

# TAX INCREMENT FINANCING



PERFORMANCE AUDIT  
ISSUED MAY 14, 2008

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LOUISIANA LEGISLATIVE AUDITOR  
STEVE J. THERIOT, CPA

May 14, 2008

The Honorable Joel T. Chaisson, II,  
President of the Senate  
The Honorable Jim Tucker,  
Speaker of the House of Representatives

Dear Senator Chaisson and Representative Tucker:

This report provides the results of our performance audit of Tax Increment Financing (TIF) in Louisiana. The audit was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended.

The report contains our findings, conclusions, and recommendations. Appendix C contains a response from the Louisiana Department of Revenue. The Department of Economic Development and the State Bond Commission did not provide written responses to the audit. I hope this report will benefit you in your legislative decision-making process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve J. Theriot", is written over a faint, circular watermark or seal.

Steve J. Theriot, CPA  
Legislative Auditor

SJT/sr

TIF08



	Page
<b>Executive Summary</b> .....	3
<b>Introduction</b> .....	5
Audit Initiation and Objectives .....	5
Overview of TIF.....	5
Legal History of TIF in Louisiana.....	7
Overview of Louisiana’s TIF Process .....	7
<b>What Projects in Louisiana Are Funded in Whole or in Part by State Tax Increments?</b> .....	11
<b>How Can Louisiana Improve Its TIF Process?</b> .....	13
Clearly Define State Agencies’ Roles and Responsibilities in State Law.....	13
Implement Formal Policies and Procedures .....	14
Strengthen Statutory Controls Over TIF Process .....	15
<b>What Are the Potential Benefits and Risks of Using TIF?</b> .....	19
<b>What Other Factors Should Be Considered When Deciding Whether to Use TIF?</b> .....	21
<b>Appendixes</b>	
Appendix A: Audit Scope and Methodology .....	A.1
Appendix B: Current TIF Project Details.....	B.1
Appendix C: LDR’s Response .....	C.1



## EXECUTIVE SUMMARY

In 2002, the legislature allowed the use of state sales tax increments to fund local economic development projects. The legislature also authorized the use of hotel occupancy tax increments to finance projects located in certain special taxing districts. We compiled an inventory of current projects that use state tax increments. We also examined Louisiana's tax increment financing (TIF) process, including legal authority and policies and procedures, and compared the process to that in other states. Our results are summarized below.

### Performance Audit Findings

***What projects in Louisiana are funded in whole or in part by state tax increments?*** As of March 2008, eight TIF projects in Louisiana use state sales tax increments and one uses state hotel occupancy tax increments. These projects are for infrastructure improvements and/or economic development. Local governments involved issued bonds totaling more than \$140 million to finance seven of the nine projects. For another project, the local governing authority uses sales tax increments collected to finance the project on a "pay as you go" basis without issuing bonds. For the remaining project, the TIF district uses hotel occupancy tax increments collected to pay off a loan used to finance the project's costs. (See pages 11-12.)

***How can Louisiana improve its TIF process?*** Louisiana can improve its TIF process by amending state TIF laws to include clear guidance on the roles and responsibilities of the state agencies involved in the process, requiring the agencies to implement formal policies and procedures, and strengthening statutory controls over the process. (See pages 13-18.)

***What are the potential benefits and risks of using TIF?*** TIF can be beneficial to state and local governments, as well as taxpayers. Potential benefits of using TIF include creating higher tax revenues and employment rates, financing major projects without raising taxes or decreasing public services, attracting new businesses or helping existing businesses to stay or expand, and eliminating blighted areas. TIF can also present several risks to state and local governments. Potential risks of using TIF include waiting until bonds or loans are paid off to use increased tax revenues, being deprived of higher tax revenues if TIF is used where it is not needed, funding financial shortfalls that may occur if TIF projects fail, and losing tax revenues if other areas use TIF to lure away existing businesses. (See page 19.)

***What other factors should be considered when deciding whether to use TIF?*** TIF projects may not always create the number of jobs the developers promise or they may result in low wage jobs. Also, TIF could be used to relocate existing businesses, jobs, and tax revenues from other areas and create little net benefit. In addition, TIF could be used to subsidize projects that provide competition to existing businesses, putting smaller enterprises operating without TIF at a disadvantage. Furthermore, local governments could overinvest in TIF projects that do not generate sufficient tax revenues to pay for the investments or underinvest in projects such that they do not attract new development. (See pages 21-22.)

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# INTRODUCTION

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## Audit Initiation and Objectives

Because of the increased use of tax increment financing (TIF) in recent years, the Louisiana Legislative Auditor scheduled a performance audit on the use of TIF in the state of Louisiana. The objectives of the audit were to answer the following questions:

- What projects in Louisiana are funded in whole or in part by state tax increments?
- How can Louisiana improve its TIF process?
- What are the potential benefits and risks of using TIF?
- What other factors should be considered when using TIF?

Appendix A contains our audit scope and methodology. Appendix B describes the current TIF projects that use state tax increments. Appendix C contains the response we received from the Louisiana Department of Revenue regarding our conclusions and recommendations. The Department of Economic Development and the State Bond Commission did not provide written responses to the audit.

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## Overview of TIF

**What is TIF?** TIF is a mechanism that local governments can use to capture the future tax benefits of real estate improvements to pay the present cost of those improvements. TIF can be used to channel funding, or tax increments, toward improvements in distressed or underdeveloped areas where development would not otherwise occur. TIF also enables local governments to provide incentives to attract new businesses or help existing businesses stay or expand. In addition, TIF offers self-financing for development projects, allowing local governments to encourage development and compete for businesses without having to pay upfront development costs.

According to the Council of Development Finance Agencies (CDFA),<sup>1</sup> TIF is most effective and least controversial when the goals are to remove severe blight, direct public finance resources pursuant to a community plan or policy, address environmental remediation, or finance infrastructure. In Louisiana, state law allows the use of TIF as an incentive for funding development and redevelopment projects in areas that may be experiencing economic distress. Specifically, local governments may use tax increments to fund local economic development projects such as public works and infrastructure and projects to assist various industries.

