



2026 South Dakota Legislature

House Bill 1319

Introduced by: **Representative** Weisgram

1 **An Act to update provisions related to tax increment financing districts.**

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

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

4 **10-6-137.** ~~Any~~ Following the construction of any structure classified pursuant to
 5 this section, ~~must, following construction, be valued~~ valuation of the structure for taxation
 6 purposes must occur in the usual manner. The board of county commissioners of the
 7 county in which the structure is located, ~~may adopt a~~ discretionary formula for assessed
 8 value to be used for tax purposes. Except as otherwise provided in § 10-6-137.1, the
 9 formula may include, for any or all of the five tax years following construction, all, any
 10 portion, or none of the assessed value for tax purposes. Any formula adopted ~~must be~~
 11 equally applied to specifically classified properties pursuant to this section may not be
 12 used for any property within a tax increment finance district.

13 ~~The board of county commissioners of the county in which the structure is located~~
 14 may, if requested by the owner of the structure, fully assess the structure without
 15 application of the formula. In waiving the formula for the structure of one owner, the
 16 ~~board of county commissioners~~ is not prohibited from applying the formula for subsequent
 17 new structures. The assessed value during any of the five years may not be less than the
 18 assessed value of the property in the year preceding the first year of the tax years
 19 following construction.

20 Any structure that is partially constructed on the assessment date may be valued
 21 for tax purposes, pursuant to this section, and the value may not be less than the assessed
 22 value of the property in the year preceding the beginning of construction. The period that
 23 the property is valued for tax purposes under this section may include the years when the
 24 property is partially constructed.

1 Following the five-year period under this section, the property must be assessed
 2 at the same percentage as all other property for tax purposes, except as otherwise
 3 provided in § 10-6-137.1.

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

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

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

4 **Section 2. That § 10-12-44 be AMENDED:**

5 **10-12-44.** The county auditor having jurisdiction over a school district shall raise
 6 additional revenue, for the general fund and special education fund, from real property
 7 taxes, to compensate for a tax abatement, a tax increment financing district, or a
 8 discretionary formula in accordance with the following:

- 9 (1) For tax increment financing districts created pursuant to chapter 11-9, the county
 10 auditor shall impose an additional tax levy, for an amount not to exceed an amount
 11 equal to the sum of the levies in §§ 10-12-42 and 13-37-16 multiplied by the ~~tax~~
 12 increment value, as defined in § 11-9-1 total value of the tax increment financing
 13 district less the tax increment base as determined pursuant to § 11-9-19;
- 14 (2) For property subject to § 10-6-137, 10-6-137.1, or 10-6-144, the county auditor
 15 shall impose an additional tax levy, for an amount not to exceed the amount of
 16 taxes that were not collected, due to the reduction in value based on the maximum
 17 levies, pursuant to §§ 10-12-42 and 13-37-16; and
- 18 (3) For abated taxes, the county auditor shall impose an additional tax levy, for an
 19 amount not to exceed the amount of the school district's portion of the taxes that
 20 were abated, pursuant to chapter 10-18, during the previous tax year.

21 The levies in this section are not subject to the referendum provision of § 10-12-
 22 43, and these levies must maintain the same proportion to each other, as represented in
 23 the mathematical relationship at the maximum levies pursuant to § 10-12-42.

24 **Section 3. That § 11-9-1 be AMENDED:**

25 **11-9-1.** Terms used in this chapter mean:

- 26 (1) "Department," the Department of Revenue;
- 27 (2) "District," a tax increment financing district in a contiguous geographic area within
 28 a political subdivision, which is defined and created by resolution of the governing
 29 body, provided that parcels that are not otherwise adjacent are not contiguous
 30 based solely on the existence of an easement, right-of-way, transportation
 31 corridor, or waterway connecting the parcels, unless the parcels are:
 32 (a) Separated only by the easement, right-of-way, transportation corridor, or
 33 waterway; and

