

## 2022 South Dakota Legislature

**Senate Bill 162****AMENDMENT 162C FOR THE SENATE COMMERCE AND ENERGY ENGROSSED BILL**

1 **An Act to revise the discretionary formula for reduced taxation of new structures**  
2 **and residential property.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 10-6-137 be AMENDED:**

5 **10-6-137.** Any structure classified pursuant to this section, ~~shall~~must, following  
6 construction, be valued for taxation purposes in the usual manner. ~~However, the~~The board  
7 of county commissioners of the county ~~where-in which~~ the structure is located, may adopt  
8 ~~any a~~ formula for assessed value to be used for tax purposes. ~~The~~Except as otherwise  
9 provided in section 2 of this Act, the formula may include, for any or all of the five tax  
10 years following construction, all, any portion, or none of the assessed ~~valuation value~~ for  
11 tax purposes. Any formula adopted ~~shall~~must be equally applied to specifically classified  
12 ~~structures-properties~~ within a tax increment financetaxing district. ~~For purposes of this~~  
13 ~~chapter, each political subdivision is considered to be a separate taxing district and the~~  
14 ~~board of county commissioners may apply the formula differently to each of the political~~  
15 ~~subdivisions located within the county.~~

16 The board of county commissioners of the county ~~where-in which~~ the structure is  
17 located may, if requested by the owner of the structure, ~~not apply the discretionary~~  
18 ~~formula and the full assessment shall be made~~fully assess the structure without application  
19 of the formula. In waiving the formula for the structure of one owner, the board of county  
20 commissioners is not prohibited from applying the formula for subsequent new structures.  
21 The assessed ~~valuation value~~ during any of the five years may not be less than the  
22 assessed ~~valuation value~~ of the property in the year preceding the first year of the tax  
23 years following construction.

24 Any structure that is partially constructed on the assessment date may be valued  
25 for tax purposes, pursuant to this section, and the ~~valuation value~~ may not be less than  
26 the assessed ~~valuation value~~ of the property in the year preceding the beginning of

1 construction. The period that the property is valued for tax purposes under this section  
2 may include the years when the property is partially constructed.

3 Following the five-year period under this section, the property ~~shall~~must be  
4 assessed at the same percentage as ~~is~~ all other property for tax purposes, except as  
5 otherwise provided in section 2 of this Act.

6 Any of the following types of real property may be specifically classified for the  
7 purpose of taxation pursuant to this section:

- 8 (1) Any new industrial or commercial structure, or any addition, renovation, or  
9 reconstruction to an existing structure, located within a designated urban renewal  
10 area as defined in § 11-8-4, if the new structure, addition, renovation, or  
11 reconstruction has a full and true value of thirty thousand dollars or more;
- 12 (2) Any new industrial structure, including a power generation facility, or an addition  
13 to an existing structure, if the new structure or addition has a full and true value  
14 of thirty thousand dollars or more;
- 15 (3) Any new nonresidential agricultural structure, or any addition to an existing  
16 structure, if the new structure or addition has a full and true value of ten thousand  
17 dollars or more;
- 18 (4) Any new commercial structure, or any addition to an existing structure, except a  
19 commercial residential structure as described in subdivision (5), if the new  
20 structure or addition has a full and true value of thirty thousand dollars or more;
- 21 (5) Any new commercial residential structure, or addition to an existing structure,  
22 containing four or more units, if the new structure or addition has a full and true  
23 value of thirty thousand dollars or more;
- 24 (6) Any new affordable housing structure containing four or more units, with a monthly  
25 rental rate of the units at or below the annually calculated rent for the state's sixty  
26 percent area median income being used by the South Dakota Housing Development  
27 Authority, for a minimum of ten years following the date of first occupancy, if the  
28 structure has a full and true value of thirty thousand dollars or more;
- 29 (7) Any new residential structure, or addition to or renovation of an existing structure,  
30 located within a redevelopment neighborhood established pursuant to § 10-6-141,  
31 if the new structure, addition, or renovation has a full and true value of five  
32 thousand dollars or more. The structure ~~shall~~must be located in an area defined  
33 and designated as a redevelopment neighborhood based on conditions provided in  
34 § 11-7-2 or 11-7-3~~;~~ or

- 1 (8) Any commercial, industrial, or nonresidential agricultural property ~~which~~that  
 2 increases more than ten thousand dollars in full and true value, as a result of  
 3 reconstruction or renovation of the structure.

4 **Section 2. That a NEW SECTION be added:**

5 For any real property specifically classified under subdivisions 10-6-137(5), (6),  
 6 and (7), the formula adopted by the board of county commissioners ~~may~~must include:

- 7 (1) No more than twenty-five percent of the increased assessed value in the first or  
 8 second year following the completion of construction;  
 9 (2) No more than fifty percent of the increased assessed value in the third or fourth  
 10 year following the completion of construction;  
 11 (3) No more than seventy-five percent of the increased assessed value in the fifth or  
 12 sixth year following the completion of construction; and  
 13 (4) One hundred percent of the increased assessed value in the seventh year following  
 14 the completion of construction and each year thereafter.

15 During construction, the assessed value of the property may not exceed the  
 16 assessed value of the property in the year preceding the beginning of construction.

17 The percentages stated in this section are limited to that portion of the assessed  
 18 value that exceeds the property's assessed value in the year preceding the start of  
 19 construction.

