Approved February 14, 1984
Date

MINUTES OF THE Senate COMMITTEE ON Local Government.

The meeting was called to order by Senator Gaar at
Chairperson

9:00 a.m./~~p.m.~~ on February 8, 1984 in room 531-N of the Capitol.

All members were present except: Senator Mulich, who was excused.

Committee staff present: Mike Heim, Theresa Kiernan, Emalene Correll, Joan Mullins

Conferees appearing before the committee:
Commissioner Jim Claussen, Topeka, Kansas
Mayor Doug Wright, Topeka, Kansas
Mr. Ernie Mosher, League of Municipalities
Mr. Dennis Mitchell, Shearson/American Express
Commissioner Suzanne Lindamood, Manhattan, KS
Mr. Gary Stith, Redevelopment Director, Manhattan, Kansas
Mr. Don Harmon, City Manager, Manhattan

Senator Gaar opened the hearing on S.B. 631, a proposal to change certain provisions of the tax increment financing statute, intended to make it easier for cities to utilize tax increment financing and make the bonds marketable.

Commissioner Claussen, Mayor Wright and Mr. Dennis Mitchell, Financial Advisor to the City of Topeka, made a presentation to the committee in support of the bill. Written testimony submitted by the City of Topeka is labeled Attachment I and made a part of these minutes.

Mr. Ernie Mosher appeared in support of the bill, indicating that it is a matter of statewide interest to cities.

Commissioner Lindamood, who indicated she was expressing her views and not necessarily those of the Manhattan Commission, told the committee that she supports the bill in general but would like it amended to permit the voters to petition for a referendum before eminent domain, land acquisition or temporary financing is used.

Mr. Gary Stith, Redevelopment Director of Manhattan, appeared as a proponent of the bill, stating that it would create considerable savings for the City of Manhattan, although he said he would like to see the tax base limit raised from 3 percent to 5 percent.

Mr. Don Harmon, City Manager of Manhattan, appeared in support of the bill and answered questions of the committee members concerning a situation when a tax levy is required to make a payment of debt service, based on his prior experience with tax increment financing in Council Bluffs, Iowa.

The meeting was adjourned to February 9, 1984.

A TACHMENT I

TESTIMONY ON S.B. 631

Senate Committee On Local Government
February 8, 1984
Room 531-N

Commissioner Claussen - General comments on Tax Increment Financing

Commissioner Claussen - Specific actions on Santa Fe project, Topeka

Commissioner Claussen - Highlights of S.B. 631

Mayor Wright - Present and future implications for redevelopment

Ernie Mosher - Statewide implications and League of Kansas Municipalities position

Dennis Mitchell - Marketing considerations.

Questions And Answers

Exhibits:

A. K.S.A. 12-771 requiring comprehensive feasibility study

B. Cash flow study on Santa Fe project

C. Santa Fe corporate quarantee to pay debt service

D. Statement from Financial Consultant showing corporate quarantee makes it a taxable bond issue - (IRB).

E. Topeka's legal debt margin statement

F. Comparison with other states.

G. Assessed valuation - Cities of the First Class

To:

Senate Committee On Local Government
Mayor Wright
City Attorney's Office
League of Kansas Municipalities
Walter Cole; Beecroft Cole
Charles Holt, City Auditor
Shearson/American Express
Paul Glaves, C.C.R.A.

Exhibits attached

Atch. I

Exhibit A

date the redevelopment plan was adopted, as provided in subsection (c)(2) of K.S.A. 12-1775.

(f) Before any redevelopment project is undertaken, a comprehensive feasibility study, which shows the benefits derived from such project will exceed the costs and that the income therefrom will be sufficient to pay for the project shall be prepared.

History: L. 1976, ch. 69, § 2; L. 1979, ch. 52, § 2; L. 1982, ch. 75, § 7; July 1.

Law Review and Bar Journal References:

"Urban Redevelopment: Utilization of Tax Increment Financing," Randall V. Reece and M. Duane Coyle, 19 W.L.J. 536 (1980).

CASE ANNOTATIONS

1. Mentioned in upholding constitutionality of 12-1770 et seq.; no unlawful delegation of legislative power and no violation of sections 1 and 5 of Article 11 of the Kansas Constitution. State *ex rel.* Schneider v. City of Topeka, 227 K. 115, 116, 122, 123, 605 P.2d 556.

