

Tax Increment Financing Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Neil Walter

Senate Sponsor:

LONG TITLE**General Description:**

This bill modifies the process by which a public entity may utilize tax increment financing.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ beginning July 1, 2026, requires a public entity seeking to utilize tax increment to first:
 - conduct an application authorization meeting; and
 - submit an application to the Governor's Office of Economic Opportunity (office);
- ▶ authorizes the office to review an application and:
 - approve the application; or
 - if the information in the application is unclear, vague, or demonstrably inaccurate, deny the application;
- ▶ authorizes a public entity that receives an approved application to begin the process to trigger and utilize tax increment;
- ▶ requires a public entity that receives more revenue from tax increment than anticipated to utilize the revenue to defease bonds or otherwise accelerate repayment of debt incurred by the public entity; and
- ▶ requires the office to ensure certain information from an application is made publicly available.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

28 ENACTS:

29 **63N-1a-501**, Utah Code Annotated 1953

30 **63N-1a-502**, Utah Code Annotated 1953

31 **63N-1a-503**, Utah Code Annotated 1953
32 **63N-1a-504**, Utah Code Annotated 1953
33 **63N-1a-505**, Utah Code Annotated 1953
34 **63N-1a-506**, Utah Code Annotated 1953

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **63N-1a-501** is enacted to read:

37 **63N-1a-501 . Definitions.**

38 As used in this part:

39 (1) "Allowable tax increment" means the lesser of:

40 (a) the amount of statutorily authorized tax increment for a given project; or
41 (b) the amount of tax increment described in an approved application.

42 (2) "Application" means a written request, made in a form and in a manner established by
43 the office, submitted by a public entity seeking to begin the process of triggering tax
44 increment.

45 (3) "Application authorization meeting" means a public meeting:

46 (a) conducted by the governing body of a public entity;
47 (b) for which the public entity provides class A notice under Section 63G-30-102:
48 (i) for a minimum of 10 calendar days before the public meeting; and
49 (ii) with a link to the public entity's website where an explanation of each item listed
50 in Subsections 63N-1a-502(2)(a) through (d) may be found; and
51 (c) in which the governing body of the public entity addresses each item listed in
52 Subsections 63N-1a-502(2)(a) through (d).

53 (4) "Approximated discount rate" means the assumed rate of return used to discount future
54 cash flows back to the cash's present value.

55 (5) "But-for analysis" means information or data that demonstrates:

56 (a) the benefits of a potential project to the public;
57 (b) the existing impediments to the potential project;
58 (c) that the potential project would be unable to overcome existing impediments and
59 proceed without the use of tax increment; and
60 (d) that the impact of using tax increment to the public is less than the benefits of the
61 potential project to the public.

62 (6) "Collecting entity" means:

63 (a) the State Tax Commission; or

- (b) for property tax increment, the relevant county.
- (7) "Collection time period" means the maximum amount of time a public entity may collect tax increment under an approved application.
- (8) "Established base year" means the year designated in a proposal for the purpose of calculating tax increment.
- (9) "Governing body" means:
 - (a) for a municipality, the municipal legislative body;
 - (b) for a county, the county legislative body;
 - (c) for a regional land use authority, the regional land use authority's board;
 - (d) for a public infrastructure district, the public infrastructure district's board of trustees; and
 - (e) for a special district, the special district's board of trustees.
- (10) "Maximum cap" means the total amount of revenue a public entity seeks in an application.
- (11) "Particular revenue source" means the revenue source that generates tax increment, including property tax, sales and use tax, or any other revenue source established and collected by a governmental entity.
- (12) "Public entity" means:
 - (a) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;
 - (b) a county;
 - (c) a municipality;
 - (d) a public infrastructure district created under Title 17D, Chapter 4, Public Infrastructure District Act;
 - (e) a regional land use authority; or
 - (f) a special district created under Title 17B, Limited Purpose Local Government Entities - Special Districts.
- (13) "Regional land use authority" means:
 - (a) the Utah Inland Port Authority created in Section 11-58-201;
 - (b) the Point of the Mountain State Land Authority created in Section 11-59-201;
 - (c) the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201; or
 - (d) the Military Installation Development Authority created in Section 63H-1-201.
- (14)(a) "Tax increment revenue" means the difference between the tax revenue

99 generated from or within a specific area and the tax revenue generated during an
100 established base year.

101 (b) "Tax increment revenue" includes any concept substantially the same as the
102 definition in Subsection (14)(a), regardless of the name of the concept.

