

TIDD WORKING GROUP

July 14, 2008

Olivia Padilla-Jackson
Executive Director
New Mexico State Board of Finance
181 Bataan Memorial Building
Santa Fe, NM 87501

RE: NMAC Draft Rule – Dedication of a Portion of the State’s Gross Receipts Tax Increment

Dear Ms. Padilla-Jackson:

On behalf of the 21 undersigned organizations, we submit these comments for the Board’s consideration.

We commend the Board’s effort in developing a draft rule regarding the Board’s dedication of the state gross receipts tax increment under the Tax Increment for Development Act (Act). The draft rule provides a number of protections to the state and taxpayer that are missing from the current statute but are well within the Board’s authority to require. This draft rule is particularly important given that the Board is the first line of review in terms of state-level approvals and the only entity with the authority to approve the dedication of the state tax increment. The Board’s role is essential in protecting the interests of the state and the state taxpayers. The state has been the major investor in the TIDDs approved so far, committing far more in future tax revenue than the local governments that initially approve the formation of the TIDDs. One of the major benefits to local governments in approving the creation of TIDDs is that, if approved by the state, TIDDs create a recurring capital outlay appropriation for local development outside of the annual capital outlay appropriations process.

One of the major concerns about the implementation of TIDDs under the Act is the risk to the long-term stability of the state General Fund. In the past, development in any area of the state benefited the entire state by generating increased gross receipts taxes that went into the state General Fund to be used for statewide programs. Now under TIDDs, these increases will be dedicated solely to specific developments within specific areas of the state. Another concern is that since the state budget relies on increased revenues in order to meet ongoing commitments in recurring state programs, TIDDs would have to generate revenue increases above those already assumed in the state budget forecasts. If TIDDs don’t generate increases above the baseline forecast, then they are essentially taking future General Fund revenue away from ongoing state

programs. Finally, another risk to the General Fund is that TIDDs may result in a shifting of the tax base from existing areas of the state to the TIDDs which can offer newer infrastructure and, if established in undeveloped areas, larger parcels of land to both new and existing companies and homeowners.

Another major concern is the governance and transparency within TIDDs. The statute allows for TIDD Boards to be elected, which means they can be controlled by developers who are often the majority property owners in the TIDD. Ceding control over a significant amount of taxpayer dollars to private interests with very little description or guarantee of performance in return for the money is unlikely to be in the best interest of the taxpayer. And there are currently few requirements for TIDDs to report on whether they are meeting the public policy goals initially proposed in the TIDD application – and presumably the reason a state subsidy was provided.

Finally, a remaining concern is that Act is being used to subsidize low-risk, low-cost sprawl on the fringes of existing communities rather than to provide incentives for redevelopment in high-risk, high-cost areas within existing communities. While the TIDDs proposed so far provide the promise of “smart growth” and sustainable development, these goals can be achieved through land use planning and, in fact, many of the local planning ordinances in the areas in which TIDDs have been approved require such development. TIF is a financing tool that should be used only to fulfill specific policy goals that cannot be met through other means.

The Board has made a significant and welcome effort to address some of these concerns in the draft rule. We are therefore providing comments on the rule, but also want to be clear that we believe the underlying Act is flawed and needs to be revised in order to better protect the interests of the citizens of New Mexico. Many of the undersigned will continue to work to reform the Act so that it better serves the public interest.

Our comments are attached, structured according to the structure of the draft rule.

Unless otherwise indicated, we support the provisions of this rule as providing the framework for Board decisions on TIDDs based on strong public policy goals and standardized procedures and methodologies. In most cases, our comments either emphasize the importance of the provision or make recommendations to strengthen the provision in order to support the stated public policy goals of the Act and provide better protections to the state and taxpayers.

We appreciate the opportunity to provide comments and thank the Board for working to represent the New Mexico taxpayer in its decisions on TIDDs. If you have any questions, please contact Anne Stauffer at New Mexico Voices for Children at 228-6783. She can refer you to any of the undersigned groups as necessary.

Sincerely,

TIDD Working Group

1,000 Friends of New Mexico AFSCME Conservation Voters New Mexico

Environment New Mexico New Mexico Voices for Children Quality Growth Alliance of Doña Ana County

Southwest Energy Alliance Southwest Organizing Project

Co-signers

American Federation of Teachers New Mexico AFL-CIO Amigos Bravos Bicycle Coalition of New Mexico

Coalition for Clean Affordable Energy Greater Albuquerque Housing Partnership Lutheran Advocacy Ministry New Mexico

Natural Resources Defense Council New Mexico Catholic Conference of Bishops New Mexico Conference of Churches

New Mexico Public Interest Research Group (NMPIRG) New Mexico Republicans for Environmental Protection SAGE Council

Smart Growth America

CC:

Senator John Arthur Smith, Chairman, Senate Finance Committee and Legislative Finance Committee

Representative Kiki Saavedra, Chairman, House Appropriations and Finance Committee

Rick Homans, Secretary, Taxation and Revenue Department

Stephen Flance, Chairman, New Mexico Finance Authority