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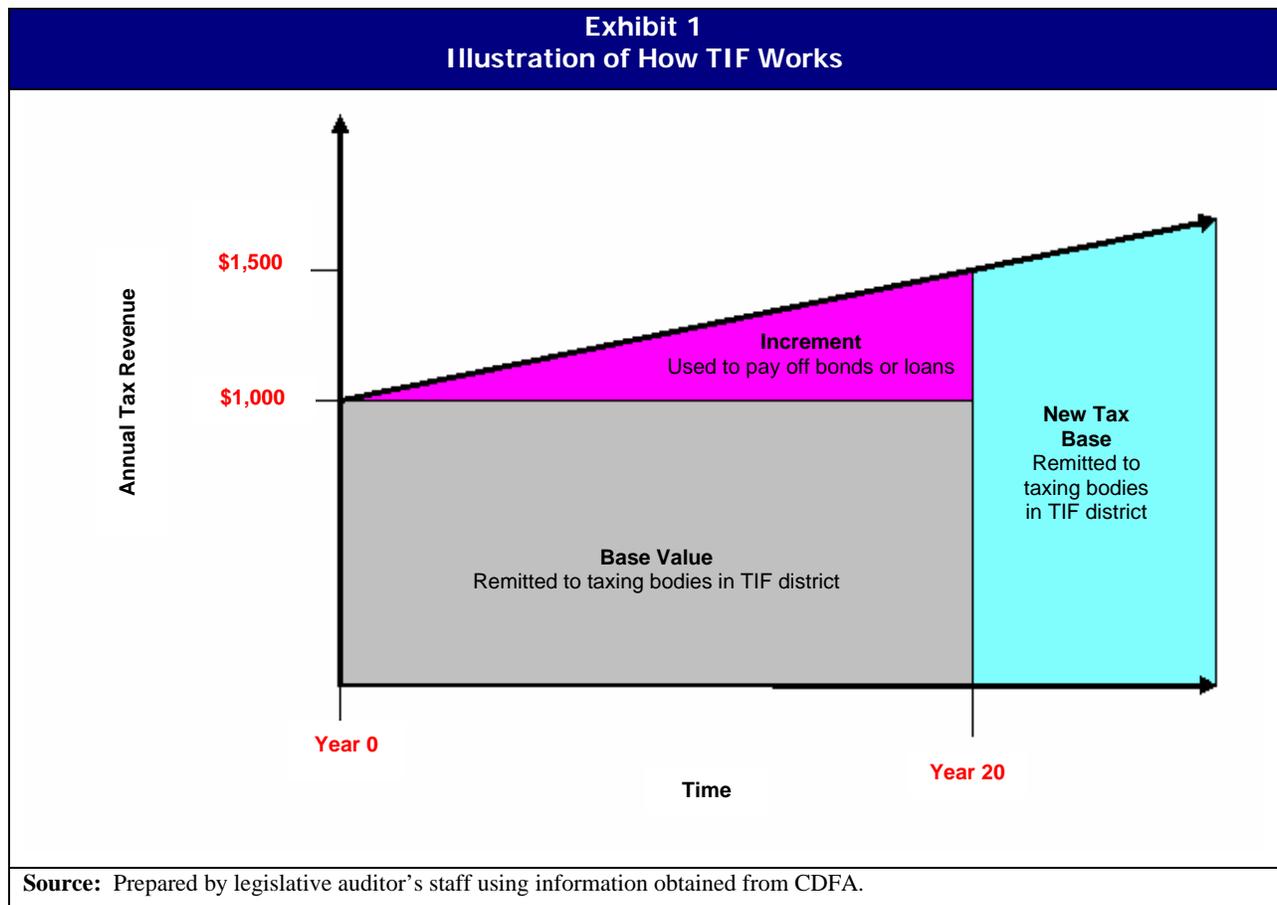
<sup>1</sup> The CDFA is a national association dedicated to the advancement of development finance concerns and interests, including TIF. For more information, visit the CDFA's Web site at [www.cdfa.net](http://www.cdfa.net).

**How Does TIF Work?** States authorize local governments to designate project areas to capture tax increments. These areas are often called “TIF districts.” The taxing bodies in TIF districts continue to receive the base values, while the increments are diverted to pay off bonds or loans that were used to finance the projects. The tax increments may also be used to reimburse the developers for the projects’ costs as the revenues are received. This method is often called “pay as you go” financing. The diversion of tax revenues continues until the TIF district expires or the bonds or loans are paid off.

The **base value** is the amount of tax revenues the TIF district generated immediately prior to the development.

The **increment** is the increase in tax revenues resulting from the project.

For example, assume that existing property in a TIF district generates \$1,000 a year in tax revenues. The local government approves the use of TIF for a new project in the district and issues bonds to finance the project’s costs. Over time, the district’s annual tax revenues increase to \$1,500. The taxing bodies in the district continue to receive \$1,000 each year (i.e., the base value), and the \$500 difference (i.e., the increment) is used to pay off the bonds. Once the bonds are paid off, the taxing bodies receive all of the tax revenues (\$1,500 per year). Exhibit 1 illustrates how this example works.



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## Legal History of TIF in Louisiana

**Property Tax Increments.** Act 668 of 1979 enacted Louisiana Revised Statute (R.S.) 33:9032. This law authorized local governments to use ad valorem (i.e., property) TIF to finance or refinance economic development projects. The law was never used, however, because much of the property tax revenue in Louisiana is already dedicated to other purposes.

**Sales Tax Increments.** Subsequently, the legislature passed Act 1082 of 1990, which enacted R.S. 33:9033 and authorized TIF based on sales taxes. Act 1118 of 1995 amended the statute to restrict the use of sales TIF to local taxes. Later, Act 147 of the 2002 First Extraordinary Session (which enacted R.S. 33:9038.4) allowed the use of state sales tax increments to pay the revenue bonds of local economic development projects up to the aggregate portion of the local sales tax increments dedicated for such purposes. Since then, several local governments have used tax increment financing based on sales tax to fund local projects. The Louisiana Legislature enacted seven laws concerning TIF during the 2007 Regular Legislative Session alone.

**Hotel Occupancy Tax Increments.** Act 47 of the 2002 First Extraordinary Session enacted R.S. 33:9038.52 and 33:9038.53 to address hotel occupancy tax increments. These statutes created special taxing districts in the cities of Baton Rouge and Alexandria, respectively, for the renovation, restoration, and development of hotels in those cities. The act also authorized the districts to levy and collect a hotel occupancy tax. The hotel occupancy tax may be pledged as security for any financing of the hotel properties including loans, mortgages, bonds, or certificates of indebtedness. Later, Act 423 of 2004 (which enacted R.S. 33:9038.57) created a special taxing district in the City of Lake Charles with similar taxing authority.

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## Overview of Louisiana's TIF Process

The following paragraphs provide a general description of the TIF process in Louisiana when state tax increments are used. See pages 11-12 for information on the TIF projects funded by state tax increments.

**Project Initiation.** Generally, the TIF process begins when a developer approaches a local government about using TIF to help fund a proposed economic development project. If the local government is interested in using TIF, it establishes by ordinance an economic development district or TIF district. The boundaries of the TIF district are usually the boundaries of the project.

**Adoption of Project.** If revenue bonds will be used to cover a project's upfront costs as is the case in seven of the nine TIF projects we identified, the local government adopts a resolution giving notice of its intention to issue revenue bonds secured by tax increments. The local government also conducts a public meeting to hear any objections to the proposed bond

issuance. The local government and each participating taxing body designate the local taxes to be used. The local government's chief financial officer certifies the base value.

