a project plan pursuant to this chapter is in effect in a city or town, the city or town shall make a report to the director of the department of economic development |
| **South Carolina** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes, Unrelated to TIF. Eminent domain under general law | Amendment in 2008 permits low income housing to be financed. All projects must be publicly owned, except low income housing |
| **South Dakota** | Yes | No | Commercial, Industrial | Yes | |
| **Tennessee** | Yes | No | Residential, Mixed-Use | Yes | Tennessee statute 7-88-106 provides for sales tax increment financing, but only in the limited context of "Tourism Development Zones." |
| **Texas** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | No, except when undertaken by the creating jurisdiction | |

## Utah – Wyoming

| | Year Authorized | State Statute | Terminology | Eligible Tax Revenue Sources | Financing Options |
|---|---|---|---|---|---|
| **Utah** | 1968 | Title 17C | Tax Increment Finance (TIF) | Property Tax, Sales Tax, Economic Activity Tax | Private Activity Revenue Bonds, Pay As You Go, Loans, Appropriations |
| **Vermont** | 1985 | 24 VSA Sections 1891-1901 and 32 VSA Section 5404a(f)-(k) | Tax Increment Finance (TIF) | Property Tax, State Education Property Tax | GO Bonds, Private Activity Revenue Bonds, Loans, Housing and Urban Development Section 108 Financing Instruments, State of Vermont Revolving Loan Funds, Interfund Loans Within a Municipality, United States Department of Agriculture Loans |
| **Virginia** | 1988 | 58.1-3245 et seq. | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Pay As You Go, Loans, Appropriations |
| **Washington** | 2001 | chapter 39.89 RCW; chapter 39.102 RCW | Increment Area, Revenue Development Area | Property Tax, Sales Tax | GO Bonds, Pay As You Go |
| **West Virginia** | 2002 | 7-11B or 77-22-7 and 8-38-7 (sales tax) | Tax Increment Finance (TIF) | Property Tax | Pay As You Go, Special Assessments, Revenue Bonds payable from taxes off of increment |
| **Wisconsin** | 1975 | s. 66.1105 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds, Pay As You Go |
| **Wyoming** | 1983 | Title 15, Chapter 9 | Tax Increment Finance (TIF) | Property Tax | GO Bonds, Private Activity Revenue Bonds |

## Utah – Wyoming (cont'd)

| | Approval Agencies | Requirements for District Creation | Max. Length of District | Site Specific TIF Allowed? | Area Wide TIF Allowed? |
|---|---|---|---|---|---|
| **Utah** | School Board/District, City Council, Community Redevelopment Agency Board, County, State | | Depends upon agreement | Yes | Yes |
| **Vermont** | City Council, State, Municipal legislative body | But For Test, Feasibility Study, Public Hearings, Location criteria, public good outcome; nexus/prop | 20 year limitation on use of tax revenue to pay debt | Yes | Yes |
| **Virginia** | Governing body of locality | Blight Requirement, Blight helpful but development needs generally | No specific timeframe | Yes | Yes |
| **Washington** | City Council, County, fire protection district | But For Test, Public Hearings | None | Yes | Yes |
| **West Virginia** | City Council, County, State | But For Test, Feasibility Study, Public Hearings | 30 years from date of creation of district | Yes | Yes |
| **Wisconsin** | Joint Review Board, City Council | But For Test, Cost-Benefit Analysis, Public Hearings | 23-27 years, depending on type of development | Yes | Yes |
| **Wyoming** | Planning Commission | Blight Requirement, "But For" Test, Public Hearings | 25 years | Yes | Yes |

## Utah – Wyoming (cont'd)

| | Public Hearings Required for TIF District Authorization? | Public Hearings Required for TIF Deal Approval? | Qualified Types of Projects | Eminent Domain Use Allowed? | Special Features |
|---|---|---|---|---|---|
| **Utah** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | Heavily based upon taxing entity approval as to the amount of TIF available for financing |
| **Vermont** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | Districts can utilize incremental municipal property tax and state education property tax revenue. Infrastructure may be outside of TIF District, but use of revenue is subject to nexus and proportionality tests |
| **Virginia** | No | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes, but eminent domain is for public purpose not simply economic development | |
| **Washington** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | No | Applicable only to property taxes not approved by vote; or taxes levied by State or school districts |
| **West Virginia** | Yes | No | Residential, Commercial, Industrial, Mixed-Use | Yes, Only to the extent that eminent domain is available for any project. No special authorization for TIF eminent domain | |
| **Wisconsin** | Yes | Yes | Residential, Commercial, Industrial, Mixed-Use | Yes | |
| **Wyoming** | Yes | No | Residential, Commercial, Industrial | Yes | |

# Notes

1 All details of the Cabela's story from Daniel McGraw, "Giving Away the Store to Get a Store," *Reason*, January 2006.

2 David Merriman, Mark Skidmore, and Russ Kashian, *Do Wisconsin Tax Increment Finance Districts Stimulate Growth in Real Estate Values*, October 2007.

3 Ben Joravsky and Mick Dumke, "Shedding Light on the Shadow Budget," *Chicago Reader*, 10 December 2009.

4 Rachel Weber and Laura Goddeeris, Lincoln Institute of Land Policy, *Tax Increment Financing: Process and Planning Issues*, 2007.

5 Larry Marks, "The Evolving Use of TIF," *Review*, Summer 2005.

6 Ibid.

7 Richard Briffault, "The Most Popular Tool: Tax Increment Financing and the Political Economy of Local Government," *University of Chicago Law Review*, 77:65-95, 2010.

8 Alyssa Talanker and Kate Davis with Greg Leroy, Good Jobs First, *Straying From Good Intentions: How States are Weakening Enterprise Zone and Tax Increment Financing Programs*, August 2003.

