F I S C A L   I M P A C T   R E P O R T

SPONSOR SCORC **ORIGINAL DATE** 01/27/09 **LAST UPDATED** 03/19/09 **HB**

SHORT TITLE Las Cruces Downtown Tax Increment Development **SB** CS/19/aSFC/aHBIC

ANALYST White

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	**FY10**	**FY11**		
	* See Narrative			

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB249, SB201, HB 392, HB 451, HB 470

SOURCES OF INFORMATION
LFC Files
Department of Finance Administration (DFA)
City of Las Cruces Application to State Board of Finance
New Mexico Finance Authority (NMFA)

Responses Received From
Taxation and Revenue Department (TRD)
New Mexico Higher Education Department (NMHED)
Department of Finance Administration (DFA)
New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee Amendment to the SCORC substitute for Senate Bill 19 limits the duration of the proposed bonding authorization to 25 years as opposed to the unlimited duration included in the original bill. This provision could be considered unnecessary as the State Board of Finance (BOF) resolution, which dedicated the state gross receipts tax (GRT) increment to the district, already requires that all bonds secured by state increments must mature no later than December 31, 2018.

The House Business and Industry Committee Amendment also adds a new section prohibiting the Legislature from approving or authorizing any capital outlay projects within the TIDD during the period that any bonds are issued pursuant to the proposed legislation. Exceptions are provided in the new section including

1. public school buildings or facilities;
2. higher education buildings or facilities;
3. cultural buildings or facilities;
4. buildings or facilities, exclusive of roads, used for public safety; or
5. buildings used for other public purposes.

The new section also states that "nothing in this section prohibits the Legislature from authorizing expenditures, pursuant to law, for economic development projects within a specific city of Las Cruces main street downtown tax increment development district for which any tax increment development bonds are outstanding."

Synopsis of SFC Amendment

The Senate Finance Committee amendment to the SCORC Substitute for Senate Bill 19 makes a minor technical change to the bill correcting an error identified by LFC and NMFA staff. The substitute states that the district may issue up to $7.25 million in bonds "secured by a gross receipts tax increment attributed to the imposition of the state gross receipts tax." The amount of bonds state in the bill is actually secured by various tax increments dedicated by the City of Las Cruces, Dona Ana County, and the state. This issue is discussed in more detail in the technical issues section below.

Synopsis of SCORC Substitute

Senate Corporations and Transportation Committee Substitute for Senate Bill 19 authorizes the City of Las Cruces Downtown Tax Increment Development District (TIDD) to issue tax-exempt bonds secured by 75 percent of state gross receipts tax (GRT) revenue generated within the district. The City of Las Cruces has also dedicated 75 percent of both its GRT and property taxes, and Dona Ana County has dedicated 75 percent of its property taxes in addition to 75 percent of the first 1/8 percent increment of its county local option tax. The maximum bond issuance authorized is $7.25 million supported by a combination of state, county, and city tax increments and is subject to:

1. a determination by the New Mexico Finance Authority (NMFA) that the proceeds of the bonds are used in accordance with the development plan
2. review of the master indenture by NMFA
3. review of any proposed amendments to the master indenture prior to issuance.

Senate Corporations and Transportations Committee Substitute for Senate Bill 19 corrects a technical issue in the original bill. As per statute, all legislation authorizing TIDDs to issue bonds must be reviewed and presented to the legislature by NMFA. The substitute bill, which has been reviewed by NMFA, caps bond issuance at $8 million adjusted for inflation. This is an increase of $750,000 from the original bill. Additionally the original bill authorized the TIDD's bonds to be used for a period of up to 30 years. This is 21 years longer than outlined in the BOF resolution, and has been removed in the new legislation.

Summary of BOF Resolution

Table 1:

Board of Finance Analysis	
GRT Increment	**75%**
Total Incremental Revenues to District*	**$ 3,590.04**
Total Incremental Revenues to GF*	**$ 2,891.98**
Net Present Value of GF Cashflows**	**$ 2,528.74**

* Total while respective bonds are outstanding. Dollar values in thousands.
** Calculations discounted GF cashflows while bonds are outstanding using a 5% discount rate. Dollar values in thousands.