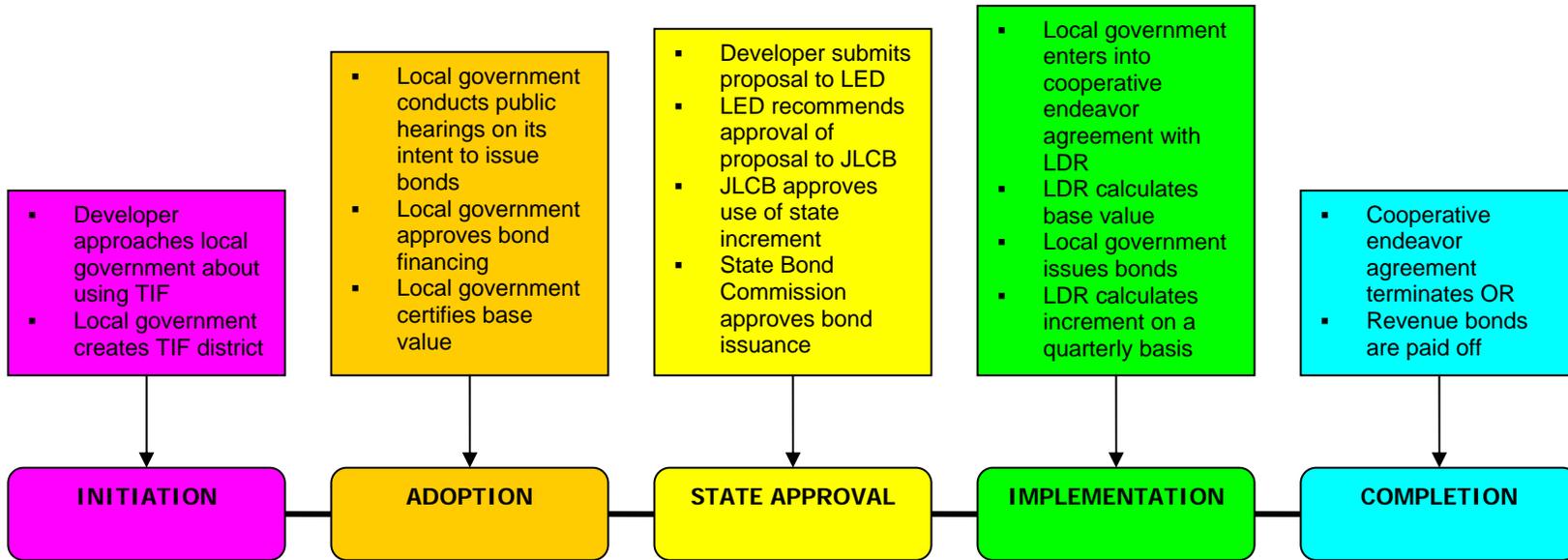
**State Approval of Project.** If the local government wants to use state tax increments to help finance the project, the developer submits an informal proposal to the Louisiana Department of Economic Development (LED) for review. State law requires LED to submit proposals involving state sales tax increments, but not state hotel occupancy tax increments, to the Joint Legislative Committee on the Budget (JLCB) for approval. According to budget committee staff, the JLCB often discusses proposed TIF projects with LED and local government officials before considering the projects for approval. Also, the JLCB relies heavily on LED's analysis when making its approval decisions, according to the staff. State law also requires the State Bond Commission to approve any cooperative endeavor or other agreement providing for the dedication of state sales tax increments, but not state hotel occupancy tax increments, to help fund such projects.

**Project Implementation.** Usually, the local government enters into a cooperative endeavor agreement with the Louisiana Department of Revenue (LDR) to carry out the TIF. According to the agreements, LDR calculates the base value of the state tax revenues within the TIF district. The City of Baton Rouge, however, did not enter into an agreement with LDR for the Capitol House Hotel project. Once the project begins to generate tax increments, LDR calculates the increments on a quarterly basis. The local government uses the increments to pay for the project's costs, including any revenue bonds that were issued or loans that were obtained. The taxing bodies within the district continue to receive the base value.

**Project Completion.** The TIF project reaches completion when any bonds or loans that were used to finance the project are paid off or the cooperative endeavor agreement terminates. The taxing bodies within the district then begin to receive the total sales tax revenues.

Exhibit 2 on the following page presents a general flowchart of Louisiana's TIF process when state tax increments are used. It should be noted that some local economic development projects in Louisiana use only local tax increments. Those projects do not require LED's review or JLCB's approval. They also do not require LDR's calculation of the base value and increment. Because they do not impact state tax revenues, we did not include in our audit scope any projects that are funded solely by local tax increments.

**Exhibit 2**  
**General Flowchart of Louisiana’s TIF Process Using State Tax Increments**



**Source:** Prepared by legislative auditor’s staff using information provided by LED, JLCB, State Bond Commission, LDR, and other parties with knowledge of and/or experience in the TIF process.

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## WHAT PROJECTS IN LOUISIANA ARE FUNDED IN WHOLE OR IN PART BY STATE TAX INCREMENTS?

**Projects Using State Sales Tax Increments.** As of March 2008, eight TIF projects in Louisiana use state sales tax increments. These eight projects are as follows:

1. Algiers - Federal City Project
2. City of Broussard - Ambassador Caffery
3. City of Denham Springs - Bass Pro Shops
4. City of Gonzales - Cabela's
5. City of Lafayette - Stirling Properties
6. City of Monroe - Garrett Road
7. City of Monroe - Tower Drive
8. City of Ruston - Interstate 20

The local governments involved in seven of the eight projects have issued more than \$140 million in bonds to finance the projects. For the remaining project (Algiers - Federal City Project), the local governing authority uses the tax increments generated to fund the project on a "pay as you go" basis. Therefore, the authority did not issue bonds to finance the project.

According to LDR, six of the eight TIF projects generated more than \$44 million in state sales tax increments through December 2007. We did not obtain information on the amount of local sales tax increments these projects generated. The remaining two projects have not yet begun to generate sales tax increments, according to LDR.

Additional projects received approval from the JLCB to use state sales tax increments after the period covered by our audit (January 1996 through March 2008). Because these projects had not completed the implementation phase of the TIF process, we did not include them in this report.

**Project Using State Hotel Occupancy Tax Increments.** As of March 2008, one project (City of Baton Rouge - Capitol House Hotel) uses state hotel occupancy tax increments. The TIF district uses the tax increments generated to pay off a loan used to finance the project's costs. That is, the district did not issue bonds to finance the project. We were not able to obtain the amount of state hotel occupancy tax increments this project has generated through December 2007.

Exhibit 3 on the following page describes the nine TIF projects that use state tax increments. It should be noted that the estimated economic impacts shown in the exhibit refer to the impacts on the local governments. The state entities involved in the TIF process (LED, JLCB, State Bond Commission, and LDR) did not have information concerning the impacts on state government. Appendix B provides more details about each project.