- 1 (b) Located directly opposite one another;
- 2 (3) ~~"Governing body," the board of trustees, the board of commissioners, the board of~~
3 ~~county commissioners, or the common council of a municipality~~ a board of
4 ~~commissioners, board of trustees, common council, or other authoritative body by~~
5 ~~which a political subdivision is controlled;~~
- 6 (4) "Grant," the transfer of money or property to a transferee for a governmental
7 purpose ~~that, which~~ is not a related party to or an agent of the political subdivision;
- 8 (5) "Planning commission," a planning commission created under ~~chapters~~ chapter 11-
9 2 or 11-6, a planning committee ~~of a governing body~~ of a political subdivision that
10 does not have a planning commission, or the governing body of a political
11 subdivision that does not have a planning commission or planning committee;
- 12 (6) "Political subdivision," a municipality, as defined in § 11-6-1, or county of this
13 state;
- 14 (7) "Project plan," ~~the property~~ an approved plan for the development or
15 redevelopment of a ~~tax increment financing~~ district, including all ~~properly~~ approved
16 amendments to the plan;
- 17 (8) ~~"Tax increment financing district," a contiguous geographic area within a political~~
18 ~~subdivision defined and created by resolution of the governing body;~~
- 19 ~~(9)~~(8) "Taxable property," all real and personal taxable property located in a ~~tax~~
20 ~~increment financing~~ district; and
- 21 ~~(10)~~(9) "Tax increment valuation," the total value of the tax increment financing district
22 minus the tax increment base as determined pursuant to § 11-9-19.

23 **Section 4. That § 11-9-4 be AMENDED:**

24 **11-9-4.** ~~The~~ If a planning commission shall recommends the creation of a district,
25 the commission must designate the proposed district's boundaries ~~of a district that the~~
26 ~~planning commission recommends be created. The planning commission shall~~ and submit
27 the recommendation to the governing body. The boundaries of a district may not split a
28 whole unit of property that is being used for a single purpose.

29 **Section 5. That § 11-9-5 be AMENDED:**

30 **11-9-5.** To establish a district, ~~the~~ a governing body must adopt a resolution that:
31 (1) Describes the boundaries of ~~a~~ the district with sufficient definiteness to identify
32 with ordinary and reasonable certainty the territory included. ~~The boundaries may~~
33 ~~not split a whole unit of property that is being used for a single purpose;~~

- 1 (2) Creates the district ~~on~~ as of a given date;
- 2 (3) Contains the required findings set forth in § 11-9-8;
- 3 (4) Includes a finding that the assessed value of the taxable property in the district
- 4 plus the tax increment base of all other existing districts does not exceed ten
- 5 percent of the total assessed value of all taxable property in the political
- 6 subdivision; ~~and~~
- 7 (4)(5) Demonstrates that the district has been reviewed by all affected taxing jurisdictions
- 8 at a public meeting held pursuant to chapter 1-25, provided that the affected taxing
- 9 jurisdictions may provide input but do not have authority to approve or reject the
- 10 district; and
- 11 (6) Assigns a name to the district for identification purposes.
- 12 The first district created in each political subdivision must be known as "Tax
- 13 Increment Financing District Number One, City (or Town, or County) of _____."
- 14 Each subsequently created district must be assigned the next consecutive number.

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

16 **11-9-6.** ~~Subject to any agreement with bondholders, a district may overlap with~~

17 ~~one or more existing districts if the boundaries of the districts are not identical~~Unless

18 otherwise authorized by a joint resolution among the affected political subdivisions, a

19 district established after July 1, 2026, may not overlap with any other existing district.

20 **Section 7. That § 11-9-14 be AMENDED:**

21 **11-9-14.** ~~For the purposes of this chapter, the term "project costs" are any~~

22 ~~expenditures made or estimated to be made, or monetary obligations incurred or~~

23 ~~estimated to be incurred, by a political subdivision that are listed in a project plan as~~

24 ~~grants or costs of public works or improvements within a district, plus any incidental costs~~

25 ~~diminished by any income, special assessments, or other revenues, other than tax~~

26 ~~increments, received, or reasonably expected to be received, by the political subdivision~~

27 ~~in connection with the implementation of the plan~~Any administrative fees assessed by the

28 governing body for the management and oversight of a district must be reasonable and

29 directly related to the actual time and expenses incurred by the employees of the

30 governing body.