12-1772. Redevelopment plan; resolution required; hearing; notice to county commissioners, board of education and property owners; adoption of plan. (a) Any city proposing to undertake a redevelopment project in accordance with the provisions of this act shall first prepare a redevelopment plan in consultation with the planning commission of the city. The redevelopment plan shall include a summary of the feasibility study required by K.S.A. 12-1771 and amendments thereto, a description and map of the area to be redeveloped, the relocation assistance plan required by K.S.A. 12-1777 and amendments thereto, a description of the buildings and facilities proposed to be constructed or improved in such area and other information the governing body deems necessary to advise the public of the intent of the plan. A copy of the redevelopment plan shall be delivered to the board of county commissioners of the county and the board of education of any school district levying taxes on property within the proposed redevelopment project area. Upon a finding by the planning commission that the redevelopment plan is consistent with the comprehensive general plan for the development of the city, the governing body of the city shall adopt a resolution stating that the city is considering the adoption of the plan. Such resolution shall:

(1) Give notice that a public hearing will be held to consider the adoption of the redevelopment plan and fix the date, hour and place of such public hearing;

(2) describe the boundaries of the central business district of the city or the boundaries of the enterprise zone to be established;

(3) describe the boundaries of the area proposed to be included within the redevelopment project area; and

(4) state that the redevelopment plan, including a summary of the feasibility study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped are available for inspection during regular office hours in the office of the city clerk.

(b) The date fixed for the public hearing shall be not less than 30 or more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(c) A copy of the resolution providing for the public hearing shall be delivered to the board of county commissioners of the county and the board of education of any school district levying taxes on property within the proposed redevelopment project area. Copies shall also be mailed by certified mail to each owner and occupant of land within the proposed redevelopment project area not more than 10 days following the date of the adoption of the resolution. The resolution shall be published once in the official city newspaper not less than one week or more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in sufficient detail to advise the reader of the particular land proposed to be included within the project area shall be published with the resolution.

(d) At the public hearing, a representative of the city shall present the city's proposed redevelopment plan. Following the presentation of the plan, all interested persons shall be given an opportunity to be heard. The governing body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

(e) Following the public hearing, the governing body may adopt the redevelopment plan by ordinance passed upon a ⅔ vote. Any substantial changes to the plan as adopted shall be subject to public hearing following publication of notice thereof at least twice in the official city newspaper.

CITY OF TOPEKA, KANSAS
TAX INCREMENT BONDS - SERIES 1983
(SANTE FE PROJECT)
CASH FLOW PROJECTIONS

Exhibit B

YEAR	CAPITALIZED INTEREST	ESTIMATED TAX INCREMENT	INVESTMENT INCOME ON DSRF*1	SURPLUS TAX & INVESTMENT INCOME CARRY-OVER	GROSS PARKING REVENUE	TOTAL REVENUE AVAILABLE	ADJUSTED ESTIMATED DEBT SERVICE REQUIREMENTS	COVERAGE
1983	$159,549.81	-0-	$27,000	$ -0-	-0-	$ 186,550	$159,459	1.17x
1984	438,452.50	-0-	54,000	27,000*2	-0-	519,452	438,452	1.18
1985	438,457.50	$ 36,353	54,000	81,000*2	-0-	609,810	438,452	1.39
1986	-0-	577,558	54,000	135,000*2	$ 141,505	908,063	538,457	1.68
1987		644,300	54,000	93,101*3	141,505	932,906	536,457	1.73
1988		644,300	54,000	161,843	141,505	1,001,648	530,295	1.89
1989		644,300	54,000	168,005	141,505	1,007,810	516,470	1.95
1990		644,300	54,000	181,830	141,505	1,021,635	498,182	2.05
1991		644,300	54,000	200,118	141,505	1,039,923	483,607	2.15
1992		644,300	54,000	214,693	141,505	1,054,498	462,645	2.28
1993		644,300	54,000	235,655	141,505	1,075,460	444,520	2.42
1994		644,300	54,000	253,780	141,505	1,093,585	417,575	2.62
1995		644,300	54,000	280,725	141,505	1,120,530	371,475	3.01
1996		644,300	54,000	326,825	141,505	1,166,630	336,600	3.47
1997		644,300	54,000	361,700	141,505	1,201,500	306,975	3.91
1998		644,300	54,000	931,325	141,505	1,771,130	509,175	3.47

*1 Debt Service Reserve Fund of maximum debt service requirement funded from bond proceeds of approximately $540,0 invested at 10%.

*2 Deposited to and Part of the Debt Service Reserve Fund

*3 Estimated surplus available for scheduled debt service for current and the following year, if not so required surpl will be used to redeem bonds.

In addition, a one year's maximum Debt Service Reserve Fund will be funded from bond proceeds and until 1-1-87 a surplus investment and tax increment revenues will be deposited to Debt Service Reserve Fund. Total debt service reser funds available on 1-1-87 are estimated to be $675,000. Additionally, Realty has agreed to provide a guarantee deficiencies in debt service requirements up to 25% of the interest or principal on the obligations, whichever is highe This guarantee has an estimated maximum amount available of approximately $1,750,000.

