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

ORIGINAL DATE 1/24/2020
SPONSOR Romero, GA **LAST UPDATED** **HB** 26

SHORT TITLE Exclude Greenfields From Certain Taxes **SB**

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY21	**FY22**	**FY23**	**FY24**	**FY25**		
	Indeterminate -- see Fiscal Impact Section					General Fund
	Indeterminate -- see Fiscal Impact Section					Local Gov'ts

Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION

LFC Files - FIRs prepared for HB247 2018 session and HB489 2017 session.

SUMMARY

Synopsis of Bill

House Bill 26 amends the Tax Increment for Development District Act (5-15-1 – 5-15-28 NMSA 1978) to exclude "Greenfields" from eligibility for either state or local approval. A greenfield area is defined to mean a land area that is primarily undeveloped and not currently served by municipal or county infrastructure **or** a project area that would primarily rely on building new structures and infrastructure rather than the redevelopment of existing structures and infrastructure.

Projects that have been approved by a governing body prior to July 1, 2021 or projects approved by the Board of Finance dedicating a state increment prior to July 1, 2021 would not be limited by this exclusion. The Board of Finance approved the Western Albuquerque Land Holdings TIDD in late 2017.

The effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

There are no current project proposals that would be affected by the provisions of this bill.

Existing projects that would have been excluded or included in the TIDD act follow:

Mesa Del Sol	Greenfield	2007
Winrock	Brownfield?	2008
Winrock rebase	Brownfield?	2015
Indian School (Quorum)	Uncertain	2008; later cancelled
Las Cruces downtown	Brownfield?	2009
SunCal (Atrisco) – West Mesa	Greenfield	2010 Approved by BoF, but bonds not approved by legislature. Project terminated.
Stonegate (Rio Rancho)	Uncertain	Local; no state increment
Village at Rio Rancho	Uncertain	Local; no state increment
Taos Ski Valley	Brownfield?	Completed
Western Albuquerque Land Holdings (Santolina)	Greenfield	Approved by Board of Finance in fall of 2017.

The Quorum project and the Stonegate (Rio Rancho) TIDD projects were built on what may have been vacant land (infill) within municipal boundaries. The first definition of "greenfield" in the bill would clearly reject Mesa Del Sol and SunCal -- WALH/Santolina. The second definition of "greenfield" may be more difficult to apply. Taos Ski Valley involved in the redevelopment of the hotel and associated structures but added new construction of retail space and the infrastructure to support the redevelopment. The Winrock project involved razing the old buildings and building new structures from the ground up. It could be that all of the projects approved to date would be excluded because of the new definition.

The TIDD act alternately expands, then narrows, then expands the gross receipts tax (GRT) base. The typical TIDD project can be divided into five somewhat overlapping phases: (1) infrastructure construction; (2) construction of residential, commercial and industrial space; (3) growth phase; (4) maturity and (5) cancellation of the TIDD diversions. In the first two phases, gross receipts taxes on the construction typically result in net revenue gains for the sponsoring government and the state (if a state increment has been approved). In the growth phase, both sponsoring government and the state may lose revenue below the baseline in the absence of the project, assuming that there will be some displacement or cannibalization of economic activity from areas outside the TIDD to areas within the TIDD. In the maturity phase, net new economic activity may outpace the required TIDD diversions used to pay the TIDD bonds. Finally, when the bonds are paid off, the sponsoring government and the state have created a revenue generating engine. Estimating any project *a priori* is extremely difficult. Because of adequate reporting and cooperation of the developer, the projects can be tracked quite well (with the exception of measuring displaced or cannibalized economic activity) for a number of years as the TIDD increments continue to be diverted. The only project to move through all phases is the Taos Ski Valley redevelopment. The TIDD increments were never used to purchase and amortize long-term bonds, but were "sponged." The TIDD has been dissolved and the State and Taos County are beneficiaries of substantial enhanced economic activity in the region. The jury is still out for Mesa del Sol. Apparently, the Winrock project will follow the original path after rebasing created a financing opportunity for the developer. The Las Cruces project can also be considered a success.

More than ten years into the TIDD experience (HB462 in the 2006 session created the TIDD Act), there is no certainty or consensus on the financial benefits or liabilities.

In general, the analysis of these TIDDs is difficult, time-consuming, and highly assumption--based. The requirement that the approval be "in the best interest of the state" is difficult to conclude with certainty.

SIGNIFICANT ISSUES

The tax policy implication of the proposed modification to the Tax Increment of Development Act is to fund brown-field redevelopment, as opposed to green-field projects. This may address concerns that only private developers benefit from the subsidies provided in the form of tax increment districts, whereas many would argue that TIDDs should benefit the public through the redevelopment of existing infrastructure. On the other hand, a project such as the reconstruction of the aging Winrock Center would probably not have happened in the absence of the TIDD Act which allowed the redeveloper access to construction funds.

In order to obtain approval of a local or state increment, the developer must show to the satisfaction of the sponsoring government that the project will result in jobs and economic opportunities and is in the best interest of the local government and the state (if a state increment if requested). The developer expends money on project infrastructure and transfers that infrastructure to the sponsoring government. The TIDD increments arise from incremental revenues over the baseline. For a greenfield, this baseline is effectively zero. All gross receipts taxes and property taxes contribute funds to the building of the infrastructure. If the new revenue stream is adequate to allow bonds to be sold, the TIDD board can sell the bonds and reimburse the developer at the time the infrastructure is transferred to the sponsoring government. This frees the developer's resources to build residential, commercial or industrial structures and deliver the jobs and economic opportunities implicit in the TIDD approval.

As mentioned above, the second definition of "greenfield area" would have effectively excluded every one of the historically approved projects. The Board of Finance has previously promulgated a regulation governing the TIDD act. This new definition would probably be within the regulatory authority of the Board of Finance (BOF), as well.

SB566 of the 2019 session also made a number of changes to the TIDD act, primarily clarifying a number of provisions of the act. In addition to those clarifications, that bill makes the following substantive changes:

- Adds a definition of "new full-time economic base job" for guidance to BOF when evaluating TIDD applications;
- Limits the dedication of a portion of the state GRT increment to the average of:
  - The local GRT increment dedicated by a municipality (if the district is located inside a municipality), or
  - The local GRT increment dedicated by a county;

- Restricts local GRT increments to the same uses as the state increment – they must be used for bonds – removing payments related to "loans or advances to, or any indebtedness…";
- Provides for a filing fee to accompany a TIDD application to BOF to pay the reasonable costs, as determined by the Department of Finance and Administration, of evaluating the application and requested use of the state GRT increment; and
- A TIDD receiving a state GRT increment must report annually on September 1 to BOF and LFC the capital investment in the district, total new jobs, new full-time economic base jobs, and total revenues distributed to the district in each previous fiscal year.

PERFORMANCE IMPLICATIONS

One issue that has arisen over the years with the numerous TIDD projects is transparency and accountability. The Board of Finance usually requires some form of annual reporting from the project's sponsors.

The LFC tax policy of accountability is nominally met since the BOF usually requires some annual reports on jobs, economic activity, construction activity and so on, but this information is less frequently reported to the Legislature.

LG/rl