

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

SPONSOR Papen **ORIGINAL DATE** 01/28/10 **LAST UPDATED** 02/08/10 **HB** _____

SHORT TITLE Las Cruces Tax Increment Project Bonds **SB** 95/aSFL#1

ANALYST White

REVENUE (dollars in thousands)

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

(Parenthesis () Indicate Revenue Decreases)

Duplicates HB 112

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)
 Department of Finance Administration (DFA)
 New Mexico Finance Authority (NMFA)
 Economic Development Department (EDD)

SUMMARY

Synopsis of SFL Amendment #1

Senate Floor Amendment number one to Senate Bill 95 eliminates language providing for an emergency clause. If enacted, the proposed legislation will therefore become effective May 19, 2010.

Synopsis of Original Bill

Senate Bill 95 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 \$8 million supported by a combination of state, county, and city tax increments and is subject to:

1. the review by the New Mexico Finance Authority prior to issuance of any bonds of the master indenture applicable to bonds issued for the city of Las Cruces main street tax increment development project;
2. the review by the New Mexico Finance Authority of any amendments to the master indenture prior to the issuance of the bonds after any amendments; and
3. the determination by the New Mexico Finance Authority that the master indenture and any amendments to the master indenture contain covenants and other provisions that ensure that the proceeds of the bonds will be used as described in the development plan for the city of Las Cruces main street tax increment development project.

Senate Bill 95 also prohibits the Legislature from authorizing capital outlay projects within the TIDDs while bonds are outstanding except for publicly owned facilities that are:

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

Although Senate Bill 95 authorizes the TIDD to issue bonds for a period of twenty five-years “except as this act may be amended or repealed by the legislature.” Although the TIDD can issue bonds supported by local revenues for a period of 25 years, restrictions placed in its State Board of Finance (BOF) approval prohibit the district from issuing bonds supported by state tax increments after December 31, 2018.

The proposed legislation contains an emergency clause.

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 already been completed or are in the final stages of completion. These projects include a new \$28 million City Hall and \$83 million Federal Courthouse. 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 Improvements	\$ 2,000
Total	\$ 147,800

* Dollar values in thousands

FISCAL IMPLICATIONS

Senate Bill 95 is similar to Senate Bill 19 introduced during the 2009 regular session which passed the Senate and various House committees unanimously but was never brought to a vote on the floor. This one year delay in the issuance of bonds has been costly to the project as noted by DFA below.

Department of Finance and Administration (DFA):

Because the Board of Finance's resolution approving a dedication of state gross receipts tax increment is effective on July 1 or January 1 following legislative approval of bonds, the fact that the legislature did not approve bonds during the 2009 regular session may impact the size of the state increment available for the project. The vast majority of gross receipts tax increment generated by the project was expected to stem from construction activity taking place early in the timeline. Any of that construction activity that occurs between July 1, 2009 and June 30, 2010 will not be eligible to receive the state increment. Information necessary to assess the scale of this impact has been requested from the City of Las Cruces.

The original 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. The original analysis, which was performed prior to the 2009 regular session, showed that 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 original analysis showed 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.

The City of Las Cruces has not yet been able to provide staff with more updated cash flow projections and therefore it is uncertain to what extent these findings still hold true.

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 a no net cost determination by the original analysis, 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):

