LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Megan Moore, Research Analyst, Legislative Services Division

FROM: Alyssa Sorenson, Performance Auditor

DATE: April 23, 2018

SUBJECT: The Revenue and Transportation Interim Committee's request for information about tax increment financing in neighboring states for their TIF study.

Introduction

Forty-nine states and the District of Columbia currently have some form of tax increment financing (TIF) in place. Each version of TIF differs based on state tax systems, extent property tax is collected by the state, and other related features. Overall, the basic principle remains the same. The taxable value of an area is frozen to create a base value, which continues to generate revenue for the usual taxing jurisdictions, while additional property value growth above the base is taxed to pay for development in the area for a period of time. This memo will detail some of the differences between TIF statute in Montana and its neighboring states, including:

- Idaho
- Montana
- North Dakota
- South Dakota
- Wyoming

Basics Features of TIF in Montana and Neighboring States

There are several basic system characteristics to keep in mind when comparing different states' versions of TIF, as illustrated in Table 1 on page 2. How states assess property value and extent to which they collect property tax differs, as well as the type of local entities that can use TIF, TIF lifespans, what types of increment can be collected, and the documentation submission requirements and approval process for setting up TIF. Wyoming is relatively restrictive in what revenue can be used for TIF and what entities can set up TIF. As a result, there is only one known TIF district in Wyoming.

TABLE 1
Basic Properties Influencing Tax Increment Financing in Montana and Neighboring States

State	Entity Responsible for Property Assessment	2016 Property Tax Collected by State	Type of Tax Collect for Increment	Creating Entity	Types of Districts	Lifespan	Lifespan (Extended with Bonds)
Montana	State	10.6%	Property Tax Only	Municipality or County	Urban Renewal & Targeted Economic Development	15	40
Idaho	County	None	Property Tax Only	Municipality or County	Revenue Allocation Areas: Urban Renewal & Competitively Disadvantaged Border Areas	20	40
North Dakota	County	0.1%	Property Tax Only	Municipality	Development or Renewal Area	25-30*	N/A
South Dakota	County	None	Property Tax Only	Municipality or County	Tax incremental district (economic development, industrial, or “local”)	20	N/A
Wyoming	County	18% (School Foundation Program)	Property or Sales Tax (Municipality’s portion ONLY)	Downtown Development District (upon approval of municipality)	Only Downtown Development Districts	25	N/A

Source: **Compiled by the Legislative Audit Division.**
*North Dakota allows TIF use to be extended by five additional years, but the base must be reset in order to do so.

Initiation of Tax Increment Financing in Montana and Neighboring States

Montana and nearby states vary in their requirements for initiating the use of TIF. Table 2 on page 4 details some of the requirements of each state's approval process and requirements for the use of TIF and how values are certified. Nationwide it is typical that states have either a "but for" requirement to use TIF, which means the sponsoring entity must show that development would not occur (or occur to the desired level) without the investment of TIF, or an official statement of blight or some other development deficiency. None of the reviewed states included a "but for" requirement, though a 2015 report by the Council of Development Finance Agencies indicated that thirty-two of the fifty states do have this requirement. Each state otherwise had different requirements for initiating TIF. Restrictions for the creation of districts range from limitations on the dollar amount of TIF base values relative to the total assessed value, to not allowing certain types of property to be included.

Table 2
Initiation of TIF in Montana and Neighboring States

State	Approval Process	Statement of Necessity?	"But For" Requirement*	District Value Certification	Restrictions on Creation
Montana	• Creating entity sends documentation to DOR • Documentation reviewed by DOR prior to calculating values	• Statement that area meets statutory blight requirements and contains at least three of fifteen indicators of blight, or • Statement of infrastructure deficiency	No	Department of Revenue calculates base and increment values and annually reports	• Districts using TIF cannot overlap with each other • Counties cannot have districts overlapping with city boundaries
Idaho	• Submit some documentation to State Tax Commission • No approval required	Resolution of Necessity stating area is deteriorated or dilapidated	No	County assessor calculates values and distribute increment	• Some restrictions on including agricultural or forest land • Base value of TIF areas cannot exceed 10% of current assessed valuation of all taxable property within the municipality
North Dakota	• Submit renewal or development plan to Department of Commerce • No approval required	• Resolution finding that there are blighted areas or industrial or commercial properties • Resolution the development is necessary in the interests of the public	No	County auditor and treasurer calculate, certify and divert tax increment.	• Cannot include land assessed as agricultural property within last ten years unless already located for ten years in the interior boundaries of a city
South Dakota	• Apply in writing to the Department of Revenue • Department also determines district-type classification	• Must indicate >25% of real property is blighted, **or,** • >50% of real property will promote and advance industrial, commercial, manufacturing, agriculture, or natural resources, **and,** • Area improvement likely to enhance significantly value of all other real property in district	No	• Department of Revenue calculates base and increment • Statute does not allow changes in statute to lower taxation rate of property in a TIF district	• Districts allowed to overlap • Base value of TIF areas cannot meet or exceed 10% of current assessed valuation of all taxable property within the municipality • Valuation excludes recently leased property by the municipality from the base unless municipality proves it was not acquired to reduce the value
Wyoming	All handled at the municipality level	No	No	County assessors determine property value	Increment and base are proportionately adjusted if there are changes in taxable property valuations or sales tax percentage