Total Additional Amounts Available for Coverage:	
Funded DSRF	$ 540,000
Accumulated DSRF	135,000
Railway Guarantee	1,750,000
Total Additional Security for Issue	$2,425,000
Est. Maximum Annual Debt Service Requirement	540,220

Exhibit C

In the event the actual tax bill presented by the Treasurer of Shawnee County for taxes on the site (as described in ARTICLE I hereof) is less than the indicated taxes on the due dates as itemized above, Santa Fe will, on the date the taxes are due, make payment to the extent necessary for debt service requirement to the City of the difference, which amount shall be applied in the payment of principal and interest or deposited in the Reserve Fund of the Tax Increment Bonds. With respect to the remainder of the life of the Bonds, in the event that the sum of the Pledged Property Tax Revenues plus Pledged Parking Garage Revenues plus available reserve funds in any given year are not sufficient to pay the current year's debt service on the Bonds, Santa Fe will, upon 30 days written notice from the City, pay to the City, at least 20 days prior to the due date of either the principal of or the interest on the Bonds, an amount in addition to taxes equalling the difference, which amount shall be applied by the City to satisfy the debt service.

7. Except for provisions contained in Article II, subparagraph 3 of this Agreement requiring Santa Fe to make payments to the City in the event of non-completion of the Project, the City and Santa Fe mutually agree, if tax exempt obligations are issued for the financing of the Project, that such payments over and above the amounts paid representing real property taxes shall not exceed 25% of the principal of or interest on the tax increment bonds without the City first obtaining an opinion from a nationally recognized bond counsel to the effect that such additional payments over and above the payments equal to 25% of the principal of or interest on the tax increment bonds that has or is to be paid by Santa Fe, will not result in the interest on the Bonds to be included in the calculation of gross income for federal income taxation purposes.

8. To comply with all federal, state, and local laws and regulations in the construction of the office building and computer building and to provide landscaping, sidewalks, and fill to bring the site to grade.

ARTICLE III

CITY AND SANTA FE MUTUALLY AGREE:

1. Either party shall have the right to terminate this Agreement on seven days' written notice to the other party, deposited with first class postage prepaid in the United States mail, should any of the following contingencies occur:

a. Disapproval of Santa Fe's application by the City or disapproval of Santa Fe's redevelopment proposal submitted to the City, pursuant to Ordinance No. 15019 (published September 20, 1982).

b. Failure to implement the use of tax increment financing pursuant to K.S.A. 1981 12-1770 et seq. and Ordinance No. 15019 of the City Code.

c. Failure of Santa Fe and the Secretary of Administration of the State of Kansas, on behalf of the State of Kansas, to agree on the sale of properties pursuant to the provisions of Chapter 343 of the 1982 Session Laws of Kansas.

Exhibit D

Shearson/American Express Inc 2345 Grand Avenue Kansas City MO 64108 816 346 6100

December 2, 1983

James Claussen
Commissioner of Finance
City of Topeka, Kansas
Municipal Building
215 East Seventh Street
Topeka, Kansas 66603

RE: Tax Increment Financing

Dear Commissioner Claussen:

In response to your telephone request of December 1, I am herewith enclosing a copy of the material presented to the rating agencies on June 2, 1983 in regard to Topeka'a Tax Increment Financing.

In regard to your question on the corporate guarantee, I would offer the following explanation:

> The proposed corporate guarantee on the Bonds would have required that the Bond issue meet all the relevant tests of an industrial revenue bond issue. One of those tests is the "Capital Expenditure Rule" which in effect says that for the interest on the Bonds to be exempt from Federal income taxation, the company (corporate guarantor in this case) cannot spend a total of more than $10 million for capital expenditures in the City during a six-year period starting three years prior to the bond issue and ending three years after the bonds are issued.

Since Santa Fe was anticipating a capital expenditure in excess of $40 million to build a new office building, <u>the corporate guarantee on the Bonds would have made it a taxable bond issue rather than a tax-exempt bond issue.</u>

If we can provide additional information, please do not hesitate to call.

Best regards,

Dennis Mitchell

Dennis V. Mitchell
Assistant Vice President

DVM:mt

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Exhibit E

CITY OF TOPEKA, KANSAS

STATEMENT OF LEGAL DEBT MARGIN
(UNAUDITED)

DECEMBER 31, 1983

Assessed valuation (tangible property only)	$	381,853,000
Legal debt limit (1)		64,915,010
Amount applicable to debt limit:		
Bonded debt		50,005,000
Bond anticipation temporary notes		3,768,000
No-fund warrants		186,000
	$	53,959,000
Deductions allowed by law:		
Airport improvements bonds	$	155,000
Hospital bonds		200,000
Interceptor sewer bonds		428,810
Sanitary and storm sewer bonds		2,874,000
Solid waste land and equipment bonds		25,000
Water distribution system improvement bonds		1,160,000
Water pollution control bonds		3,530,000
Flood control bonds		2,345,000
Temporary notes		93,000
Total deductions	$	10,810,810
Total amount applicable to debt limit	$	43,148,190
Debt margin	$	21,766,820

(1) Represents the valuation arrived at by using formula as required by K.S.A., 10-308.

