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FISCAL IMPACT REPORT

ORIGINAL DATE 02/15/09

SPONSOR McSorley LAST UPDATED _____ HB _____

SHORT TITLE Tax Increment Development District Moratorium SB 483

ANALYST White

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
\$ 100.0		Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB19, SB201, SB 249, SB 467, SB509, HB392, HB451, HB470

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Department of Finance and Administration (DFA)
 New Mexico Finance Authority (NMFA)
 Economic Development Department (EDD)
 Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 483 creates a moratorium on the approval of greenfield tax increment development districts (TIDDs) from the effective date of this legislation until March 31, 2011. During the period of the moratorium a "Tax Increment Financing Task Force" is created in order to evaluate a number of different facets of the Tax Increment for Development Act relating to the establishment of "greenfield" TIDDs. The Task Force is required to report its findings, "including recommendations for legislation," to the Governor, the Legislative Finance Committee (LFC), and "other appropriate interim legislative committees" by June 30, 2010. The task force shall consist of the:

1. Secretary of the Department of Finance and Administration (DFA) or designee
2. Secretary of the Taxation and Revenue Department (TRD) or designee
3. CEO of the New Mexico Finance Authority (NMFA) or designee
4. Secretary of the Public Education Department (PED) or designee

5. Chair of LFC or designee
6. Char of the Legislative Education Study Committee (LESC) or designee
7. Director of the Bureau of Business and Economic Research (BBER) at the University of New Mexico (UNM) or designee
8. CEO of the Arrowhead Center at New Mexico State University (NMSU) or designee

Senate Bill 483 appropriates \$100,000 from the general fund to the Legislative Council Service (LCS) for the purpose of paying costs associated with the Task Force. Any unexpended or unencumbered balance remaining at the end of FY10 shall revert back to the general fund.

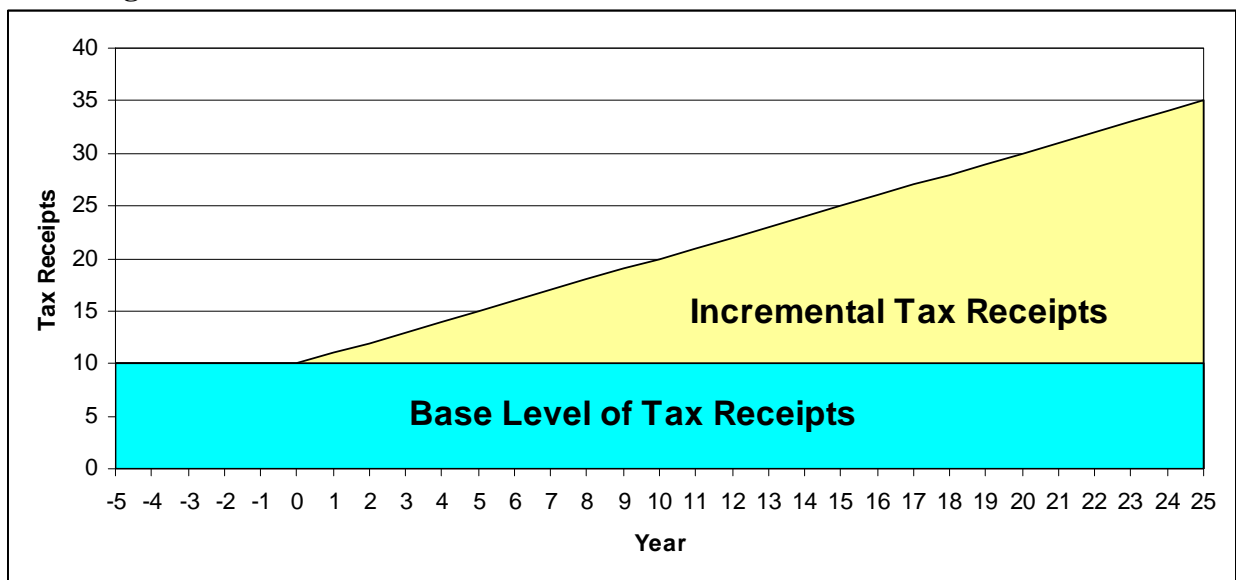
FISCAL IMPLICATIONS

The appropriation of \$100,000 contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY10 shall revert to the general fund.