- The Downtown Las Cruces TIDD is the first in New Mexico whose approved increment lasts less than the statutorily allowable 25 years. Because of the relatively small amount of money being dedicated to the project, BOF and the City of Las Cruces in consultation with the city's financial advisors, thought it in the best interest of the state and the project to limit the bonds to mature no later than December 31, 2018. The district is currently planning on issuing a combination of sponge and long term bonds in 2010 with a maximum eight year maturity to comply with the BOF requirement.
- Another reason for shortening the duration of the bonds was that the bulk of state GRT revenues created by this project will come from construction. After the majority of construction is completed, estimated to occur in year 8 of the project, state GRT levels from normal business activity are expected to be only marginally higher than they are currently. BOF staff deemed that there would be sufficient increases in state GRT levels from construction to proceed with the increment if the dedication were to be limited to the approximate timeframe of the major construction projects.

Project Description

The City of Las Cruces in addition to registered property owners within the district's boundaries approved a Tax Increment Development Plan for downtown revitalization in 2007. The downtown revitalization project was deemed necessary due to the current state of the downtown Las Cruces area. Main Street, which runs directly down the center of the TIDD, was closed off to automobile traffic in the 1970s turning all of the street's storefronts into store backs. This seriously hampered the efforts of local businesses causing the downtown section of Main Street to become largely vacant. The majority of bond proceeds to the Downtown Las Cruces TIDD will be used to finance road construction projects designed to open Main Street to automobile traffic and create a more pedestrian friendly environment.

The public infrastructure projects related to this project are estimated to be approximately $12 million. Of the overall cost of the project, $8 million is expected to be funded from TIDD proceeds. Table 2 below shows that the state contribution will be slightly less than 25 percent of overall TIDD proceeds. The main reason for this is that the state increment was only approved for an 8 year period while both the city and county dedications were approved for 25 years.

Table 2:

Revenue to TIDD		
	Property Tax	Gross Receipts
State	$ -	$ 3,590.04
City of Las Cruces	$ 2,573.27	$ 3,903.69
Dona Ana County	$ 4,897.38	$ 157.13
Total	$ 7,470.65	$ 7,650.87

* Dollar values in thousands.

In addition to the proposed infrastructure construction, there are currently a number of downtown revitalization projects which have been underway for some time. These projects include a new $28 million City Hall and $83 million Federal Courthouse. The city is also currently in talks with Unidev, the state's master planner, on the creation of approximately $20 million in workforce housing. In total the City of Las Cruces is expecting nearly $150 million of revitalization projects to take place within the district.

Table 3:

Downtown Revitalization Projects	
City Hall	$ 28,000
Federal Courthouse	$ 83,000
Workforce Housing	$ 20,000
Marketplace	$ 500
Streets and Utilities	$ 10,800
Museums	$ 3,500
Private Property Improvments	$ 2,000
Total	$ 147,800

* Dollar values in thousands

FISCAL IMPLICATIONS

The economic analysis for the Downtown Las Cruces TIDD, performed by the Bureau of Business and Economic Research (BBER) at the University of New Mexico, showed that this project was in the best interest of the state. However, it also showed that there would be a relatively minor increase in overall state GRT levels once the district had been built out. The majority of incremental tax receipts from the district are expected to be generated from various construction projects which are estimated to be completed in the first 8 years of the project. For this reason all parties involved including the city's financial advisor, RBC Capital Markets, believed that it would be in everyone's best interest were the bonds secured by the state increment limited to the timeframe of construction.

In order to ensure that a 75 percent increment would be in the best interest of the state, a general fund cash flow analysis was performed during the BOF application process. Within a 9 year timeframe the 75 percent increment proved to be beneficial to the state due to the substantial GRT created from the construction projects and the fact that very few additional costs would be incurred by the general fund as a result. Using a discount rate of 5 percent, as per the BOF rule, the TIDDs projected general fund cash flows have a net present value (NPV) of more than $2.5 million while bonds are expected to be outstanding.