**Exhibit 3  
TIF Projects Using State Tax Increments  
(as of March 2008)**

Location	Project Description	Project Type	Estimated Local Economic Impact	Estimated Cost	Net Bond Issuance Amount	State Increments Collected	
						Amount Collected <sup>1</sup>	Inception
Algiers	Federal City Project	Economic Development	New jobs: 9,600	Not Available <sup>2</sup>	None <sup>3</sup>	\$2,823,549	1 <sup>st</sup> quarter of 2004
City of Baton Rouge	Capitol House Hotel	Economic Development	New jobs: 200 Hotel occupancy tax revenues: \$750,600 per year Sales tax revenues: \$160,000 to \$200,000 per year	\$70,000,000	None <sup>4</sup>	Not Available <sup>2</sup>	Not Available <sup>2</sup>
City of Broussard	Ambassador Caffery	Infrastructure to support Economic Development	New jobs: 639	\$40,000,000	\$10,000,000	\$0	Not Yet Started
City of Denham Springs	Bass Pro Shops	Infrastructure and Economic Development	New jobs: 507 to 771	\$42,824,856	\$41,540,000	\$10,345	2 <sup>nd</sup> quarter of 2007
City of Gonzales	Cabela's	Infrastructure and Economic Development	New jobs: 907 Sales tax revenues: \$207 million	\$55,910,200	\$49,850,000	\$307,558	3 <sup>rd</sup> quarter of 2007
City of Lafayette	Stirling Properties	Infrastructure to support Economic Development	New jobs: 600 Sales tax revenues: \$8 million per year	\$8,000,000	\$8,000,000	\$0	Not Yet Started
City of Monroe	Garrett Road	Infrastructure	Not Applicable	\$25,000,000	\$21,000,000 <sup>5</sup>	\$16,768,104	1 <sup>st</sup> quarter of 1996
City of Monroe	Tower Drive	Infrastructure	Not Applicable		\$11,770,000 <sup>5</sup>	\$13,329,744	1 <sup>st</sup> quarter of 1996
City of Ruston	Interstate 20	Infrastructure	Not Applicable	\$3,500,000	\$2,000,000	\$11,162,274	4 <sup>th</sup> quarter of 2001
<b>TOTAL</b>				<b>\$245,235,056</b>	<b>\$144,160,000</b>	<b>\$44,401,574</b>	

<sup>1</sup>Through the 4<sup>th</sup> quarter of 2007 as reported by LDR.

<sup>2</sup>The state entities involved in the TIF process (LED, JLCB, State Bond Commission, and LDR) did not have this information.

<sup>3</sup>Algiers did not issue bonds to finance this project. Instead, the tax increments generated in the TIF district are used to pay for the project's costs on a "pay as you go" basis.

<sup>4</sup>The City of Baton Rouge did not issue bonds to finance this project. Instead, the project was financed with a mortgage loan.

<sup>5</sup>According to the City of Monroe, the Tower Drive and Garrett Road projects generated more revenue (tax increments) than was anticipated. Therefore, the city extended the scope of the projects and issued additional bonds.

**Source:** Prepared by legislative auditor's staff using information provided by LED, JLCB, State Bond Commission, LDR, City of Monroe, and bond attorneys and other individuals associated with the projects.

## HOW CAN LOUISIANA IMPROVE ITS TIF PROCESS?

Louisiana can improve its TIF process by amending state TIF laws to include clear guidance on the roles and responsibilities of the state agencies involved in the process, requiring the agencies to implement formal policies and procedures, and strengthening statutory controls over the process. Providing clear guidance in the form of laws and formal policies and procedures can help the state ensure the appropriate use of state tax increments.

The following audit findings describe the weaknesses we identified in Louisiana's TIF process. We included matters for legislative consideration to assist the legislature and recommendations to assist the state agencies in correcting these weaknesses.

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### **Clearly Define State Agencies' Roles and Responsibilities in State Law**

*Government Auditing Standards* (2003 Revision), published by the U.S. General Accounting Office, provide that state laws usually set forth what is to be done, who is to do it, and the purpose to be achieved. Louisiana's TIF laws, however, do not provide clear guidance to the three state agencies involved in the TIF process regarding their roles and responsibilities. The following paragraphs describe the weaknesses we identified in Louisiana's TIF laws.

**Evaluation and Approval of TIF Proposals.** R.S. 33:9038.34(A)(6) requires LED to submit local economic development projects that propose to use state sales tax increments to the JLCB for approval. The law does not, however, require LED to evaluate the projects. As stated earlier, the JLCB relies heavily on LED's analysis when making its approval decisions. Therefore, it is critical for LED to conduct thorough analyses of proposed TIF projects and consider all relevant criteria.

**Calculation of Base Values and Increments.** Once the use of state tax increments is approved, LDR calculates the base values and increments for the state tax revenues in the TIF districts. LDR's role in the TIF process, however, is not established in state law. The lack of statutory guidance could result in LDR using an incorrect methodology to calculate base values and increments.

**Monitoring and Oversight of TIF Projects.** State law does not require any state agency to maintain an inventory and related documentation of TIF projects that use state tax increments. As a result, the information we used to compile the inventory of current TIF projects was not readily available or easily accessible. Because the state has no single source of information on TIF projects, the legislature cannot easily determine the extent to which state tax increments are used to fund local economic development projects. State law also does not require any state agency to monitor the progress of TIF projects to ensure they perform as intended. Without proper oversight of TIF projects, developers will not be held accountable for the economic impact of their projects.

**Matter for Legislative Consideration 1:** The legislature should amend R.S. 33:9038.34(A)(6) to require LED to formally evaluate and approve local economic development projects proposing to use state tax increments.

**Matter for Legislative Consideration 2:** The legislature should enact legislation establishing LDR's roles and responsibilities in the TIF process.

**Matter for Legislative Consideration 3:** The legislature should enact legislation requiring LED to maintain a comprehensive centralized inventory of TIF projects that use state tax increments and copies of all documentation related to the state's evaluation and approval of the projects.

**Matter for Legislative Consideration 4:** The legislature should enact legislation requiring LED to monitor the progress of TIF projects that use state tax increments and maintain copies of all related documentation to ensure that the projects perform as intended.

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## **Implement Formal Policies and Procedures**

According to the CDFA, policies and procedures should serve as the foundation for the sound application of TIF. Also, policies and procedures should provide a foundation of support for local elected leaders and economic developers to use when justifying and evaluating potential projects. Communities that use TIF in a transparent and deliberate manner tend to have greater success with fewer obstacles in the way of development, according to the CDFA.

Despite the CDFA's contention, the three state agencies involved in Louisiana's TIF process have not developed formal policies and procedures guiding their decision-making processes. Without such guidance, the entities do not have criteria on which to base their decisions. These criteria would help ensure that the decisions they make are appropriate. Also, the legislature and taxpayers cannot be assured that state tax revenues are appropriately used to fund local economic development projects.

**LED.** In practice, developers submit TIF proposals to LED, as shown in Exhibit 2 on page 9. The department evaluates each TIF proposal on its own merits by reviewing information submitted such as bond issuance documents (if bonds are used to finance the project), project scope, and estimated economic impact. After reviewing these documents, the department submits a recommendation letter to the JLCB for approval. LED does not have formal policies and procedures regarding its process for evaluating and recommending projects to the JLCB or the criteria on which the department bases its recommendations. Without a standard evaluation methodology, we could not determine LED's reasoning for recommending the approval of the nine TIF projects we examined. Also, the lack of formal policies and procedures could result in LED evaluating TIF proposals in an inconsistent manner using inappropriate criteria.

**State Bond Commission.** The State Bond Commission has specific guidelines regarding the types of information that should be included in a standard TIF bond application. According to the commission, these guidelines tell its analysts what to consider when approving TIF

applications. The commission has no formal policies and procedures regarding its approval of cooperative endeavor or other agreements that propose to use state sales tax increments. As a result, we could not always determine the commission's reasoning for its approval of the eight TIF projects using state sales tax increments. Also, without such documentation, the commission cannot show that it approved all TIF bonds in a consistent manner using appropriate criteria.

**LDR.** LDR also does not have formal policies and procedures regarding its role in the TIF process. Policies and procedures would help LDR ensure that its staff accurately calculates the base values and increments for all approved TIF projects. Also, a standardized methodology formalized by policies and procedures would help LDR ensure that it makes accurate calculations on a consistent basis.