Exhibit F

Shearson/American Express Inc 2345 Grand Avenue Kansas City MO 64108 816 346 6100

February 2, 1984

James L. Claussen
Commissioner of Finance
City of Topeka, Kansas
Municipal Building
215 East Seventh Street
Topeka, Kansas 66603

RE: Full Faith and Credit Pledge for Tax Increment Bond Issues

Dear Commissioner Claussen:

This is in response to your request for information on tax increment financing laws in other states which allow the pledge of a municipality's full faith and credit as security for the tax increment bonds.

By way of general information, I am enclosing a copy of an article from State Government Quarterly, Vol. 55, No. 1, 1982, entitled, "A Comparison of State Tax Increment Financing Laws" by Jack R. Huddleston, Assistant Professor, University of Wisconsin - Madison. The article presents a comparison of various aspects of tax increment financing laws in 14 states, including Kansas.

On page 32 of the article, it is interesting to note that the author states that, "All states (in the survey) allow general obligation bonds or the general fund of the locality to finance redevelopment projects, pledging the future tax increments to their repayment."

In our own research, we have learned that three states; Arkansas, Illinois and Michigan allow property tax revenues to be pledged to pay debt service on tax increment bonds. Other revenues, such as sales tax revenues or general revenues of the municipality may also be pledged in each of the three states.

We have also found that in Missouri and Wisconsin, general obligation bonds may be issued for the same purposes as tax increment bonds. In Missouri, an election is required while in Wisconsin the issuance is subject to a petition for an election.

We hope this information is of use in the efforts to modify the Kansas law.

Yours truly,

Dennis

Dennis V. Mithcell
Vice President

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Exhibit F-1

A Comparison of State Tax Increment Financing Laws

By Jack R. Huddleston

Tax increment financing (TIF) has been used by state governments for nearly three decades as a way to finance the redevelopment of blighted areas within cities. Started as tax allocation financing in California, use of tax increment financing laws spread slowly during the 1950s and 1960s, and exploded in the 1970s.[1] Initially used to generate local matching funds for federally funded development projects, TIF has increasingly been adopted by states as the primary financing mechanism for local development efforts.[2]

Unlike development programs that lean heavily on federal or state grants, TIF relies on local property tax revenues and is administered and monitored almost entirely by local government officials. Typically under TIF, cities spend for developments such as land clearance and street improvement within specially created "districts." These expenditures by the city are gradually reimbursed through the payment of "tax increments" from the various local governments having taxing authority over the property located within the TIF district. The increased tax revenues come from increases in property values which result from the expenditures on development. Thus, taxing authorities create development capital by deferring potential revenues. For example, if property values within a TIF district increase by $1 million following a development project by a city, the affected county government that has a property tax rate of 5 mills generates a $5,000 tax increment payment to the city. If the local school district has a property tax rate of 20 mills, the $1 million increase in TIF district property values produces a $20,000 tax increment payment from the school district to the city.[3] This process is continued each year until the original development expenditure by the city is totally recovered. Then the district is dissolved, and the entire tax base in the district is returned to full use by all local units of government.

In theory, tax increment financing works because several local governments share the same tax base. City, county, school district and other local taxing jurisdictions, for example, all raise revenues from properties located within a city. Without TIF, cities often bear the cost of development alone, while all local taxing jurisdictions share the benefit of an increased local tax base. Tax increment financing provides a way to share the cost of local development among the various taxing jurisdictions which ultimately benefit from an improvement in their collective local tax base.

States currently using TIF and states considering the possible adoption of TIF face several common major issues. The key questions are usually: which projects should be funded, where, and at what scale? The issues arise because tax revenues from several local governments are used to finance projects within particular cities and most state TIF laws give wide discretion to local governments. Equally important are questions concerning which governments should pay tax increments, how much they should pay, and for how long. Protection for local taxpayers, information dissemination, legal considerations and implications for local government planning are also often important.

Each state that has adopted tax increment financing legislation presents a case study in how these common issues can be addressed. This paper compares 14 states, which enacted TIF legislation before 1980.[4] The states were chosen primarily on the basis of availability of public information concerning

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Jack R. Huddleston is assistant professor in the Department of Urban and Regional Planning, University of Wisconsin-Madison and was formerly an economist with the Wisconsin Department of Administration and Chief of Local Fiscal Policy Analysis, Wisconsin Department of Revenue. The research assistance of Ms. Lynn McCormick was an invaluable asset to this research.

Exhibit F-2

their TIF laws. For convenience, the comparison is structured into four major categories: nature of enabling legislation; receipt and distribution of tax increments; planning and implementation process; and major TIF project requirements and limitations. The accompanying table summarizes this comparison for the 14 states.