Table 4: Estimated Cash Flow to the State While Bonds are Outstanding

Year	2010	2011	2012	2013	2014
Construction GRT (25%)	$ 963,508	$ 481,754	$ 78,348	$ 78,348	$ 78,348
Other New Reciepts	$ 181,017	$ 273,243	$ 195,013	$ 110,043	$ 120,579
Incremental Utility GRT (25%)	$ 1,533	$ 3,113	$ 4,739	$ 6,415	$ 8,141
Incremental Retail GRT (25%)	$ 273	$ 554	$ 844	$ 1,142	$ 1,449
Total Positive CF	$ 1,146,331	$ 758,664	$ 278,944	$ 195,948	$ 208,517
Foregone GRT from Shift	$ (205)	$ (416)	$ (633)	$ (857)	$ (1,087)
GF Expenditures	$ (28,659)	$ (45,287)	$ (38,429)	$ (29,835)	$ (35,891)
Total Negative CF	$ (28,864)	$ (45,703)	$ (39,062)	$ (30,692)	$ (36,978)
Net CF	$ 1,117,467	$ 712,962	$ 239,882	$ 165,257	$ 171,539
Year	**2015**	**2016**	**2017**	**2018**	**Total**
Construction GRT (25%)	$ 78,348	$ 78,348	$ 78,348	$ 78,348	$ 1,993,698
Other New Reciepts	$ 130,941	$ 59,080	$ 59,080	$ 59,080	$ 1,188,076
Incremental Utility GRT (25%)	$ 9,918	$ 11,749	$ 13,635	$ 15,578	$ 74,821
Incremental Retail GRT (25%)	$ 1,766	$ 2,091	$ 2,427	$ 2,773	$ 13,319
Total Positive CF	$ 220,973	$ 151,268	$ 153,490	$ 155,779	$ 3,269,914
Foregone GRT from Shift	$ (1,325)	$ (1,568)	$ (1,820)	$ (2,080)	$ (9,989)
GF Expenditures	$ (46,632)	$ (47,737)	$ (47,737)	$ (47,737)	$ (367,944)
Total Negative CF	$ (47,957)	$ (49,305)	$ (49,557)	$ (49,817)	$ (377,933)
Net CF	$ 173,017	$ 101,963	$ 103,933	$ 105,962	$ 2,891,981

A discrepancy arose due to the fact that two different sets of projections were included in the analysis. The BBER projections provided approximately $900,000 less GRT revenue to the state during the life of the TIDD than did similar projections from RBC. As stated earlier, RBC serves as financial advisor to the City of Las Cruces and will be handling the TIDD's bond issuance. Despite the discrepancies in GRT projections, the project proved to have no net cost to the general fund under both scenarios and was thus deemed to be economically in the best interest of the state. The city and BOF staff agreed to the RBC projections and the final BOF analysis was based upon their GRT projections. The BBER analysis was also used in a limited extent to forecast increased general fund expenditures and employment due to the development.

Table 5:

BBER Expected Additional Employment From Construction				
Year	**Direct**	**Indirect**	**Induced**	**Total**
1	203	44	62	309
2	173	33	63	269
3	253	55	91	399
4	169	35	62	266
5	84	21	28	133
6	100	14	25	139
7	84	21	28	133
Total	1066	223	359	1648

In addition to having no net cost to the state general fund, the district's various construction projects are expected to create a substantial amount of employment throughout the area. Table 5 shows BBER's additional employment projections due to construction reaching more than 1,600 jobs throughout the life of the state increment.

Department of Finance Administration (DFA):

> The University of New Mexico's Bureau of Business and Economic Research (BBER) was contracted by the City of Las Cruces to complete an economic analysis of the TIDD project. That analysis, which DFA believes to be conservative and reasonable, indicates that the project will create 507 permanent new jobs in downtown Las Cruces between 2009 and 2016. Wages from those jobs are estimated to total $10.2 million in current year dollars which equates to an average salary of about $20,100.

The average salary is significantly lower than the state median salary of $34,484 due to the fact that the majority of new long-term jobs created by this development will be retail and restaurant jobs.