**Recommendation 1:** LED should implement formal policies and procedures regarding its role in the TIF process. The policies and procedures should include, at a minimum, formal criteria on which to base its evaluation and approval of TIF proposals and a requirement to maintain all documentation showing its evaluation and approval decisions. See pages 21-22 for a list of factors that should be considered when deciding whether to use state tax increments to finance local economic development projects.

**Recommendation 2:** The State Bond Commission should implement formal policies and procedures regarding its role in the TIF process. The policies and procedures should include, at a minimum, formal criteria on which to base its approval of cooperative endeavor and other agreements proposing to use state tax increments and a requirement to maintain all documentation showing its evaluation and approval decisions. See pages 21-22 for a list of factors that should be considered when deciding whether to use state tax increments to finance local economic development projects.

**Recommendation 3:** LDR should implement formal policies and procedures regarding its role in the TIF process. The policies and procedures should include, at a minimum, procedures for calculating base values and increments and a requirement to maintain all documentation showing its calculations.

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## **Strengthen Statutory Controls Over TIF Process**

According to the CDFA, three states--Illinois, Minnesota, and Wisconsin--have model TIF laws. The laws in Illinois authorize the use of state and local sales tax, local property tax, and state utility tax increments to finance eligible projects. The laws in Minnesota and Wisconsin authorize the use of only local property tax increments. Louisiana's laws authorize the use of state and local sales tax, local property tax, and state and local hotel occupancy tax increments. While none of the three model states use the exact same type of increments that Louisiana uses, the model TIF laws have requirements that the Louisiana Legislature may want to consider including in its TIF laws, according to the CDFA.

We compared various aspects of Louisiana’s TIF laws to the model TIF laws. Our comparison shows that the model laws contain several controls over the TIF process that Louisiana’s laws do not contain. The controls include, among other things, provisions for ensuring that TIF is used for legitimate public purposes; TIF is necessary; the projects funded by TIF are feasible; the projects are appropriately planned; and the projects perform as intended. Exhibit 4 shows the results of our comparison. The paragraphs that follow the exhibit describe the control methods that the model states use.

Exhibit 4 Comparison of Louisiana’s TIF Laws to Model TIF Laws					
Statutory Controls	Control Methods	Louisiana	Illinois	Minnesota	Wisconsin
TIF is used for legitimate public purposes.	Blight Finding	No	Yes	Sometimes	Sometimes
TIF is necessary.	“But For” Test	No	Yes	Yes	Yes
TIF projects are feasible.	Feasibility Study or Cost-Benefit Analysis	No	Sometimes	Yes	Yes
TIF projects are appropriately planned.	Project Plan	Sometimes	Yes	Yes	Yes
TIF projects perform as intended.	Annual Report	No	Yes	Yes	Yes

**Source:** Prepared by legislative auditor’s staff using Westlaw and information obtained from CDFA.

**“Blight” Finding.** Blight refers to conditions that endanger public health or welfare, such as overcrowding, dilapidated or deteriorating buildings, or faulty street layout.<sup>2</sup> In Illinois, the areas within TIF districts must be designated as either blighted areas or conservation areas that may become blighted. Minnesota requires certain types of TIF projects to include a percentage of structurally substandard buildings. In Wisconsin, at least 50% of the property within a TIF district must be blighted or in need of rehabilitation or conservation work, or the property must be suitable for industrial use or mixed-use development. Louisiana’s TIF laws do not require a blight finding.

According to our research, not all states require a blight finding.<sup>3</sup> Many states permit the use of TIF in non-blighted areas that are at risk of becoming blighted, which are called conservation areas. Some states also permit the use of TIF in areas zoned for commercial or industrial use that could benefit from growth, which are called economic development areas. In addition, some states allow the use of TIF for broader purposes such as reducing congestion,

<sup>2</sup> Good Jobs First, *Straying From Good Intentions: How States are Weakening Enterprise Zone and Tax Increment Financing Programs*, August 2003.

<sup>3</sup> National Association of Realtors, *Tax Increment Financing (TIF)*, November 2002.

enhancing mobility, assisting in the redevelopment of municipalities, or otherwise improving the quality of life.

**“But For” Test.** All three model states require that TIF projects satisfy what is known as the “but for” test. In other words, the developments or redevelopments would not occur but for the use of TIF. The test provides a degree of assurance that a given use of TIF will serve a public purpose and that TIF will not be used where it is not necessary to support development or redevelopment. If TIF is used where it is not needed, then the tax increments do not fully represent tax revenues that would not have otherwise been collected.<sup>4</sup> Also, the tax increments deprive other governmental bodies that receive tax revenues, such as school districts, other special districts, and the parish, of the increases they would otherwise have received. Louisiana does not require a “but for” test. Therefore, the legislature cannot be assured that the use of state tax increments to finance local economic development projects is needed to support development or redevelopment.

**Feasibility Study or Cost-Benefit Analysis.** Feasibility studies and cost benefit analyses are meant to ensure that TIF projects are not undertaken unless they will generate more revenues than costs.<sup>5</sup> Minnesota requires an estimate of the fiscal and economic implications of every proposed TIF district. Wisconsin bases its approval of TIF proposals partly on whether the economic benefits of the TIF districts are insufficient to compensate for the cost of the improvements and whether the benefits of the proposals outweigh the anticipated tax increments. The Illinois TIF law requires a feasibility study for certain types of projects. On the contrary, Louisiana's TIF laws do not require a feasibility study or a cost-benefit analysis. Therefore, the legislature cannot be assured that TIF projects using state tax increments are feasible or that the public benefits of the projects outweigh the state's investment in the projects.

**Project Plan.** All three model states require a detailed project plan before a TIF project can be approved. Project plans may include details such as:

- Purposes and objectives
- Boundaries
- Proposed land uses
- Proposed activities and timetables
- Estimated costs
- Sources and uses of public and private financing
- Terms of any bonds to be issued
- Estimates of tax impacts on local governments
- Explanations as to why the areas need redevelopment

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<sup>4</sup> American Planning Association Growing Smart Project, Model Tax Increment Financing Statute.

<sup>5</sup> National Association of Realtors, *Tax Increment Financing (TIF)*, November 2002.

According to research conducted by the Minnesota House of Representatives, TIF plans define and limit the activities that may be undertaken with the increments collected within TIF districts. Also, according to the Illinois Tax Increment Association, TIF plans assess the areas in need of economic assistance, demonstrate why the areas need redevelopment, and show how municipalities plan to revitalize the areas.<sup>6</sup> This type of planning is important because state and local governments incur substantial risk in making TIF projects a success by investing their tax revenues in the projects, according to the association.

Louisiana's TIF laws require economic development corporations to prepare economic development plans that include overall policies and plans of action. Local governments, however, are not required to establish economic development corporations to use TIF. Therefore, the legislature cannot be assured that all TIF projects using state tax increments are appropriately planned.

**Annual Report.** According to our research, many states have annual reporting requirements whereby local governments must keep state entities informed about the status of approved TIF projects to ensure that the projects are relevant and stay on target.<sup>7</sup> All three model states require TIF districts to submit annual reports to the appropriate governing authorities to ensure that the projects are performing as intended. Louisiana, on the other hand, does not require local governments to submit annual reports to the state agencies involved in the TIF process. Without periodic reporting, the legislature cannot be assured that TIF projects using state tax increments perform as intended.