9 Randall O'Toole, Cato Institute, *Crony Capitalism and Social Engineering: The Case Against Tax Increment Financing*, 18 May 2011.

10 Massachusetts Senate Post Audit and Oversight Bureau, *Policy Brief: Return on Investment? Economic Development Incentive Program Lacks Accountability*, December 2002.

11 Sarah Stecker, New Jersey Policy Perspective, *The Good, the Bad and the ERGly*, September 2010.

12 Polsky Associates LTD, *A State By State Look at TIF*, downloaded from www.polskylaw.com/downloads/StateByStateTIF-Numbers.pdf on 6 September 2011.

13 See note 4.

14 Ibid. Some states, such as Minnesota, allow for the adjustment of the base property valuation over time to reflect inflation, but this is not the general rule.

15 For a more detailed discussion of the various strategies available, see note 4, p. 19.

16 Indeed, residents of overlapping jurisdictions may face higher taxes even if a TIF is successful in drawing new investment. To the extent that a TIF development increases demands for schools or other services provided by overlapping entities – without providing additional funding to pay for those demands – the gap must be filled by other taxpayers. For further discussion of this, see George Lefcoe, "Competing for the Next Hundred Million Americans: The Uses and Abuses of Tax Increment Financing," *Urban Lawyer*, 43(2): 427-482, Spring 2011.

17 Kenneth A. Kriz, "Tax Increment Financing: Its Effect On Local Government Finances," *CURA Reporter* (publication of the Center for Urban and Regional Affairs), Summer 2003.

18 Patricia Nolan and Helene Berlin, Neighborhood Capital Budget Group, "NCBG's TIF Study Shows that TIF is Not Cost-Free" in *PRAGmatics*, Summer 2002.

19 Illinois Tax Increment Association, *About TIF*, downloaded from www.illinois-tif.com/about_TIF.asp, 23 September 2011.

20 George Lefcoe, "Competing for the Next Hundred Million Americans: The Uses and Abuses of Tax Increment Financing," *Urban Lawyer*, 43(2): 427-482, Spring 2011.

21 Rachel Weber and David Santacroce, Good Jobs First and the University of Illinois at Chicago Center for Urban Economic Development, *The Ideal Deal: How Local Governments Can Get More for Their Economic Development Dollar*, March 2007; and Greg LeRoy, *The Great American Jobs Scam: Corporate Tax Dodging and the Myth of Job Creation* ( San Francisco: Berret-Koehler, 2005). pp. 72-73 and 117-118.

22 Greg LeRoy, "TIF, Greenfields, and Sprawl: How an Incentive Created to Alleviate Slums Has Come to Subsidize Upscale Malls and New Urbanist Developments," *Planning & Environmental Law*, 60(2): 3-11, February 2008.

23 Richard F. Dye and David F. Merriman, *The Effects of Tax Increment Financing on Economic Development*, September 1999.

24 See note 8. The states that have loosened their TIF laws include Alaska, Georgia, Idaho, Illinois, Indiana, Iowa, Minnesota, Mississippi, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Carolina, Utah and Virginia. 11 states—Arkansas, California, Connecticut, Indiana, Kansas, Louisiana, New York, Ohio, South Carolina, Texas and Wisconsin—have loosened their laws governing enterprise zones, or zones in which businesses do not have to charge sales tax.

25 See note 8.

26 Greg LeRoy and Sara Hinkley, Good Jobs First, *No More Secret Candy Store: A Grassroots Guide to Investigating Development Subsidies*, March 2002.

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28 Todd Litman, Victoria Transport Policy Institute, *Understanding Smart Growth Savings: What We Know About Public Infrastructure and Service Cost Savings, and How They Are Misrepresented by Critics*, 17 June 2011.

29 "General obligation bonds": Gary L. Sullivan, Steven A. Johnson, and Dennis L. Soden, Institute for Policy and Economic Development, University of Texas at El Paso, *Tax Increment Financing (TIF) Best Practices Study*, 1 September 2002.

30 David A. Wilcox and David A.

Versel, Economics Research Associates, *Review of Best Practices for Tax Increment Financing In the United States*, 12 October 1999.

31 See note 4.

32 Ibid.

33 Ibid.

34 Craig Johnson, "The Use of Debt in Tax Increment Financing," in *Tax Increment Financing and Economic Development: Uses, Structures, and Impact*, ed. Craig Johnson and Joyce Man (Albany, NY: SUNY Press, 2001), p. 74

35 See note 3.

36 Eric T. Nakajima and Robb Smith, *District Improvement Financing In Massachusetts: A Report on Challenges and Opportunities Based on the Redevelopment Experience of Other States with Tax Increment Finance*, November 2004.

37 Chicago TIF Reform Panel, *Findings and Recommendations for Reforming the Use of Tax Increment Financing in Chicago: Creating Greater Efficiency, Transparency and Accountability*, 23 August 2011.

38 John Locke Foundation, *Common-Sense TIF Reforms: Ways to Avoid Randy Parton Theater-Like Debacles and Other Disasters*, 28 May 2008.

39 See note 29.

40 Rachel Weber and David Santacroce, Good Jobs First and the University of Illinois at Chicago Center for Urban Economic Development, *The Ideal Deal: How Local Governments Can Get More for Their Economic Development Dollar*, March 2007

41 Minnesota: Minnesota Department of Revenue, *Auditor/Treasurer Manual*, Chapter 13, updated December 2010; Massachusetts: Massachusetts Senate Post Audit and Oversight Bureau, *Policy Brief: Return on Investment? Economic Development Incentive Program Lacks Accountability*, December 2002.

42 Minnesota Department of Revenue, *Auditor/Treasurer Manual*, Chapter 13, updated December 2010.