Nature of Enabling Legislation

The majority of states included in this study had existing urban renewal laws prior to their use of tax increment financing. For these states, amendments to these laws were the primary vehicle by which tax increment financing was institutionalized. For two

Table 1
COMPARISON OF STATE TAX INCREMENT FINANCING LAWS

	Calif.	*Fla.*	*Ill.*	*Kan.*	*Me.*	*Minn.*	*Mont.*	*Nev.*	*N.D.*	*Ore.*	*S.D.*	*Tex.*	*Utah*	*Wis.*
NATURE OF ENABLING LEGISLATION														
constitutional amendment required	1951									1960				
amendment to urban renewal law	1952	1977				1969	1974		1973	1961		1977	1965	
original TIF law			1976	1976	1977	1974		1975			1978			1975
RECEIPT AND DISTRIBUTION OF TAX INCREMENTS														
authorized agency:														
—municipality	X	X	X	X	X	X	X	X	X	X	X	X	X	X
—redevelopment, housing or urban renewal agency	X	X				X		X	X	X			X	
—county	X	X						X					X	
accumulation of tax increments:														
—partial tax increments allowed to be returned to local jurisdictions			X		X	X	X							
—"losses" reimbursed									X					
overlying taxing jurisdictions														
—exclusion of school districts	X	X	X								X			X
—exclusion of state government				X							X			X
TIF PROCESS														
blight finding required	X	X	X	X		X	X	X	X	X	X	X	X	X
plan requirements:														
—conformance with existing plans	X	X	X	X	X	X	X	X	X	X	X	X	X	X
—special features	X		X	X	X	X					X			X
hearings/resolutions required:														
—at plan adoption	X	X	X	X	X	X	X	X	X	X	X	X	X	X
—at district creation			X					X			X			X
additional participatory mechanisms	X			X	X							X	X	
tax increment/allocation bonds allowed	X	X	X	X		X	X		X	X	X	X	X	X
MAJOR REQUIREMENTS AND LIMITATIONS														
areal limits	X		X		X	X		X						X
property value limits						X					X			X
time limits			X	X			X				X			X
(re)development projects allowed:														
—residential	X	X	X			X	X	X	X	X		X	X	X
—industrial	X	X	X			X	X	X	X	X	X	X	X	X
—commercial	X	X	X	X	X	X	X	X	X	X	X	X	X	X

Detailed notes for this table, with references to each state's TIF provisions, are available from the author upon request.

of these states, California and Oregon, constitutional amendments were required before adoption of TIF legislation. Free-standing tax increment financing legislation was enacted in states without existing urban renewal laws.

Receipt and Distribution of Tax Increments

The primary local government responsible for implementing TIF projects in all states is the municipality. However, in eight states redevelopment, housing or urban renewal agencies are given authority to use TIF, and in four of these states, the authority to use TIF also rests with county government.

As a general rule, state TIF laws provide for full tax increment payments by local taxing jurisdictions over the life of TIF districts. As described earlier, full tax increments are generated by applying the property tax rate for each unit of government to the growth in property values which occurs within the TIF district. In four of the states surveyed, however, provisions are made to return partial tax increments to affected local taxing jurisdictions. This is done by reimbursing only each year's outstanding indebtedness by tax increments and returning the remainder to each overlying taxing jurisdiction in proportion to their normal share of the total tax levy. Counties, school districts, and other affected taxing jurisdictions (if any) in these states, thus, make only partial tax increment payments during some years. The State of Maine goes further—once a partial increment has been returned, the full tax increment for a TIF project cannot subsequently be collected.[5]

All states allow tax increments to be generated only when district values exceed their level at the time of district creation (or subsequent revaluation). In general, no provision is made for periods in which district property values drop below their original level, which might happen during the land clearance phase of a TIF project, for example. North Dakota, the only exception to this rule, stipulates that all "tax losses" of local taxing jurisdictions which are due to a decrease in property values below original levels be recorded each year. Then, when the district's value begins to increase above the original base, tax increments are first used to repay losses of all affected taxing jurisdictions.

Tax increments are normally generated by all jurisdictions having taxing authority over the property within a TIF district. In five states school districts are exempted from the tax increment process. This can be done by not including the school tax rate in determining each year's tax increment calculation (as in Florida), by returning calculated tax increments directly to school districts (as in South Dakota), or by compensating school districts indirectly through state school aid formulas (as in Wisconsin). The first two approaches have a significant impact on the absolute size of each year's tax increment since school taxes tend to dominate total property tax rates for most areas. The latter approach leaves the size of the tax increment unaffected while introducing an additional contributor, the state, to the TIF process. On the other hand, three states specifically exempt state property tax revenues from tax increments to local governments.

TIF Planning and Implementation

All states require some determination of blight before a redevelopment district can be created. This is largely done to satisfy constitutional requirements that a "public purpose" be served by the use of TIF.[6] Wisconsin law further specifies that at least 25 percent of the project area be designated as blighted, in need of conservation or rehabilitation, or suitable for industrial development. South Dakota statutes require a similar quantified finding, although only the blighted classification applies.