New Mexico Finance Authority (NMFA)**:**

> The finance plan for the TIDD will incorporate a combination of a long-term property tax and gross receipts tax bond issuance, expected to occur in fiscal year 2010 for the gross receipts tax bonds and 2011 for the property tax bonds. The gross receipts tax bonds would be issued with an 8-year final maturity. The property tax bonds would be issued with a 24-year final maturity. In addition, short term "Sponge Bonds" will be issued, which would mature within 30 days and would be placed through the State Treasurer. The first issuance of "Sponge Bonds" is expected to occur in FY 2010 and is estimated to generate roughly $3.04 million in revenue. Below is a detailed analysis of the expected debt issuances for the proposed TIDD, the interest rate of 6.5% is assumed for this analysis.

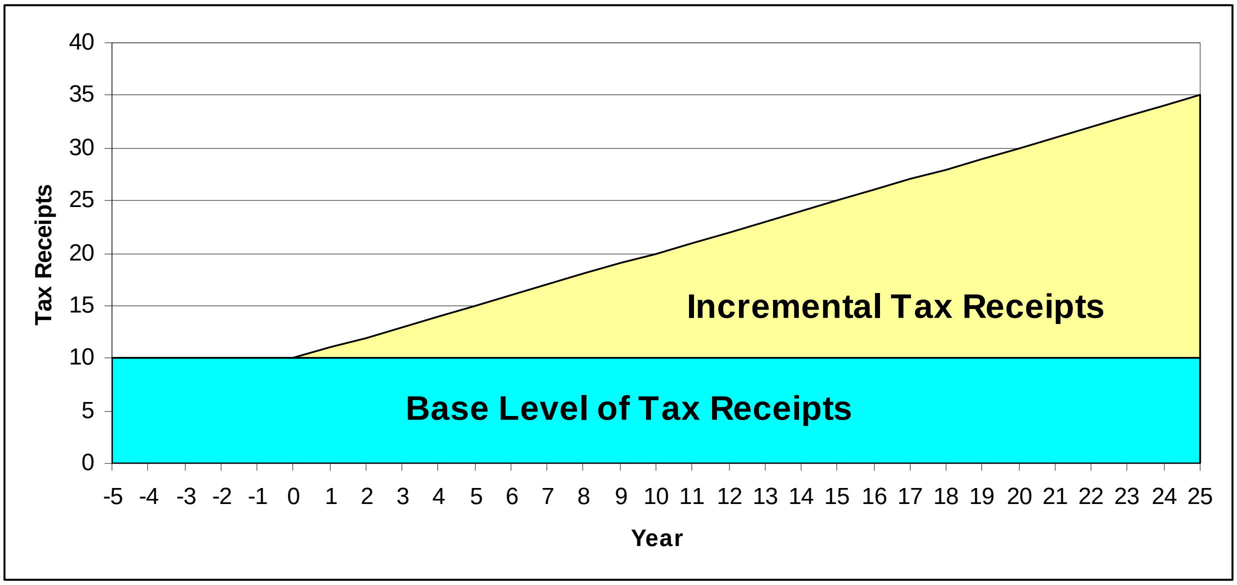
Table 6: Financing Sources and Uses

Sources and Uses	2010	2011	Total
GRT Bonds	$ 2,015.0	$ -	$ 2,015.0
Sponge Bonds	$ 3,040.8	$ -	$ 3,040.8
Property Tax Bonds	$ -	$ 2,185.0	$ 2,185.0
Total	$ 5,055.8	$ 2,185.0	$ 7,240.8
Reserve	$ 201.5	$ 196.7	$ 398.2
Capitalized Interest	$ -	$ 426.1	$ 426.1
Cost of Issuance	$ 220.9	$ 131.1	$ 352.0
GRT Proceeds	$ 1,692.6	$ -	$ 1,692.6
Sponge Proceeds	$ 2,940.8	$ -	$ 2,940.8
Property Tax Proceeds	$ -	$ 1,431.1	$ 1,431.1
Total	$ 5,055.8	$ 2,185.0	$ 7,240.8

SIGNIFICANT ISSUES

The Tax Increment for Development Act was enacted in 2006. This act allows property owners within an area that is a subset of a city or county to form a tax increment development district (TIDD). A district can propose a plan of infrastructure investments that would encourage economic development among other goals that would be paid for out of the increased revenue from the development. This increment, as shown in Figure 1, is derived from the difference between the stagnant base level of tax receipts in year zero and the increasing level of receipts during the life of the TIDD.

