

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 2/23/09

SPONSOR Fischman LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Tax Increment Defined SB 576

ANALYST White

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	Indeterminate			

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 392, HB 451, HB 470, SB 19, SB 201, SB 249, SB 467, SB 483, SB 509

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Economic Development Department (EDD)  
New Mexico Finance Authority (NMFA)

#### Responses Not Received From

Department of Finance and Administration (DFA)  
Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 576 amends the Tax Increment for Development Act by striking the definition of “base gross receipts taxes,” and clarifying the definition of “base property taxes” in order to ensure that tax increment development districts (TIDDs) are only receiving credit on new business activity to the state. It defines new businesses or “eligible businesses” as a business operation that is either a start-up of an entirely new business or is a business relocating from outside the state.

### FISCAL IMPLICATIONS

The enactment of Senate Bill 576 would significantly decrease the amount of tax revenues TIDDs would be eligible to collect. By eliminating the concept of “base gross receipts taxes” the state would theoretically collect more GRT revenue than the current statute allows if the

development were made up primarily of existing or shifted business activity. Shifted business activity represents those businesses already operating within New Mexico that the state is currently collecting taxes on, that move inside a TIDD. By moving inside of a TIDD, the state loses out on up to 75 percent of GRT it would have been already receiving when the business was located outside of the TIDD. If a development were made up primarily of businesses that were net new to the state, the state would conceivably collect a similar amount of revenue to what is outlined in current statute.

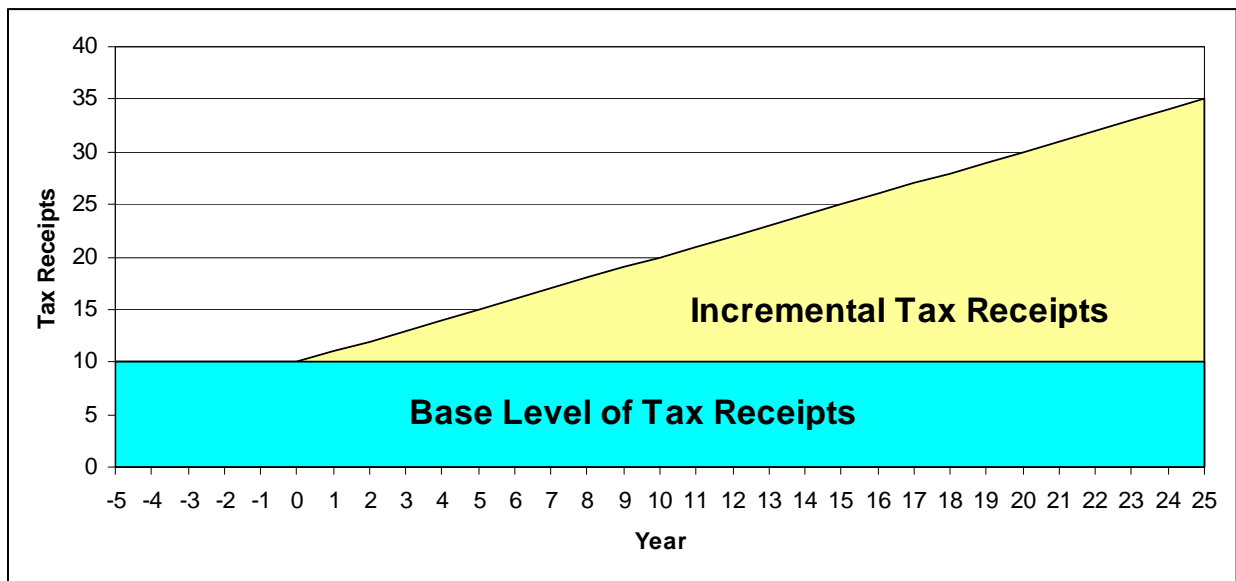
Although the bill has the potential to boost state revenues associated with TIDDs considerably, it could also dramatically decrease the demand for TIDDs throughout the state. By increasing the potential incremental revenues to the state and allowing the developer to only take credit for net new revenues, the amount of revenue which could be used to reimburse a developer for public infrastructure projects would diminish significantly. It is currently unknown what the fiscal impact to the state would be from falling TIDD demand. The state could be losing out on incremental revenues it would have received if demand had stayed the same and new TIDDs would have been developed. Due to the overwhelming amount of unknown variables associated with this legislation, its fiscal implications are indeterminate.

## SIGNIFICANT ISSUES

### Tax Increment Financing

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.

Senate Bill 576 addresses an issue not addressed in any other TIDD reform legislation currently before the legislature. Allowing TIDDs to only receive credit for businesses that are net new to the state would ensure that cannibalism of existing business activity does not occur. This cannibalism or shifting of business activity from outside of the TIDD to inside of the TIDD has the potential to cause a net loss of revenues to the state by subsidizing business activity the state is already collecting taxes on. There are a number of other issues however, which need to be addressed concerning the existing TIDD statute. 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 reform 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 the majority of these issues by giving the state a more appropriate level of oversight.

## **RELATIONSHIP**

SB 576 relates to HB 392, HB 451, and SB 509 all of which seek to amend the Tax Increment for Development Act. HB 392 and SB 509 address “greenfield” developments, but HB 451 makes no mention of “greenfield” developments.

SB 576 relates to SB 483 which creates a moratorium on “greenfield” developments while simultaneously creating a “Tax Increment Financing Task Force” to study the impacts of “greenfield developments on the state.

SB 576 relates to SB 201 which clarifies technical issues raised by the Taxation and Revenue Department. It also addresses incremental revenues in excess of those needed to pay debt service in a manner similar to this legislation.

SB 576 also relates to HB 470, SB 249, SB 467, and SB 19. HB 470 and SB 249 authorize the Westland DevCo (SunCal) TIDDs to issue bonds, SB 467 authorizes the Winrock/Quorum TIDDs to issue bonds, and SB 19 authorizes the Downtown Las Cruces TIDD to issue bonds.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The amount of incremental revenues available to developers through the Tax Increment for Development Act will remain unchanged.