103 (15) "Today's dollars" means a monetary value assessed at the time a public entity makes an
104 application as described in this part, excluding any estimated growth or inflation of
105 revenues.

106 Section 2. Section **63N-1a-502** is enacted to read:

107 **63N-1a-502 . Application for use of tax increment.**

108 (1) Beginning July 1, 2026, any public entity seeking to utilize tax increment:

- (a) shall conduct an application authorization meeting;
- (b) shall approve the public entity to apply to the office by majority vote of the
governing body at the application authorization meeting;
- (c) shall apply to the office as described in this section; and
- (d) may not begin the process to trigger, collect, or utilize tax increment until approved
by the office as described in Section 63N-1a-504.

115 (2) An application authorization meeting may be part of another public meeting of the
116 public entity's governing body if the notice and agenda for the public meeting clearly
117 describe the application authorization meeting portion of the public meeting.

118 (3) An application to utilize tax increment shall:

- (a) identify the public good to be addressed through the use of tax increment, including a
description of the project or projects to be pursued with the use of tax increment;
- (b) identify the type of tax increment revenue sought for use;
- (c) identify the maximum cap of tax increment revenue the public entity seeks to collect
and utilize for each type of tax, if the public entity seeks to use more than one type of
tax increment revenue;
- (d) provide a but-for analysis of the project or projects the public entity intends to pursue
with the use of tax increment;
- (e) explain how the benefit to residents or taxpayers near the project is proportionate to
the benefit to any party benefiting from the public entity's use of tax increment, as
described in Section 63N-1a-503; and
- (f) include a copy of the notice for and the minutes from the public entity's application
authorization meeting.

132 (4) A public entity shall comply with the requirements of this part every time the public

133 entity seeks to utilize tax increment.

134 (5) The office may:

135 (a) establish an application fee, in accordance with Section 63J-1-504, to cover the
136 office's costs in administering this part; and

137 (b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
138 Rulemaking Act, about the form and content of an application.

139 Section 3. Section **63N-1a-503** is enacted to read:

140 **63N-1a-503 . Analyzing proportionate benefit.**

141 (1) In analyzing the proportionate benefit to residents or taxpayers, a public entity shall
142 prepare an estimate, in present value by using an approximated discount rate of the
143 following:

144 (a) the amount of revenue that will be allocated to any party in the form of tax
145 increment, or bond financing secured by tax increment, each year over the collection
146 time period of the proposed tax increment period or 40 years, whichever is greater;
147 and

148 (b) the amount of revenue expected to be distributed to each affected taxing entity each
149 year over the collection time period of the proposed tax increment period.

150 (2) If the public entity utilizes an approximated discount rate that is lower than 7% in
151 conducting the analysis described in Subsection (1), the public entity shall provide an
152 explanation of the chosen approximated discount rate.

153 (3) In addition to any quantitative assessment of the public benefit expected to be derived
154 from the use of tax increment, the public entity shall provide a quantitative evaluation
155 that:

156 (a) uses the estimate described in Subsection (1); and

157 (b) demonstrates the tax increment to be collected by a public entity during the
158 collection time period is not projected to exceed the revenue that will remain to the
159 taxing entities that would have received the revenue.

160 Section 4. Section **63N-1a-504** is enacted to read:

161 **63N-1a-504 . Office review of applications.**

162 (1) Within 30 days of the day on which the office receives an application under Section
163 63N-1a-502 and the application fee set by the office under Subsection 63N-1a-502(5)(a),
164 the office shall determine whether the application meets the requirements of this part
165 and any rules made under this part.

166 (2) The office may not deny an application that provides the information required by

167 Section 63N-1a-502 on the basis of the content of the application unless:

168 (a) the application is so unclear or vague that the office cannot determine whether the
169 application complies with this part; or
170 (b) information in the application is demonstrably inaccurate even without external
171 analysis of the information.

172 (3)(a) If the office determines an application does not meet the requirements of this part,
173 the office shall:

174 (i) deny the application; and
175 (ii) notify the public entity of the denial with an explanation of the determination.

176 (b) A public entity that receives notice under Subsection (3)(a) may submit a new
177 application that addresses the office's determination and request an expedited review
178 of the new application.

179 (4) If the office determines an application meets the requirements of this part, the office
180 shall:

181 (a) approve the application; and
182 (b) notify the public entity and the State Tax Commission of the approval.