Figure 1:



The state is then not losing out on any tax revenues that it is already receiving but rather giving up a certain percentage of the incremental or increased tax receipts that are a result of increased business activity within the TIDD.

The area within the Downtown Las Cruces TIDD has to date received a substantial amount of state capital outlay money for downtown revitalization. Since the 2004 legislative session capital outlay funds to the area within the district have received $4.54 million for various projects listed as Main Street, Downtown Plaza design/construction, and Downtown Revitalization. Of those monies only $2.6 million have thus far been expended leaving $1.9 million available for reauthorization in the 2009 legislative session. The bill does not include language which would prohibit additional capital outlay funding during the life of the state increment as other TIDD authorization bill have in the past. The district could also receive various other forms of financing assistance from state entities. Unidev for example, the state's master planner with whom the city plans on building workforce housing within the district, has applied with NMFA for new market tax credits through Finance New Mexico. Various other individual firms and entities within the TIDD could also be eligible for a myriad of other assistance programs including the film tax credit and the job training incentive program (JTIP).

The Downtown Las Cruces TIDD is the first in New Mexico to be developed by a public entity and not a private developer. For this reason, the makeup of the TIDD governing board will simply be the Las Cruces City Council plus one non-voting member selected by the Dona Ana County Commission. This is encouraging because the city will obviously be looking out for the welfare of the citizens within the district more than a private developer would. This is also worrisome however in that there will be, just as in other existing TIDD boards, no state representation and thus no oversight of the state's investment on the district's governing board.

TECHNICAL ISSUES

Taxation and Revenue Department (TRD):

> Section 1(A) of the bill requires a determination by NMFA that the bonds issued will be used in accordance with the development plan. The statute (Section 5-15-21(A)) requires NMFA to review such bond financings and "present the proposed issuance of the bonds to the legislature for approval." A separate bill containing NMFA's resolution will need to be introduced, assuming NMFA makes the required determination.

The NMFA Board of Directors met on January 22, 2009 and reviewed both the Las Cruces Downtown TIDD and the Winrock/Quorum TIDDs favorably. The original bill was issued prior to the NMFA review.

SCORC substitute for Senate Bill 19 has been reviewed by NMFA and eliminates this technical issue.

The bill states that the maximum bond issuance is "secured by a gross receipts tax increment attributed to the imposition of the state gross receipts tax for the Las Cruces downtown tax increment development project." This language, which has been included in past TIDD bills, is incorrect in that the maximum bond issuance in this case is secured by state, county and city GRT. Stating that the maximum bond issuance is secured by a GRT increment "attributable to the state" could be misconstrued as meaning that only the state increment secures the amount listed in the bill and that the developer could issue additional bonds above and beyond the cap secured by count and city increments. This language should be amended to include both the county and city increments as securing the bonds or to decrease the maximum amount of bonds which can be issued to the amount secured solely by the state increment.

The Senate Finance Committee amendment addresses and corrects this technical issue by inserting "tax increments authorized pursuant to the Tax Increment for Development Act" after the words "secured by."

OTHER SUBSTANTIVE ISSUES

Currently the state has no oversight or input in Tax Increment Development Districts (TIDDs) after their increments are dedicated from BOF and they are given bonding authority by the legislature. Of particular worry is the fact that the state currently has no presence on TIDD governing boards despite being in most cases the projects largest investor. Language has been inserted into a number of TIDD bills before the legislature which attempt to give the state greater oversight after bonding authority is approved including the prohibition of capital outlay projects during the life of bonds, and mandatory consultation with the New Mexico Finance Authority (NMFA) and or Board of Finance (BOF) before issuing bonds or amending master development agreements. Despite the use of these requirements in individual TIDD legislation, a comprehensive bill is needed to ensure that the state has sufficient oversight in TIDD projects to protect its investment. House Bill 451, endorsed by the NMFA Oversight Committee, addresses these issues by giving the state a more appropriate level of oversight.