20 Any real property receiving the benefit of a discretionary formula prior to July 1,  
 21 2022, must continue to be assessed and taxed in the manner provided for in any county  
 22 or municipal resolution adopted pursuant to this chapter and in effect prior to July 1, 2022,  
 23 and must continue to be subject to the provisions of §§ 10-12-44, 11-9-20, and 13-13-  
 24 20.4.

25 **Section 3. That § 10-6-138 be AMENDED:**

26 **10-6-138.** If the board of county commissioners ~~of a county~~ has not adopted a  
 27 formula pursuant to § 10-6-137 or section 2 of this Act, the governing board of a  
 28 municipality ~~where-in which~~ the structures ~~defined in § 10-6-137~~ or property are located,  
 29 or within three miles of the corporate limits of the municipality, ~~may in the governing~~  
 30 ~~board's discretion~~ ~~adopt all or any part of the~~ a formula for assessed value pursuant to  
 31 § 10-6-137 or section 2 of this Act.

32 In the case of residential structures described in § 10-6-137, the governing board  
 33 of a municipality may adopt ~~all or any part of~~ a formula that ~~was:~~

- 1 ~~(1) Not adopted by the board of county commissioners; or~~  
 2 ~~(2) Not fully differs from any formula adopted by the board of county commissioners,~~  
 3 ~~provided the formula complies with section 2 of this Act.~~

4 **Section 4. That § 10-6-141 be AMENDED:**

5 **10-6-141.** The board of county commissioners or the municipal governing body  
 6 that approves the adoption of a reduced ~~valuation value,~~ pursuant to ~~subdivision 10-6-~~  
 7 ~~137(7)~~ section 2 of this Act, for any residential structure within a redevelopment  
 8 neighborhood, shall, by ordinance, identify the ~~exact~~ boundaries of the redevelopment  
 9 neighborhood ~~where in which~~ the reduced ~~valuation value~~ will be available.

10 The boundaries of the redevelopment neighborhood need not be contiguous.

11 **Section 5. That § 10-12-44 be AMENDED:**

12 **10-12-44.** The county auditor ~~in each~~ having jurisdiction over a school district shall  
 13 raise additional revenue, for the general fund and special education fund, from real  
 14 property taxes, to compensate for a tax abatement, a tax increment financing district, or  
 15 a discretionary formula ~~as follows~~ in accordance with the following:

- 16 (1) For tax increment financing districts created pursuant to chapter 11-9, the county  
 17 auditor shall impose an additional tax levy, for an amount not to exceed an amount  
 18 equal to the sum of the levies in §§ 10-12-42 and 13-37-16 ~~times multiplied by~~  
 19 the tax increment ~~valuation value,~~ as defined in § 11-9-1;  
 20 (2) For property subject to § 10-6-137, section 2 of this Act, or § 10-6-144, the county  
 21 auditor shall impose an additional tax levy, for an amount not to exceed the amount  
 22 of taxes that were not collected, due to the reduction in ~~valuation value~~ based on  
 23 the maximum levies, pursuant to §§ 10-12-42 and 13-37-16; and  
 24 (3) For abated taxes, the county auditor shall impose an additional tax levy, for an  
 25 amount not to exceed the amount of the school district's portion of the taxes that  
 26 were abated, pursuant to chapter 10-18, during the previous tax year.

27 The levies in this section are not subject to the referendum provision of § 10-12-  
 28 43 and these levies ~~shall~~ must maintain the same proportion to each other, as represented  
 29 in the mathematical relationship at the maximum levies pursuant to § 10-12-42.

30 **Section 6. That § 11-9-20 be AMENDED:**

1           **11-9-20.** On application in writing by the municipal finance officer, on a form  
2 prescribed by the department, the department shall determine the aggregate assessed  
3 value of the taxable property in the district, ~~which aggregate assessed value, on~~  
4 ~~certification to the finance officer, shall constitute and certify that value to the finance~~  
5 ~~officer as constitutes~~ the tax increment base of the district. The application ~~shall~~ must be  
6 accompanied by a detailed parcel list of the included legal descriptions, property  
7 ownership, and ~~valuation~~ value, as provided by the director of equalization office, of the  
8 affected corresponding county. Except as provided for in § 11-9-20.1, the department  
9 shall use the values, as last previously certified by the department, adjusted for the value  
10 to the date the district was created, for any buildings or additions, completed or removed,  
11 and without regard to any reduction pursuant to §§ 1-19A-20, 10-6-137, and 10-6-144,  
12 and section 2 of this Act.

13 **Section 7. That § 13-13-20.4 be AMENDED:**

14           **13-13-20.4.** For any ~~property structure~~ given a reduced ~~valuation~~ value pursuant  
15 to § 10-6-137 ~~or 10-6-144~~, the portion of actual assessed ~~valuation~~ value of the property  
16 used when calculating state aid to education ~~shall~~ must be twenty percent in the first year,  
17 forty percent in the second year, sixty percent in the third year, eighty percent in the  
18 fourth year, and one hundred percent each year thereafter.

19           For any structure or property given a reduced value pursuant to section 2 of this  
20 Act or § 10-6-144, the portion of actual assessed value of the property used when  
21 calculating state aid to education must be:

22           (1) Twenty-five percent in the first or second year;

23           (2) Fifty percent in the third or fourth year;

24           (3) Seventy-five percent in the fifth or sixth year; and

25           (4) One hundred percent in the seventh year and each year thereafter.

26           In addition, the ~~The~~ actual assessed ~~valuation~~ value of any property given exempt  
27 status, pursuant to § 10-4-39 ~~shall~~, must be used when calculating state aid to education.