After the blight criterion has been met, all states require preparation of a district plan describing the proposed projects to be developed. A few states have mandated that special elements be included in the TIF redevelopment plan to guard against local abuses in devising redevelopment projects. Both Minnesota and South Dakota require a fiscal impact analysis for all contributing taxing jurisdictions, while California law necessitates the filing of a neighborhood impact statement for a TIF district and adjacent areas. Illinois and Kansas require all TIF plans to state the specific dates of project initiation, completion and the retirement of all related debt.

In addition, all states require a public hearing to discuss the plan or future plan amendments. Only four states require an additional hearing and local legislative approval for the designation of a TIF district's boundaries. These hearings, in most cases,

Exhibit F-4

are the only formal mechanisms provided for participation by local residents and affected overlying jurisdictions in the tax increment financing process. Many states require localities to keep all parties informed of the status of TIF projects through annual reports to affected governments and through published statements in the press.

Four states have included legislative provisions to increase control and provide recourse for parties affected by TIF projects. Maine law requires an advisory board for each development district, and more than half of the members of this board must be property owners and residents of the district or adjacent areas. Municipal residents are also given additional power through a referendum provision for approval of district creation.

Utah requires a referendum when three-fourths of the project area's property owners object to the redevelopment plan, and a majority of local residents must sanction the plan before adoption by the local legislative body. Texas also has a referendum provision by which voters must approve the use of the tax increment financing mechanism before a municipal TIF project plan is begun.[7] In Kansas municipalities cannot proceed with a proposed tax increment financing project if either affected counties or school districts present objecting resolutions (stating expected adverse effects) within 30 days following the TIF project public hearing.

Lastly, state TIF processes vary only slightly in regard to project financing. All states allow general obligation bonds or the general fund of the locality to finance redevelopment projects, pledging the future tax increments to their repayment. Most states surveyed have also legislated the use of tax increment (or allocation) bonds or notes, which are generally excluded from statutory local debt limits and referendum requirements. Most states also allow lease-revenue bonds, industrial revenue bonds, special assessments and municipal improvement bonds to be used as project financing mechanisms.[8]

Project Requirements and Limitations

The final area of difference in state TIF laws is the controls placed on the TIF process. These controls include project completion time limits, areal or property value constraints on the tax increment financing district and the types of redevelopment projects allowed.

Wisconsin has more constraining requirements than most states surveyed. For example, Wisconsin statutes limit project expenditures to no more than five years after a district's creation and limit the payment of tax increments to no more than 15 years after the last project expenditure. Wisconsin TIF districts must meet the 25 percent blight/conservation/industrial development criterion and must also be contiguous, containing only whole parcels. In addition, the total taxable property value within all municipal TIF districts cannot exceed 5 percent of the municipality's total value at the time a new district is created.

South Dakota, with a law patterned after Wisconsin's, has equally rigorous controls on municipality flexibility. It has similar time limits and a 25 percent blighted area criterion for its TIF districts. In addition, no local district can exceed 5 to 12 percent of the total taxable property value, depending upon community size. (Smaller places can involve a larger proportion of their tax base in tax increment districts.) Tax increment districts in South Dakota must also be contiguous.

Three other states have time limits controlling project completion. Illinois law sets a 23-year limit on the accumulation of tax increments from the date of the ordinance adopting the project area. Kansas requires that development start within one year from the acquisition of property by the municipality and must be completed within five years from the date of the plan adoption. It also stipulates that tax increments can only accrue up to 20 years. Montana law stipulates, in addition, that locally adopted tax increment provisions to redevelopment plans expire within 10 years from plan adoption or when all bonds are repaid, whichever occurs last.

Besides Wisconsin and South Dakota, district areal constraints are included in five additional state TIF statutes. Illinois and Nevada require a minimum district size of one-and-one-half acres and one block, respectively. Illinois further stipulates that each tax increment financing district must contain only contiguous parcels. Although California allows noncontiguous sections to be included within a single district, recent amendments require that each section must be proven individually blighted or necessary for redevelopment.

Other areal and property value controls exist in Minnesota and Maine TIF laws. Both states' Devel-

Exhibit F-5

opment District Laws require that a TIF project area be at least 60 percent platted and developed at the time of district creation. This prevents abuses of the major underlying purpose of tax increment financing, which is to eliminate blight. Minnesota law further limits the acreage or property value of each development district and all such districts within a municipality. A Minnesota city can designate a single district with up to six acres, or multiple districts with either 1 percent individually or 3 percent cumulatively of total municipal *acreage,* or 5 percent individually and 10 percent cumulatively of total municipal property *value.*

Similarly, Minnesota's Port Authority Act, which creates tax increment financed Industrial Development Districts, limits the acreage of each district to 3 percent of the municipality's industrially zoned property and to a 10 percent maximum for all such districts. The State's Industrial Development Act limits project size indirectly by applying a spending limit of $5 million to each participating industrial user or development.

The final common constraint found in the states included in this survey is the type of development or redevelopment activities allowed in each state statute. Eleven states have made provisions to allow residential, commercial or industrial property developments. Kansas and Maine specifically restrict or imply that tax increment financing be used for commercial areas only. South Dakota prohibits the use of tax increment financing for residential development, although allows the use of TIF for commercial or industrial projects.