ALTERNATIVES

Because the incremental state GRT revenues dedicated to this TIDD are relatively small, it would normally be feasible for the City of Las Cruces to finance these construction projects through capital outlay funding. Given the current budget situation however, a state tax increment has proven a more effective and economically feasible financing option. Because of the no net expense attribute of this particular TIDD it is in the best economic interest of the state to finance this project through incremental tax revenues although capital outlay funding would be a reasonable alternative.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this legislation were not to be enacted, the City of Las Cruces would have to seriously alter its financing plan for projects that are largely already underway. As discussed in the alternatives section, the city could feasibly finance these projects through capital outlay funding. However, given the state's current financial situation it is highly unlikely that the necessary funds would be obtained timely enough to proceed with the project as currently scheduled. The City would also be allowed to seek legislative approval during the 2010 session.

DMW/mt:svb

Comparison Of TIDDs

	Mesa del Sol	Suncal	Downtown Las Cruces	Winrock/Quorum
Status	**Active**	**Active**	**Active**	**Active**
Receiving GRT Distribution	Yes	No	No	n.a.
Amount received YTD	$ 971,719.33	n.a	n.a	n.a
# of Districts	5	9	1	3
Governing Entity	City of Albuquerque	Bernalillo County	City of Las Cruces/Dona Ana County	City of Albuquerque/Bernalillo County
GRT	67%	31%	75% / 75% of first 1/8th	70% / 67%
Property Tax	67%	10%	75% / 75%	75% / 50%
Governing Board	3 City Council Council staff member City staff member	No governing board established	Consists of the City Council and one non-voting member selected by the county commisioners.	1 City Council Member, 1 County Commision Member, 1 State Member (Represenative Al Park), 1 City Staff Member, and 1 Developer. (There are 2 boards, one for the Quorum district and one for the Winrock Districts. All members are the same except for the developer representative.)
Board of Finance	Approved - 75% State GRT	Approved for 4 districts - 50% state GRT	Approved - 75% State GRT	TIDD 1 Approved - 57% State GRT, TIDD 2 Approved - 70% State GRT, TIDD 3 Approved 60% State GRT
Legislature	Bond Authority up to $500 million (HB1088 2007)	SB 249 and HB 470 seek up to $408 million	SCORC Substitute for SB 19 seeks up to $8.0 million	SB 467 seeks up to $164 million
Projected Cost	$ 635,000,000.00	$ 629,000,000.00	$ 12,000,000.00	$ 164,000,000.00
Employment				
Industrial	2,937	12,423	27	0
Commercial	5,231	6,743	449	3,054
Retail	3,756	1,045	538	1,898
Total New Employment	11,924	20,212	1,014	4,952
Capital Outlay Received	$26 million of capital outlay has been appropriated to finance infrastructure projects relating to various district entities including Schott Solar ($7.5 million), Fidelity Investments ($7.5 million), Equest ($9 million), UNM ($2 million).		The City has received approximately $4.5 million in capital outlay funds for downtown revitalizations. The City will be requesting a reauthorization of $1.9 million during the 2009 legislative session so that all of the capital outlay funds can be combined and utilized for construction of Main Street.	
Other Incentives	New Markets Tax Credit (Advent Solar, Albuq Studios) Smart money (Advent Solar) Film production tax credit Renewable Energy Production Tax Credit		The Unidev Corporation, which is currently the State's master planner for workforce housing, is planning on moving into the proposed TIDD has applied for $24 million in New Market Tax Credit and is expected to reapply.	
State participation	Master developer for surrounding SLO land UNM 15% participation in house sales			
Other participation	Bernalillo County facility adjacent UNM media center adjacent Journal Pavillion adjacent	Atrisco Land Grant (historical center) Double-eagle and Eclipse adjacent Cordero Mesa business park adjacent		