**Matter for Legislative Consideration 5:** The legislature should enact legislation requiring LED to ensure that, for each TIF project proposing to use state tax increments, TIF is used for a legitimate public purpose, is necessary, and is feasible. In fulfillment of this requirement, the legislature should consider requiring a "blight" finding and a "but for" test, as well as a feasibility study and/or a cost-benefit analysis for all proposed TIF projects.

**Matter for Legislative Consideration 6:** The legislature should enact legislation requiring TIF districts to submit detailed project plans to LED for evaluation and approval when the plans propose to use state tax increments.

**Matter for Legislative Consideration 7:** The legislature should enact legislation requiring TIF districts that receive state tax increments to submit annual reports to LED to ensure that the projects perform as intended.

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<sup>6</sup> Illinois Tax Increment Association, *Tax Increment Financing in Brief*, 2006.

<sup>7</sup> National Association of Realtors, *Tax Increment Financing (TIF)*, November 2002.

**WHAT ARE THE POTENTIAL BENEFITS AND RISKS OF USING TIF?**

TIF is one of many financing tools available to local governments for encouraging economic development, according to our research.<sup>8</sup> TIF can be beneficial to state and local governments as well as taxpayers. It can also present several risks, however, of which state and local governments should be aware. Exhibit 5 summarizes the potential benefits and risks of using TIF.

<b>Exhibit 5 Potential Benefits and Risks of Using TIF</b>		
<b>Participants</b>	<b>Benefits</b>	<b>Risks</b>
State governments	May receive higher tax revenues once bonds or loans are paid off	May have to wait until bonds or loans are paid off (approximately 20-30 years) to use increased tax revenues for public service needs
	May see more employment, which could result in higher income tax revenues and reduced need for publicly funded social services	May be deprived of tax revenue increases they may have otherwise received if TIF is used where it is not needed (i.e., if projects would have occurred without TIF)
	May see further tax revenue increases if projects spur economic activity in existing businesses and attract other new developments	May lose tax revenues if TIF is used to move existing businesses from one area to another rather than to generate new activity
Local governments	May receive higher tax revenues once bonds or loans are paid off	May have to wait until bonds or loans are paid off (approximately 20-30 years) to use increased tax revenues for public service needs
	Can finance major projects without raising taxes or decreasing public services	May have to fund financial shortfalls if projects fail and bonds do not materialize
	Can attract new businesses or help existing businesses stay or expand	May lose tax revenues if other areas use TIF to lure away existing businesses
	May see further tax revenue increases if projects spur economic activity in existing businesses and attract other new developments	May be deprived of tax revenue increases they may have otherwise received if TIF is used where it is not needed (i.e., if projects would have occurred without TIF)
Taxpayers	May enjoy new facilities	May pay for increased services resulting from projects through higher taxes or decreased public service needs
	May see elimination of blighted areas that may have remained without TIF projects	
<b>Source:</b> Prepared by legislative auditor's staff using information obtained from CDFA and other sources. <sup>9,10,11</sup>		

<sup>8</sup> Corporation for Enterprise Development, *Increasing the Accountability and Efficiency of Tax Increment Financing*, July 1999.

<sup>9</sup> Allegheny Institute for Public Policy, *A Primer on Tax Increment Financing in Pittsburgh*, June 1999.

<sup>10</sup> Front Range Economic Strategy Center, *Are We Getting Our Money's Worth? Tax Increment Financing and Urban Redevelopment in Denver*, 2005.

<sup>11</sup> Illinois Tax Increment Association, *Tax Increment Financing in Brief*, 2006.

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## WHAT OTHER FACTORS SHOULD BE CONSIDERED WHEN DECIDING WHETHER TO USE TIF?

From our research, we compiled the following information on other factors that state and local governments should consider when deciding whether to provide TIF assistance for private development. As stated on page 15, we recommend that LED and the State Bond Commission include these factors in their evaluation and approval criteria.

**Unreached Employment Goals.** TIF projects may not always create the number of jobs that developers promise. For example, Cabela's opened a 185,000 square foot store in Buda, Texas, in 2005 with TIF assistance from the city, county, and state.<sup>12</sup> In return, Cabela's agreed to maintain 225 full-time equivalent positions or repay \$5,000 for each job shy of the target. Cabela's did not achieve its job creation target for two years in a row.

**Relocation of Existing Businesses, Jobs, and Tax Revenues.** One of the major arguments against TIF is that it is not used to create jobs but to move existing jobs into new facilities.<sup>13</sup> For example, Allegheny County, Pennsylvania, allowed a developer to use TIF to build a new department store and parking garage and convert the old department store into mixed-use office and retail space. To build the new store, the developer leveled several existing businesses. Also, many of the jobs in the new office space were transferred from other areas. Therefore, the jobs created and the tax revenues generated by the TIF project were of little net benefit to the county.

In addition, a study by the Developing Neighborhood Alternatives Project measured the changes in the total number of people employed in five TIF districts in Chicago, Illinois.<sup>14</sup> The results showed that four districts gained jobs, while one district lost jobs. All of the areas immediately surrounding the TIF districts, however, experienced job losses, and those losses more than offset the number of jobs gained within each district. According to the study, the net decline in jobs within the five districts was greater than the decline experienced by Chicago as a whole.

**Low Wage Jobs.** Even if a TIF project creates new jobs, the employees may be exposed to low wages, which can result in multiple adverse affects.<sup>15</sup> For example, the Front Range Economic Strategy Center found that jobs created by three TIF projects in Denver, Colorado, paid workers substantially lower wages than Denver's average wage, which worsened Denver's growing problem of low-wage/low-benefit employment. The wages were so low that employees could not provide for basic family needs on their own, resulting in personal family hardship and costs imposed on publicly funded assistance, as well. The center estimated that the employees were eligible for about \$10 million annually in social service programs.

<sup>12</sup> SmallTownPapers News Service, *Cabela's Again Fails to Hit Target*, June 2007.

<sup>13</sup> Allegheny Institute for Public Policy, *A Primer on Tax Increment Financing in Pittsburgh*, June 1999.

<sup>14</sup> Developing Neighborhood Alternatives Project, *The Right Tool for the Job? An Analysis of Tax Increment Financing*, March 2003.

<sup>15</sup> Front Range Economic Strategy Center, *Are We Getting Our Money's Worth? Tax Increment Financing and Urban Redevelopment in Denver*, 2005.

**Competition to Existing Business.** TIF subsidizes projects that provide competition to existing businesses, according to our research. TIF can put smaller enterprises operating without TIF at a disadvantage, however, because they cannot afford to compete with TIF-subsidized, large, successful stores. For example, two restaurants in Pittsburgh, Pennsylvania, closed after 23 years of operation because their business activity dropped approximately 30% after a TIF-backed mall opened nearby.<sup>16</sup>

**Overinvesting or Underinvesting.** Local governments can invest significant amounts of money into TIF projects in hopes that growth will follow.<sup>17</sup> If little or no private development occurs after the investment is made, however, there may be no tax increment revenue with which to pay for the investments. Local governments can also be at risk for not putting enough improvements in place to attract development. If a site is not improved with enough physical improvements, new businesses may not find the site attractive enough to locate there.