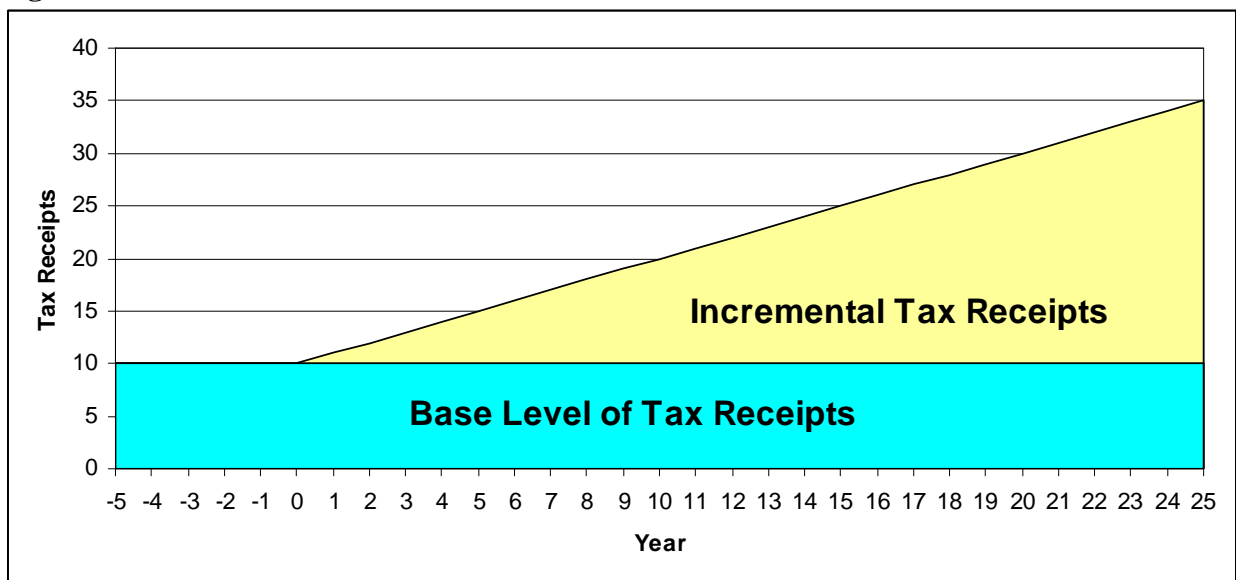
“The University of New Mexico’s Bureau of Business and Economic Research (BBER) was contracted by the City of Las Cruces to complete an economic analysis of the TIDD project. That analysis, which DFA believes to be conservative and reasonable, indicates that the project will create 507 permanent new 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.

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:



In theory 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 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.

New Mexico Finance Authority (NMFA):

“NMFA staff has reviewed various documents submitted by the City of Las Cruces. These documents include:

- Application to the City of Las Cruces for the creation of the Tax Increment for Development District (December 2008);
- City of Las Cruces ordinance and resolutions:
 - i. Resolution Adopting the Main Street Downtown Metropolitan Redevelopment Area (June 2007);
 - ii. Resolution Calling for a Mail Ballot-Only Election regarding the Formation of the Tax Increment Development District and the Taxes Dedicated to the District (November 2007);
 - iii. Resolution Accepting the Canvass for the Mail Ballot-Only Election (December 2007)
 - iv. Ordinance Establishing the TIDD Board (January 2008);
- Doña Ana County Resolution Dedicating incremental revenues derived from gross receipts taxes and property taxes within the District’s boundaries (June 2008);
- State Board of Finance resolution for the use of State Gross Receipts tax revenue;
- Draft Finance Plan; and
- Project update on construction projects within downtown Las Cruces.

NMFA focused its review of the project to the structure of the proposed bond issuances as it relates both to the Tax Increment Development Plan and to assure that the proposed bonds will be structured to provide certain protections to the bondholders. In its review, the Finance Authority determined that it needed to review and approve the master indenture governing the proposed issuance of bonds, and any amendments to the master indenture, to be certain the bond proceeds would be used in accordance with the tax increment development plan. The finance authority’s recommendation to the legislature is contingent upon this review and approval of the master indenture.”

TECHNICAL ISSUES

DFA notes in its analysis that the emergency clause contained in the proposed legislation is rendered unnecessary by the original BOF resolution. The BOF resolution approving a dedication of state revenue to the Las Cruces TIDD as well as city and county dedications would become effective on July 1, 2010 if the 2010 Legislature authorizes Senate Bill 95. Therefore immediate action on Senate Bill 95 would not be possible even in the presence of an emergency clause.

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 original

no net expense determination of this particular TIDD it may prove to be in the best economic interest of the state to finance this project through incremental tax revenues instead of capital outlay funding.

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, under normal state budgetary constraints 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 2011 regular session.

DMW/mt