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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/08

SPONSOR McSorley LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Tax Increment Development District Moratorium SB 434

ANALYST Francis

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	100.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates parts of HB451  
Relates to HB276, SB398

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)  
Economic Development Department (EDD)  
NM Municipal League

### SUMMARY

#### Synopsis of Bill

Senate Bill 434 would impose a moratorium on Tax Increment for Development Districts (TIDD) in “greenfield” areas until March 31, 2010, and create a task force that would study the issue. Greenfield is defined as a TIDD “consisting of land or property the majority of which has not been developed and is not currently served by municipal or county public infrastructure and for which the tax increment development plan primarily relies on the development of new residential or commercial structures rather than the redevelopment of existing residential or commercial structures.”

There is a \$100 thousand appropriation for the task force which would be made up of DFA, TRD, NMFA, New Mexico Association of Counties, New Mexico Municipal League, AFSCME, NM chapter of American Planning Association, LFC, affected neighborhoods, and members of the public at large. The task force shall evaluate the implementation and effect of the Tax Increment for Development Act and the consequences of approving additional greenfield TIDDs. The

focus will be on long term impacts on the general fund, local government finances, other states' experience, and other issues. The task force must deliver a report by June 1, 2009.

There is an emergency clause so the effective date is upon the Governor's signature.

### **FISCAL IMPLICATIONS**

The appropriation of \$100,000 contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY09 shall revert to the general fund.

SB434 would not affect either of the two TIDDs currently in existence: Mesa del Sol and Westland DevCo (a.k.a. SunCal). Since the moratorium on greenfield development applies to future applicants, there is no way to calculate a fiscal impact. This would affect any reapplication for a TIDD by the Verde Group in Dona Ana County. This application was withdrawn in the fall of 2007 and it is unknown whether the group plans on reapplying.

### **SIGNIFICANT ISSUES**

The moratorium would be imposed on all local government approvals of TIDDs for the two years that it is in place. This gives a task force time to collect information and input about TIDDs and prepare a report and leave enough time for interim committees in 2009 to digest the report and bring any legislation or recommendation to the 2010 legislature.

The New Mexico Municipal League reports that the moratorium may result in an impediment to development in New Mexico municipalities and counties. With growth in certain areas of the state at very high levels and demand for new housing being great passage of the bill may result in a housing shortage in some municipalities. The moratorium may result in the loss of jobs in the construction industry.

**Task force.** The Tax Increment for Development Act was passed in the 2006 session and had not been considered by any interim committees before its passage. The statute was based on other laws such as the public improvement district act and the metropolitan redevelopment act but there was little in the way of public input into the design of the law. Now, there have been three TIDDs approved under the law (Mesa del Sol, Westland DevCo, downtown Las Cruces) and many in the state feel that there is reason to revisit it and see if there are ways to improve it. State economists feel that the task force would help in creating and implementing a common framework to evaluate TIDDs and the fiscal and economic analyses TIDD applicants provide.

DFA is concerned that the language appropriating \$100,000 needs to include the ability to hire outside consultants or pay for econometric software so that economists under the auspices of the task force can develop models for TIDD analysis.

DFA:

A portion of the appropriation provided in the bill could be used, perhaps, to analyze the economic consequences of the two existing projects -- SunCal and Mesa del Sol -- using a computable general equilibrium model of the state and regional economies. The most advanced model available to State analysts is the Policy Insight Model v. 9.5 provided by REMI (Regional Economic Models, Incorporated) of Amherst, MA. The State

Department of Transportation owns a seven-region version of this model and at least two economists on staff at LFC, DFA, TRD and DOT have some level of familiarity with this sophisticated model. DFA economists can redo the analysis of the SunCal project as an exemplar of a large-scale, greenfield TIDD project. This comprehensive analysis can be used as the base case for risk analysis if some of the assumptions in the current analysis or the redone analysis are allowed to vary.

Separating the Task Force's duties into a technical analysis and a policy analysis based on the technical analysis seems appropriate. A collateral benefit is that a comprehensive technical analysis will lead to recommendations on standardized methodology that can be applied to all future TIDD applications.

DFA also recommends that one of the task force goals should be to define what the term “best interests of the state” means as this is essentially the only criteria BOF has to approve a diversion of state revenue.

The task force is made up of a diverse group of interested parties though it does not seem to include a member of the developer community which would make it more inclusive. The task force is charged with evaluating:

- The long term fiscal impact on the general fund
- The long term fiscal impact on local government finances
- The amount of state and local GRT committed to TIDDs
- Other states’ experience, particularly with using state level tax revenue
- Consequences of TIDDs not following the procurement code
- Economic development incentives in TIDDs
- Likely consequences if a TIDD fails
- Treatment of changes to the TIDD boundaries and board
- Other avenues for providing financing for public infrastructure for new developments.

### **ADMINISTRATIVE IMPLICATIONS**

The task force would be staffed by legislative council service, LFC, DFA and Taxation and Revenue Department and so there will be administrative implications for each of these agencies depending on the time commitment required.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB276 and SB398 authorize the bonds for the Westland DevCo TIDD in Bernalillo County. HB451 creates an identical task force but makes several changes to the Tax Increment For Development Act to provide more state oversight on TIDDs and lowers the maximum gross receipts tax increment to 50 percent and 20 percent for greenfield TIDDs.

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

It has become clear that there is considerable latitude in the interpretation of the Tax Increment for Development Act and a “time-out” to assess what has been authorized and how the process works would be beneficial to the state. As it stands, state economists lack the tools to comprehensively analyze TIDD applications and the two that have come before the state to date

have used very different assumptions and methodology. Without a moratorium and task force, the state economists will likely be faced with a new application and yet another methodology and set of assumptions to consider and evaluate.

NF/mt