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<sup>16</sup> Budget and Tax News, *TIF-Backed Mall Kills Nearby Businesses*, December 2006.

<sup>17</sup> Wisconsin Department of Revenue, *City/Village Tax Incremental Finance Manual*, January 2006.

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## AUDIT SCOPE AND METHODOLOGY

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. We followed applicable *Government Auditing Standards* as promulgated by the Comptroller General of the United States in conducting the audit.

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### Audit Scope

This performance audit focused on the use of TIF involving state tax increments. The audit covered the period from January 1996 through March 2008. Our audit objectives were to answer the following questions regarding TIF use in Louisiana state government:

- What projects in Louisiana are funded in whole or in part by state tax increments?
- How can Louisiana improve its TIF process?

The audit also sought to answer the following general questions regarding the use of TIF (i.e., projects in which state and/or local tax increments are used):

- What are the potential benefits and risks of using TIF?
- What other factors should be considered when using TIF?

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### Methodology

To accomplish our objectives, we performed the following procedures:

- Interviewed appropriate officials of the following state entities concerning their roles in the TIF process:
  - Louisiana Department of Economic Development
  - Joint Legislative Committee on the Budget
  - State Bond Commission
  - Louisiana Department of Revenue
- Compiled an inventory of current TIF projects that use state tax increments using information from the above state entities, the City of Monroe, bond attorneys, and others associated with the TIF projects

- Examined project documents and summarized relevant information to compile detailed descriptions of each TIF project in the inventory
- Compared Louisiana's TIF laws to model laws in three states, the names of which were provided to us by CDFA
- Conducted Internet research to obtain and examine relevant documentation regarding the use of TIF in Louisiana and other states
- Interviewed other parties with knowledge and/or experience in using TIF including bond attorneys, developers, and research organizations

## CURRENT TIF PROJECT DETAILS

### Algiers – Federal City Project

**Project Description.** The Algiers Economic Development District No. 1 entered into a cooperative endeavor agreement with LDR on December 31, 2004, to promote economic development within the city of New Orleans. According to Louisiana State Representative Jim Tucker’s office, the tax increment generated in the district is deposited into the Algiers Economic Development Fund. The increment is used to pay salaries and operating expenses for the Federal City Project in New Orleans on a “pay as you go” basis. The Federal City Project is a public-private venture for the development of a federal office park. The project aims to attract a large, diverse set of government and nongovernment tenants to drive local economic redevelopment. The cooperative endeavor agreement will terminate on January 1, 2014.

**Bond Financing.** Although the cooperative endeavor agreement authorizes the economic development district to issue bonds, the district has not yet done so, according to a local bond attorney familiar with the project. The cooperative endeavor agreement states that any bonds issued will be secured by 100% of the city incremental sales and use tax revenues attributable to 1¼ cents of the city’s sales and use tax, up to \$1 million per year. The bonds will also be secured by the lesser of 100% of the state incremental sales and use tax revenues, an amount equal to the city’s incremental sales and use tax revenues or \$1 million per year.

### City of Baton Rouge - Capitol House Hotel

**Project Description.** The City of Baton Rouge and East Baton Rouge Parish entered into a contract with the Capitol House Taxing District on June 22, 2007, for the collection of a hotel-motel occupancy tax to be levied within the district. The city used TIF to pay for the renovation, restoration, and development costs of the Capitol House Hotel, which has been renamed the Hilton Baton Rouge Capitol Center.

**Mortgage Loan.** According to LDR, the district used a mortgage loan to finance the project’s costs instead of issuing bonds. The tax increment generated in the district is used to pay off the loan. The state entities involved in the TIF process did not provide us with documents showing how long the city will receive the state increments.

### City of Broussard - Ambassador Caffery

**Project Description.** The City of Broussard and the Broussard Ambassador Caffery Extension District entered into a cooperative endeavor agreement with LDR on June 1, 2007, to create jobs, stimulate economic development, and increase sales and use tax revenues. The city used TIF to pay for the following economic development project costs:

- Extension of Ambassador Caffery Road from Youngsville Hwy to U.S. Hwy 90

- Related infrastructure improvements

**Bond Financing.** The city issued \$10 million in bonds in 2007, according to a bond attorney associated with the project. The cooperative endeavor agreement states that the bonds are secured by the city incremental sales and use tax revenues attributable to 1 cent of the city's sales and use tax. The bonds are also secured by the state incremental sales and use tax revenues attributable to 1 cent of the state's sales and use tax. The state increment is limited to the lesser of ½ of the principal and ½ of the interest payable on the bonds or \$10 million. The city will receive the state increment until payment of the state increment totals \$10 million, the bonds are paid off, or for 30 years, whichever comes first.

### City of Denham Springs - Bass Pro Shops

**Project Description.** The Denham Springs Economic Development District and the following entities entered into a cooperative endeavor agreement with LDR on December 15, 2006:

- City of Denham Springs
- Law Enforcement District of Parish of Livingston
- Livingston Parish School Board
- Parish of Livingston
- Special Sales Tax District No. 1 of Parish of Livingston
- Denham Springs Economic Development Corporation
- Gravity Drainage District No. 1 of Parish of Livingston

The purpose of the agreement was to create jobs, stimulate economic development, and increase sales and use tax revenues. The economic development district used TIF to pay for the following project costs:

- Acquisition of Bass Pro site
- Acquisition, development, construction, and equipping of a 145,200 square foot Bass Pro Outdoor World
- Construction of related infrastructure improvements
- Six-acre lake with a large boat showroom
- Construction of a 10,000 square foot restaurant
- Construction of a Marriott Fairfield Hotel with a restaurant pad

- Construction of a “big box” retailer

**Bond Financing.** The Denham Springs Economic Development District issued \$41,540,000 in bonds in 2007, according to a bond attorney associated with the project. The cooperative endeavor agreement states that the bonds are secured by the following local incremental sales and use tax revenues:

- 71.42857% of the city increment attributable to 1½ cents of the city’s sales and use tax
- 71.42857% of the law enforcement district increment attributable to ½ cent of the district’s sales and use tax
- 100% of the school board increment attributable to 1 cent of the board’s sales and use tax
- 71.42857% of the parish increment attributable to 1 cent of the parish’s sales and use tax
- 100% of the school district increment attributable to ½ cent of the district’s sales and use tax
- 71.42857% of the gravity drainage district increment attributable to ½ cent of the district’s sales and use tax

The bonds are also secured by 100% of the state increment attributable to 2 cents of the state’s sales and use tax, up to \$1.5 million per year for 20 years. If the local increment exceeds \$7 million in any year, the state increment will be suspended for the remainder of the year, and the state will receive a rebate in the amount of the state increment collected that year.