31 **Section 8. That § 11-9-15 be AMENDED:**

1 **(b)** Informing the public of the creation of a district and the implementation of
2 a project plans; and plan;

3 (8) ~~Payments and grants made, at the discretion of the governing body, that which~~
4 ~~are found to be necessary or convenient to the creation of a district, the~~
5 ~~implementation of a project plans, or to stimulate and develop plan, or the~~
6 ~~stimulation and development of the general economic welfare and prosperity of the~~
7 ~~state. No, except that a payment or grant may not be used for any residential~~
8 ~~structure pursuant to § 11-9-42; and~~

9 (9) Any incidental costs diminished by any income, special assessment, or other
10 revenue, other than a tax increment, received, or reasonably expected to be
11 received, by the political subdivision in connection with the implementation of the
12 project plan.

13 **Section 9. That § 11-9-46 be AMENDED:**

14 **11-9-46.** ~~The existence of a district shall terminate~~ A district terminates when:

- 15 (1) ~~Positive tax increments are no longer allocable to a the district under pursuant to~~
16 ~~§ 11-9-25; or~~
- 17 (2) ~~The governing body, by resolution, dissolves the district, after payment or~~
18 ~~provision for payment of all project costs, grants, and all tax increment bonds of~~
19 ~~the district.~~

20 Within thirty days after the termination of a district, the governing body shall
21 provide to the department a notice, which must include the name of the district and copies
22 of the resolution of dissolution and the district's final financial statement. The final financial
23 statement must account for the distribution of any remaining funds pursuant to § 11-9-
24 45.

25 **Section 10. That a NEW SECTION be added to chapter 11-9:**

26 For any district established after July 1, 2026, a governing body may not approve
27 a project plan unless an independent fiscal feasibility review has been completed and
28 submitted to all political subdivisions.

29 The review must be conducted by a third person who is a municipal advisor
30 registered with the Municipal Securities Rulemaking Board and the United States Securities
31 and Exchange Commission pursuant to section 15B of the Securities Exchange Act of 1934,
32 15 U.S.C. §§ 78a to 78qq, inclusive (January 1, 2026), a licensed certified public
33 accountant with demonstrated experience in municipal finance and tax increment

1 financing, or another independent third-party reviewer, including a nonprofit or research
 2 organization, attorney, or economic development professional, approved by the governing
 3 body.

4 The person conducting the review must be independent of any developer, obligated
 5 person, and private entity receiving financial assistance or reimbursement under the
 6 project plan. If the review is conducted:

7 (1) By a municipal advisor, the advisor must:

8 (a) Act in the capacity of municipal advisor to the governing body and may not
 9 act on behalf of any developer, underwriter, or other private party; and

10 (b) Acknowledge in writing that the advisor owes a fiduciary duty to the
 11 governing body with respect to any advice provided in the review;

12 (2) By a certified public accountant, the accountant:

13 (a) Must perform the review in accordance with applicable professional
 14 standards;

15 (b) May not prepare, or have prepared, any development feasibility analysis,
 16 financial projection, or valuation study for the developer or any affiliated
 17 entity relating to the district; and

18 (c) Must acknowledge in writing that the review is conducted for the benefit of
 19 the governing body; or

20 (3) By an independent third-party reviewer, the reviewer must have demonstrated
 21 experience in public finance, economic development, or fiscal impact analysis.

22 **Section 11. That a NEW SECTION be added to chapter 11-9:**

23 A fiscal feasibility review required pursuant to section 10 of this Act:

24 (1) Must contain:

25 (a) A description of the project plan, proposed district boundaries, and
 26 estimated project costs;

27 (b) An analysis of the tax increment base and the projected tax increment
 28 valuation for the anticipated duration of the district;

29 (c) An evaluation of whether the projected tax increment revenue is sufficient
 30 to pay the project costs and any other obligation proposed to be paid from
 31 the revenue;

32 (d) An analysis of the timing of projected revenue relative to anticipated
 33 expenditures or debt service requirements;

34 (e) A discussion of material financial risks to the feasibility of the project plan;

- 1 (f) A statement identifying material assumptions, limitations, and reliance on
2 information from other third persons; and
3 (g) A conclusion stating whether, based on the assumptions and analyses
4 described in the report, the project plan is reasonably feasible from a
5 financing standpoint;
6 (2) Is advisory in nature and does not constitute a guarantee of project completion,
7 revenue, or valuation;
8 (3) Does not relieve the governing body of the responsibility to evaluate the project
9 plan; and
10 (4) Must be completed and made available to the governing body and the public at
11 least fourteen days prior to the governing body's consideration of the resolution
12 establishing the district.