183 Section 5. Section **63N-1a-505** is enacted to read:

184 **63N-1a-505 . Effect of approved application.**

185 (1) A public entity that receives approval of an application under Section 63N-1a-504 may
186 begin the process to trigger tax increment according to:
187 (a) the terms of the approved application;
188 (b) the statutory requirements governing the public entity; and
189 (c) this section.

190 (2)(a) Except as provided in Subsection (2)(b), a public entity described in Subsection (1):

191 (i) shall, within 30 calendar days, notify all taxing entities that will be affected by a
192 planned tax increment area that the public entity:
193 (A) has received approval of an application under Section 63N-1a-504; and
194 (B) intends to begin the process to trigger tax increment;
195 (ii) shall notify the State Tax Commission and the relevant county auditor, county
196 assessor, and county treasurer by no later than December 31 the year before the
197 public entity intends to begin collecting property tax increment; and
198 (iii) shall notify the State Tax Commission no later than 180 days before the
199 beginning of the fiscal quarter during which the public entity intends to begin
200 collecting sales and use tax increment.

201 (b) If the public entity is required to comply with a different notification time period
202 than what is described in Subsection (2)(a), the public entity shall comply with the
203 notification requirement that provides the greater amount of time for notification.

204 (3)(a) If a public entity does not complete the process to trigger tax increment, or the
205 process to trigger a reauthorized tax increment, within one year of the day on which
206 the public entity receives approval from the office:

207 (i) the public entity shall notify the office; and
208 (ii) the office may, within 30 days of receiving the notice described in Subsection
209 (3)(a)(i), request the public entity provide additional information to ensure that
210 any data used by the public entity in the public entity's approved application
211 remains valid.

212 (b) A public entity described in Subsection (3)(a) may proceed with the process to
213 trigger tax increment if the public entity does not timely receive a request for
214 additional information from the office.

215 (c) A public entity that receives a request from the office under Subsection (3)(a)(ii):

216 (i) shall respond to the request; and
217 (ii) may not trigger tax increment until the office reviews the public entity's response
218 and approves the public entity to proceed.

219 (d) The office shall evaluate any additional information received under Subsection (3)(c)
220 and determine whether the public entity's proposal meets the requirements of this part.

221 (4) A public entity that completes the process to trigger tax increment shall inform the
222 office within 30 days of the day on which the process is complete.

223 (5)(a) A public entity that receives more tax increment revenue than expected is required
224 to use the additional or excess revenue to defease any bond issued by the public
225 entity or otherwise accelerate repayment of any debts incurred by the public entity.

226 (b) A public entity may not utilize tax increment revenue for any purpose other than the
227 purpose described in an approved application.

228 (c)(i) A public entity is responsible to monitor the public entity's receipt of tax
229 increment revenue and to notify taxing entities and distributing entities when the
230 public entity is approaching, has met, or has exceeded the maximum cap.

231 (ii) A public entity that receives more than the maximum cap of tax increment
232 revenue:

233 (A) shall immediately inform the county auditor, county assessor, and State Tax
234 Commission;

235 (B) shall be responsible for ensuring the excess tax increment revenue is returned
236 to the appropriate taxing entities; and
237 (C) may request assistance from the county and the State Tax Commission in
238 fulfilling the duty described in Subsection (5)(c)(ii)(B).

239 (6) At the end of a tax increment time period, or upon receipt of the maximum cap sought
240 in an application, the public entity's authorization to receive tax increment expires.

241 (7) A public entity that receives approval of an application under this section:

242 (a) receives approval only as to the contents of that application; and
243 (b) shall comply with the requirements of this part for any additional or subsequent use
244 of tax increment, as described in Subsection 63N-1a-502(3).

245 Section 6. Section **63N-1a-506** is enacted to read:

246 **63N-1a-506 . Transparency.**

247 (1)(a) The office shall provide information in an approved application to utilize tax
248 increment to the state auditor to be made available on the public finance website
249 established under Section 67-3-12.
250 (b) The state auditor shall coordinate with the office to ensure the information described
251 in Subsection (1)(a) is posted on the public finance website in a uniform manner.

252 (2) The office shall coordinate with collecting entities to recommend processes for the
253 responsible and transparent collection of tax increment, including by implementing
254 processes to ensure a public entity stops receiving tax increment once the public entity
255 has received the maximum cap identified in the approved application.

256 Section 7. **Effective Date.**

257 This bill takes effect on May 6, 2026.