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.

There are a number of other issues which need to be addressed concerning the existing TIDD statute. Currently the state has no oversight or input in 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 reform bill is needed to ensure that the state has sufficient oversight in TIDD projects to protect its investments. House Bill 451, endorsed by the NMFA Oversight Committee, addresses the majority of these issues by giving the state a more appropriate level of oversight. The Task Force created in this legislation could be extremely useful in identifying any other areas within the statute where the state currently does not have sufficient oversight abilities. In this legislation the Task Force is directed to evaluate:

1. the long-term fiscal impact on the general fund;
2. the long-term fiscal impact on municipal and county funding for recurring programs;
3. the amount of state and local gross receipts taxes and property taxes committed to existing TIDDs;
4. the experience of other states with tax increment financing, especially the inclusion of state-level taxes in tax increment financing;
5. what the consequences have been of permitting tax increment development districts to enter into contracts for public improvements without regard to the provisions of the Procurement Code or local procurement regulations;
6. the availability of other economic development incentives in existing tax increment development districts;
7. what the consequences would be if tax increment revenues prove insufficient to cover debt service on TIDD bonds;
8. whether approval by the local governing body that approved the district's tax increment development plan should be added as an explicit requirement for changes to TIDD boundaries and TIDD board membership; and
9. other possible alternatives for providing financing for public infrastructure for new developments.

This bill is not a moratorium on the approval of all TIDDs, just those TIDDs identified as greenfield developments. A greenfield development is defined in the legislation as a TIDD "consisting of land the majority of which has not been previously developed and is not currently served by municipal or county public infrastructure," and for which the development relies primarily "on the development of new residential or commercial structures...rather than the redevelopment of existing" structures. Most other states statutorily mandate that tax increment financing is only to be used for urban revitalization and other types of redevelopment projects. The current New Mexico statute however, contains no mention of whether or not certain types of developments are prohibited; stating only that a development must prove to be "in the best interest of the state." The state's two largest TIDDs currently in existence, Mesa del Sol and Westland DevCo (SB 240/HB 470), are greenfield developments. The state's first infill or "brownfield" TIDDs, Downtown Las Cruces (SB 19) and Winrock/Quorum (SB 467), came into

existence just this year and are asking the legislature for significantly less bonding authority than their greenfield counterparts. The Task Force created within this legislation could help to define what “in the best interest of the state” truly means and whether or not greenfield developments in particular truly are benefiting the state.

ADMINISTRATIVE IMPLICATIONS

The Tax Increment Financing Task Force created in Senate Bill 483 will be staffed by the Legislative Council Service (LCS), the Legislative Finance Committee (LFC), and the Taxation and Revenue Department.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB483 relates to SB19, SB249, SB467, and HB470, which all authorize various existing TIDDs to issue bonds secured by incremental tax revenues.

SB483 also relates to and at times conflicts with SB210, SB509, and HB451, which all seek to amend the current TIDD statute.

TECHNICAL ISSUES

Section 6, Paragraph B, which outlines the members of the Tax Increment Financing Task Force, is mis-numbered. Member number seven is followed by member number nine. This section should be re-numbered in order to reflect the actual number of Task Force members.

OTHER SUBSTANTIVE ISSUES

Public Education Department (PED):

“Property values within a school district affect the different tax rates for debt service taxes and the amount which is collected through ad valorem taxes. A school district would not collect the extra ad valorem taxes in excess of the base property tax due to the new development with the termination of the TIDD.

There has also been a request to the Secretary of Public Education to approve the creation of two new school districts within Albuquerque. The approval of a tax increment for development plan for a Greenfield TIDD may have an impact on the proposed division of the current school district. The moratorium will allow the task force to study all the fiscal impact of a TIDD in direct relation to the Albuquerque Public Schools.”

ALTERNATIVES

A number of TIDD reform bills have been introduced during this legislative session, and therefore a reasonable alternative to this legislation may be a combination of this bill and pieces of one or more other reform bills.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this legislation is not enacted, local governments and municipalities could continue approving all TIDDs under current statutory guidelines. Additionally the “Tax Increment Financing Task Force” would not be created, allowing the effects of tax increment financing in New Mexico to continue without formal evaluation.

DMW/svb