### City of Gonzales - Cabela’s

**Project Description.** The Industrial Development Board of the City of Gonzales and the following entities entered into a cooperative endeavor agreement with LDR in September 2006:

- Cabela’s Retail LA, LLC
- Carlisle Resort, LLC
- Gonzales Economic Development District No. 1
- City of Gonzales

The purpose of the agreement was to create jobs, stimulate economic development, and increase sales and use tax revenues. The industrial development board used TIF to pay for the following project costs:

- Acquisition of approximately 49 acres
- Acquisition, development, construction, and equipping of a 165,000 square foot Cabela's Retail Center and related infrastructure improvements
- Construction of a museum
- Construction of related infrastructure improvements to accommodate a Sportsman Park Center

**Bond Financing.** The Industrial Development Board issued a total of \$49,850,000 in bonds in 2007, according to a bond attorney associated with the project. The cooperative endeavor agreement states that the bonds are secured by the city incremental sales and use tax revenues attributable to 1½ cents of the city's sales and use tax. The bonds are also secured by the state incremental sales and use tax revenues attributable to 1½ cents of the state's sales and use tax. The industrial development board will receive the state increment until payment of the state increment totals \$10.5 million, the bonds are paid off, or for 30 years, whichever comes first.

Cabela's and Carlisle Resort purchased the bonds on a "pay as you go" basis. The cooperative endeavor agreement does not require Cabela's or Carlisle Resort to guarantee payment of the bonds. The state's contribution of the state increment is based on the following contingencies:

- Cabela's must employ at least 300 full-time and part-time workers at prevailing wage rates in the local area. If Cabela's employs at least 200 but less than 300 workers, it must waive payment on the bonds in the amount of \$5,000 for each job it did not create. If Cabela's employs more than 300 workers, the excess jobs will be credited against any shortfall in jobs over the next calendar year. If Cabela's employs less than 200 workers, the state increment will cease.
- Cabela's must provide health insurance benefits to its employees for the longer of five years or until the state increment is paid in full.
- Cabela's must remain in continuous operation for the longer of five years or until the state increment is paid in full.

<b>City of Lafayette - Stirling Properties</b>
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**Project Description.** The Industrial Development Board of the Parish of Lafayette and the following entities entered into a cooperative endeavor agreement with LDR in February 2007:

- Stirling Lafayette, LLC
- Lafayette I-10 Corridor District at Mile Marker 103

- Lafayette City-Parish Consolidated Government

The purpose of the agreement was to create jobs, stimulate economic development, and increase sales and use tax revenues. The industrial development board used TIF to pay for the following project costs:

- Filling in an interstate borrow pond
- Constructing roadways and other infrastructure improvements to accommodate a 450,000 square foot retail shopping center that Stirling Properties will construct without the use of TIF

**Bond Financing.** The Industrial Development Board issued \$8 million in bonds in 2007, according to a bond attorney associated with the project. The cooperative endeavor agreement states that the bonds are secured by the city incremental sales and use tax revenues attributable to 1 cent of the city's sales and use tax. The bonds are also secured by the state incremental sales and use tax revenues attributable to 1 cent of the state's sales and use tax. The state increment is limited to the lesser of ½ of the principal and ½ of the interest payable on the bonds or \$10 million. The industrial development board will receive the state increment until payment of the state increment totals \$10 million, the bonds are paid off, or for 30 years, whichever comes first.

### City of Monroe - Garrett Road

**Project Description.** The City of Monroe entered into a cooperative endeavor agreement with LDR on January 1, 1996, to finance the following infrastructure improvements:

- Clearing, grubbing, and constructing frontage roads on the north and south sides of Interstate 20 from U.S. Hwy 165 to Milhaven Road (LA Hwy 594)
- Upgrading the Nutland Road overpass to accommodate frontage roads
- Renovating the Garrett Road overpass and interchange to accommodate multiple lanes of traffic
- Installing a new overpass and interchange at approximately the midpoint between Garrett Road and Milhaven Road
- Other related improvements

**Bond Financing.** The City of Monroe issued a total of \$15,250,000 in bonds in 1996 and 2001, according to a city official. The project generated more tax increment than was anticipated. Therefore, the city extended the scope of the project and issued an additional \$16 million in

bonds in 2003 to refund the prior year bonds and provide additional funding for the project. The city also issued an additional \$5 million in bonds in 2005.

According to the cooperative endeavor agreement, the bonds are secured by 60% of the city incremental sales and use tax revenues attributable to 2 ½ cents of the city's sales and use tax. The bonds are also secured by 40% of the state incremental sales and use tax revenues attributable to 3 cents of the state's sales and use tax. The city will receive the state increment until the bonds are paid off or for 25 years, whichever comes first.

### City of Monroe - Tower Drive

**Project Description.** The City of Monroe entered into a cooperative endeavor agreement with LDR on January 1, 1996, to finance the following infrastructure improvements:

- Widening existing two-lane Tower and Armand streets to a five-lane urban section
- Connecting the two streets across an undeveloped area to provide a major urban arterial street to connect midtown at LA Hwy 840-6 and U.S. Hwy 165 at the entrance to Northeast Louisiana University

**Bond Financing.** The City of Monroe issued a total of \$11 million in bonds in 1997, 1999, 2000, and 2002, according to a city official. The project generated more tax increment than was anticipated. Therefore, the city extended the scope of the project and issued an additional \$11,770,000 in bonds in 2007 to refund the prior year bonds and provide additional funding for the project.

According to the cooperative endeavor agreement, the bonds are secured by 60% of the city incremental sales and use tax revenues attributable to 2½ cents of the city's sales and use tax. The bonds are also secured by 40% of the state incremental sales and use tax revenues attributable to 3 cents of the state's sales and use tax. The city will receive the state increment until the bonds are paid off or for 25 years, whichever comes first.

### City of Ruston - Interstate 20

**Project Description.** The City of Ruston entered into a cooperative endeavor agreement with LDR and the Lincoln Parish Sales and Use Tax Commission on June 15, 2001, to finance the following infrastructure improvements:

- Improvements or extensions to the north and south frontage roads between LA Hwy 33 and U.S. Hwy 167
- Interchange improvements along Interstate 20 at Hwy 33 and Hwy 167

- Bridges, collector roads, water, sanitary sewer, storm water, drainage, and utilities
- Planning, traffic studies, surveying, mapping, engineering design, construction support services, and right-of-way acquisition and relocation

**Bond Financing.** The City of Ruston issued \$2 million in bonds in 2001, according to a bond attorney associated with this project. The cooperative endeavor agreement states that the bonds are secured by 15% of the annual principal of, premium (if any), and interest on the bonds. The bonds are also secured by 40% of the state incremental sales and use tax revenues. The city will receive the state increment until the bonds are paid off or for 20 years, whichever comes first.

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## LDR'S RESPONSE

See the following page for the response we received from LDR regarding our conclusions and recommendations.



**BOBBY JINDAL**  
Governor



**CYNTHIA BRIDGES**  
Secretary

**State of Louisiana**  
**Department of Revenue**

April 7, 2008

Mr. Steve J. Theriot, CPA  
Legislative Auditor  
Office of the Legislative Auditor  
P.O. Box 94397  
Baton Rouge, LA 70804-9397

Re: Performance Audit on TIF in Louisiana

Dear Mr. Theriot:

The Louisiana Department of Revenue concurs with your finding in the performance audit report on Tax Increment Financing (TIF) in Louisiana. We agree that the Department should implement formal policies and procedures regarding its role in the TIF process. In doing so, the Department is currently in the process of drafting a policy as recommended.

We appreciate the courtesy extended to us by your audit team. If you have any questions or require additional information, please contact me at (22) 219-4059.

Sincerely,

A handwritten signature in blue ink that reads "Cynthia Bridges".

Cynthia Bridges  
Secretary

*Contributing to a better quality of life.*