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

SPONSOR Garcia, M.P. **ORIGINAL DATE** 3/2/09 **LAST UPDATED** **HB** 791

SHORT TITLE Tax Increment District Maximum Period **SB**

ANALYST White

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	**FY10**	**FY11**		
	$ 0.1	$ 0.1	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB 19, SB 201, SB 249, SB 467, SB 483, SB 509, SB 576, HB 392, HB 451, HB 470, HB 870

SOURCES OF INFORMATION
LFC Files

Responses Received From
Economic Development Department (EDD)
Department of Finance and Administration (DFA)

Responses Not Received From
Taxation and Revenue Department (TRD)
New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of Bill

House Bill 791 amends the Tax Increment for Development Act by limiting the amount of time the State Board of Finance (BOF) may dedicate a state gross receipts tax increment to 25 years from the effective date of dedication.

FISCAL IMPLICATIONS

One could reasonably assume that limiting the maximum dedication of tax increments would have a positive net fiscal impact upon the state. The exact fiscal impact of this legislation however, is difficult to determine due to a number of possible unintended consequences. For example, this legislation could substantially decrease TIDD demand and or decrease the size and scope of TIDD projects throughout the state. It is yet unknown what effect a decrease in TIDD demand or the size and scope of TIDD projects would have upon the state as it is also unknown what effect existing TIDDs are currently having on the state. **Because this legislation would limit the state's exposure to lengthy tax increment dedications, LFC staff believes the net fiscal impact of this legislation will be positive. However, it would be purely speculative to assign a specific dollar value or range to those impacts. The exact implications of this bill would be determined by the future decisions and actions of BOF, the Legislature, and individual TIDD Governing Boards.**

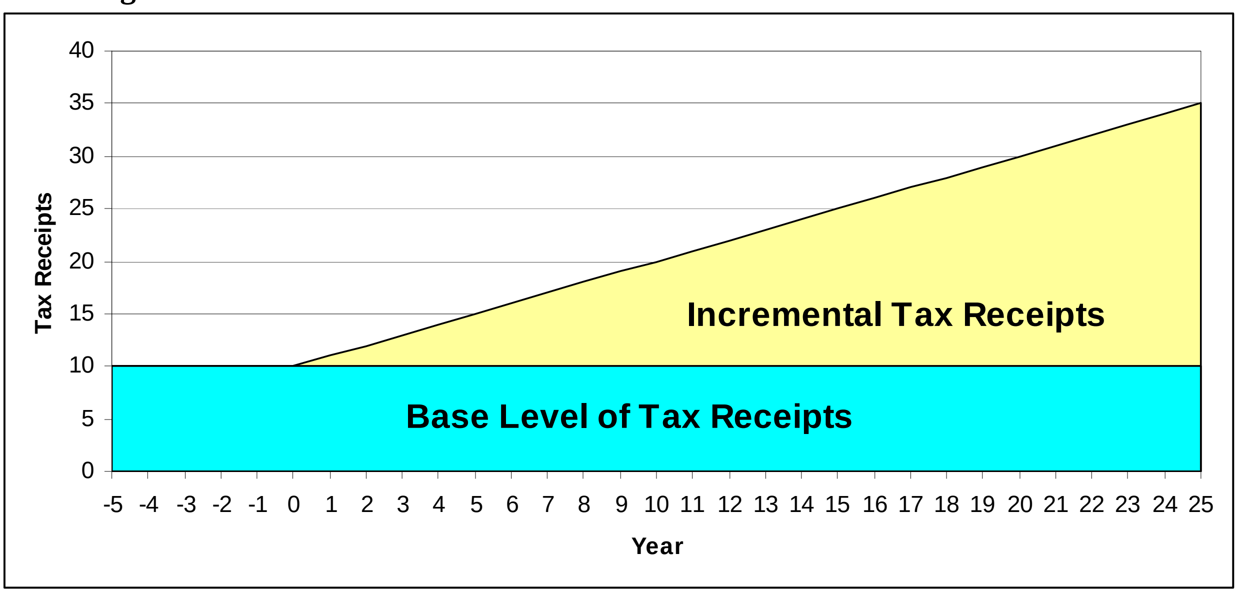
SIGNIFICANT ISSUES

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.

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.

Figure 1:



When the Tax Increment for Development Act was first enacted in 2006, language was inserted to limit the amount of time that a tax increment could be outstanding. The original legislation sought to accomplish this by limiting the length of time that bonds could be outstanding to 25 years. However, the Act makes no contingencies addressing the period of time between when the increment is dedicated and when bonds are issued. This oversight has prompted a number of existing developments to collect incremental revenues for a substantial amount of time before issuing bonds and starting the 25 year clock. As an example, one development currently before the legislature is not expected to issue bonds until 12 years after BOF approval. This means that under the current statute this development could accrue incremental state GRT for a period of 37 years.

The original legislation was also not intended to support multiple districts as a part of one development. For this reason the language in the original bill stated that a district could issue tax-exempt bonds for up to 25 years. Developers then formed developments consisting of a number of districts and staggered the timing of bond issuances in order to increase the amount of time that increments were outstanding to the development. The example in Figure 2 shows that if a development made up of 5 districts were to issue 25 year bonds staggered over 5 year increments, the state would be required to dedicate incremental revenues for a period of 50 years.

Figure 2:

Year	0	5	10	15	20	25	30	35	40	45	50
TIDD 1											
TIDD 2											
TIDD 3											
TIDD 4											
TIDD 5											

House Bill 791 solves both of the aforementioned dilemmas by limiting the length of the tax increment dedication to 25 years from the effective date of the BOF authorizing resolution. The developments would then have only 25 years of state GRT revenue to service and retire bonds from all of its districts to reimburse developers for public infrastructure projects.

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

HB 791 relates to HB 392, HB 451, SB 509, and SB 576 all of which seek to amend the Tax Increment for Development Act.

HB 791 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.

HB 791 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.

HB 791 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

If this legislation is not enacted the Board of Finance would continue to be allowed to dedicate state GRT increments until a TIDD's bonds are retired. TIDDs would also be able to continue to stagger their issuances of 25 year bonds, potentially lengthening the amount of time that state tax increments are outstanding by decades.

DMW/mt