Summary

The use of tax increment financing can reasonably be expected to spread to additional states as responsibility for development and redevelopment is increasingly shifted to state and local governments. States considering the adoption of TIF legislation will find that they face issues which are common to most other states and, at the same time, that tax increment financing has proven flexible enough to meet each state's particular goals and circumstances. The comparison of state TIF laws presented here reflects both the common themes and the flexibility of the tax increment financing concept.

Notes

1. Two states enacted TIF legislation between 1951 and 1960, four states between 1961 and 1970, 11 states between 1971 and 1975, and 20 states between 1976 and 1980. For a list of states using tax increment financing see *Alternative Sources of Municipal Development Capital: Tax Increment and Industrial Revenue Bond Financing for Cities, Volume I* (Washington, D.C.: National League of Cities, 1979), pp. 7-11.

2. Jonathan Davidson, "Tax Increment Financing as a Tool for Community Development," *University of Detroit Journal of Urban Law* 56 (Winter 1979): 406.

3. Tax increment payments are based on the *growth* in TIF district property values. Affected taxing jurisdictions, such as county and school districts, continue to derive their normal tax revenues on the property value as it existed prior to a TIF district's creation. Cities also pay tax increments to themselves, applying their general property tax rate to the growth in TIF district property values. See Davidson, "Tax Increment Financing," pp. 408-31 for a description of the typical process involved.

4. The states compared in this study, in order of their appearance in the accompanying table, are: California, Florida, Illinois, Kansas, Maine, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Texas, Utah and Wisconsin.

5. Once a partial tax increment has been accepted by the municipality, it can only decrease (or remain constant) in percentage of the total tax increment available.

6. Davidson, "Tax Increment Financing," p. 414.

7. This provision is to become void once a constitutional amendment has been passed specifically allowing tax increment financing.

8. Some state specifically prohibit their use in financing tax increment projects. Industrial revenue bonds, for example, cannot be used for TIF projects in Kansas.

Exhibit G.

1983 City Tax Rates for 1984

Cities of the First Class

CITY	POPULATION 1983	URBAN RE 1982	ASSESSED VALUATION	BONDED INDEBTEDNESS: SPECIAL ASSESSMENT	GENERAL OBLIGATION	UTILITY REVENUE	TEMPORARY NOTES	NO-FUND WARRANTS	TOTAL INDEBTEDNESS	TAX LEVIES IN MILLS: GENERAL FUND	CITY LEVY	ALL PURPOSES
ATCHISON	11,407	9.1	22,778,729		1,698,550	1,842,000	45,000	74,000	3,659,550	49.454	52.579	145.966
COFFEYVILLE	15,185	8.8	30,904,617	107,006	1,698,994	21,725,000	375,000		23,906,000	17.550	48.220	149.910
DODGE CITY	18,001	8.5	56,651,324		11,526,000	3,485,000	1,550,308		16,561,308	7.943	26.914	127.304
EMPORIA	25,287	9.5	66,107,574	4,926,000	2,530,000	3,098,000	1,305,000		11,859,000	21.299	46.343	126.574
FORT SCOTT	8,893	8.2	19,614,768	390,206	879,500	4,281,000	36,000	11,350	5,598,056	13.733	38.000	148.003
GARDEN CITY	18,256	9.1	59,784,154	5,540,000	4,231,000	3,128,000	2,739,635		15,638,635	8.830	28.700	107.880
HUTCHINSON	40,284	9.8	100,658,141	13,074,353	10,144,647	3,580,000	1,252,000		28,051,000	17.977	41.152	146.440
JUNCTION CITY	19,305	10.8	39,784,227	6,441,682	1,281,094	5,355,000	261,745		13,339,521	2.000	33.573	93.263
KANSAS CITY	161,148	9.1	370,956,123	4,645,809	25,774,191	192,694,000	9,458,933		232,572,933	57.138	68.732	151.120
LAWRENCE	52,738	9.2	128,412,575	14,474,000	7,330,000	5,175,000	54,000		27,033,000	11.474	44.300	127.620
LEAVENWORTH	33,656	9.3	55,056,999	3,461,106	2,908,894	150,000	63,500		6,583,500	23.940	45.672	130.099
LENEXA	18,639	7.3	125,690,977	8,872,547	10,408,431		5,810,000		25,090,978	7.940	31.610	138.050
LIBERAL	14,911	7.7	33,166,300	627,000	3,375,000	4,285,000	299,500		8,586,500	9.470	26.970	120.090
*MANHATTAN	32,644	10.7	87,221,452	8,701,000	2,826,000	4,610,000	2,632,000		18,769,000		29.370	109.830
NEWTON	16,332	8.8	35,859,473	3,202,389	4,625,031	3,309,000	1,026,000		12,162,420	26.950	49.880	135.270
OLATHE	37,258	7.3	116,263,347	14,328,693	5,079,507	29,750,000	5,042,200		54,200,400	11.260	38.480	132.680
OVERLAND PARK	81,784	7.3	311,893,043	4,203,224	9,186,776		1,780,000		15,170,000	10.240	10.240	137.180
PARSONS	12,898	8.7	26,062,321	11,000	930,000	405,000	277,370		1,623,370	19.230	51.300	161.680
PITTSBURG	18,770	7.6	36,277,922	1,621,000	1,009,000	1,940,000	622,321		5,192,321	6.851	47.677	154.018
PRAIRIE VILLAGE	24,657	7.3	71,987,302		2,465,000		36,000		2,501,000	6.650	18.030	148.430
SALINA	41,843	8.3	104,103,201	4,862,000	6,261,000	4,389,000	468,280		15,980,280	12.960	36.360	123.641
SHAWNEE	29,653	7.3	70,887,478		5,424,000		1,075,000		6,499,000	6.150	17.650	138.200
TOPEKA	118,690	8.3	323,630,628	10,810,710	41,306,290	22,188,000	3,768,000	170,000	81,293,000 #	13.313	65.610	163.120
WICHITA	279,835	7.8	908,670,915	103,861,308	94,535,692	36,320,000	13,345,000		248,062,000	8.931	38.744	119.340