Source: Compiled by the Legislative Audit Division.
*A "but for" requirement requires local governments show that development in the area would not occur without the investment of TIF. In 2015, 32 states included this requirement.

Use and Implementation of TIF in Montana and Neighboring States

Each state differs regarding how TIF can be used after it is established. This includes restrictions on costs, use of debt, state reporting or monitoring, and other miscellaneous differences in statutory requirements. Overall, the allowable uses of TIF generated revenue between the comparison states were typically broad and often included similar language. It was common for them to require projects to be described in an urban renewal or other developmental plan. Some states did include specific costs that were not allowed to be paid with TIF revenue. Monitoring of districts was more varied between states, with some states, such as South Dakota, requiring extensive annual reporting, while others, like Wyoming, do not appear to have any reporting requirements to the state.

Table 3
Use and Implementation of TIF in Montana and Neighboring States

State	Allowed Costs/Projects	Debt	Reporting/Monitoring	Miscellaneous
Montana	• Urban Renewal District – Broadly able to use TIF to pay for any projects in URD plan and within boundaries of district • TEDD – Infrastructure related costs	• Many types of debt allowed, including revenue bonds and development agreements • Additional increment accrued during extended TIF lifetime can be used for other projects	Local governments are required to notify DOR when they issue bonds & file a copy of each plan, ordinance or amendment with each affected taxing body (currently not monitored)	Costs can be paid outside the district if used to connect the district to external infrastructure
Idaho	• Costs must be detailed and estimated in a plan • Specifically allowed costs are similar to Montana's • Not allowed to pay for more than 51% of municipal buildings without voter approval	• Many types of debt allowed, including bonds • After 20 years, increment can only be used to pay bonds or be returned to affected taxing jurisdictions	• Districts must report plan modifications and other data annually or the state can withhold funds or issue fines • State hosts a central registry of administrative and financial information of URDs	• Boundaries cannot be adjusted to extend the district more than 10% of the original district • District base value is reset any time there is a modification to the urban renewal plan
North Dakota	• Any expenditure made to carry out the plan of the district • Expenditures are reimbursed from the TIF fund	• Many types of debt allowed, including GO bonds and special improvement warrants • When costs and debt are all paid off, balance on hand is distributed proportionately to all taxing jurisdictions	Required to submit annually the name of each district, total outstanding debt, and balance of funds on hand.	Can also have "increment" tax exemption to private developers of commercial and industrial property.
South Dakota	• Must be detailed in the project plan • Specifically allowed costs are similar to Montana's • Broad additional costs allowed • Cannot be used on residential structures	• District projects are funded with debt, such as bonds, from the initiation of the district, and end in 20 years, or earlier, after project expenses are repaid • After debt paid, increment is paid out proportionately to each tax levying entity	• Issue report as part of annual certification, includes project descriptions and timelines, financial information, and fiscal impact analysis on the state-aid to education formula. Submitted to Governor and Legislature, and posted on website • Governor has directed DOR develop guidelines for local authorities	• If project costs amended more than 35% above original amount approved, base is recalculated and adjusted up • Allowed to have overlapping districts • Plans have a lot of specific requirements including feasibility studies, estimated project costs, and fiscal impact statements • For "local" TIF districts, the county is required to impose an additional levy on property in a school district, resulting in slightly higher property taxes during life of a district
Wyoming	Costs allowed include development costs in the district, as well as additional costs including landscaping of public areas, promotion of public events, and capital improvements	Municipality can pledge TIF revenue to bonds or other debt only after approval at an election	None required to the state	School districts which include all or any part of the development area are permitted to participate in an advisory capacity

Source: Compiled by the Legislative Audit Division.