* $82,710,261 Riley County
4,511,191 Pottawatomie County

#Includes $3,050,000 in Tax Increment Bonds

Cities of the Second Class

CITY	POPULATION 1983	URBAN RE 1982	ASSESSED VALUATION	BONDED INDEBTEDNESS: SPECIAL ASSESSMENT	GENERAL OBLIGATION	UTILITY REVENUE	TEMPORARY NOTES	NO-FUND WARRANTS	TOTAL INDEBTEDNESS	TAX LEVIES IN MILLS: GENERAL FUND	CITY LEVY	ALL PURPOSES
ABILENE	6,572	11.5	15,835,248	545,945	844,898	945,000	30,416		2,366,259	15.530	36.810	116.050
ANTHONY	2,661	9.3	6,013,911	90,000	236,500	860,000			1,186,500	8.500	35.500	125.560
ARKANSAS CITY	13,201	9.5	23,210,394	341,789	3,507,661	616,000	242,449	32,000	4,739,899	19.060	44.310	137.800
AUGUSTA	6,968	8.2	14,015,381	1,486,000	775,000	5,134,000	1,508,395		8,903,395	18.708	35.930	119.106
BAXTER SPRINGS	4,730	9.5	8,051,344	10,000	850,000	335,000			1,195,000	9.950	22.820	109.220
BELLEVILLE	2,805	20.0	6,201,241		175,000	823,000			998,000	16.010	26.510	129.390
BELOIT	4,367	9.3	9,274,256	1,426,000	81,500	3,975,000			5,482,500	18.110	33.630	135.320
BONNER SPRINGS	6,266	9.1	12,980,118	194,275	2,827,675	1,740,000	373,500		5,135,450	19.152	54.265	179.702
BURLINGTON	2,901	8.9	4,227,296	335,306	120,000	4,140,000	225,000	8,900	4,829,206	15.750	41.670	79.223
CALDWELL	1,401	7.0	2,862,995		180,280				180,280	34.870	46.890	164.010
CANEY	2,284	8.8	4,113,288		255,000	225,000			480,000	7.830	28.740	120.800
CHANUTE	10,506	7.9	29,332,221	1,722,622	803,000	5,040,000	285,300		7,850,922	9.860	26.120	132.830
CHERRYVALE	2,769	8.8	3,952,808	4,000		174,000	65,000		243,000	12.110	23.920	134.450
CHETOPA	1,751	8.7	2,157,050		67,000	205,000			272,000	13.970	31.350	135.230
CLAY CENTER	4,948	13.3	11,150,955	842,600	270,426	715,000			1,828,026	16.740	41.530	134.530
COLBY	5,544	7.9	16,264,434	882,259	1,400,000	445,000	911,232		3,638,491	9.480	29.450	135.820
COLUMBUS	3,426	9.5	5,655,401		25,000	1,020,000			1,045,000	14.580	24.870	121.330
CONCORDIA	6,847	14.2	16,576,833	364,571	688,229	675,000	492,645	61,000	2,281,445	8.413	31.839	150.924
COUNCIL GROVE	2,381	9.9	4,943,484	46,500	90,000	165,000	50,846		352,346	18.330	36.846	113.597
DERBY	9,786	7.8	23,764,898	5,794,757	1,639,243		874,795		8,308,795	13.676	47.012	108.380
EL DORADO	11,551	8.2	25,463,943	3,238,661	64,000	2,413,000	2,733,000		8,448,661	21.650	47.763	118.386
ELKHART	2,243	8.8	5,995,723	192,400	300,600	305,410			798,410	12.250	34.900	82.920