

1 SENATE BILL 303

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Michael Padilla

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10 AN ACT

11 RELATING TO POLITICAL SUBDIVISIONS; AMENDING THE PUBLIC
12 IMPROVEMENT DISTRICT ACT; ALLOWING A DISTRICT BOARD TO IMPOSE A
13 SPECIAL PROPERTY TAX LEVY FOR PURPOSES OF THAT ACT; AUTHORIZING
14 THE CREATION OF AN ADMINISTRATIVE COMMITTEE PURSUANT TO THAT
15 ACT; REMOVING THE OPTION TO IMPOSE A HIGHER RATE OF PROPERTY
16 TAX IF APPROVED BY VOTERS IN THE DISTRICT; AMENDING THE TAX
17 INCREMENT FOR DEVELOPMENT ACT; ALLOWING A DISTRICT BOARD TO
18 IMPOSE A PROPERTY TAX FOR PURPOSES OF THAT ACT; AUTHORIZING THE
19 DELEGATION OF CERTAIN POWERS OF THE BOARD TO MEMBERS OF AN
20 APPOINTED ADMINISTRATIVE COMMITTEE PURSUANT TO THAT ACT;
21 PROVIDING THAT ALL CONTRACTS ENTERED INTO BY A PUBLIC
22 IMPROVEMENT DISTRICT BOARD OR A TAX INCREMENT DEVELOPMENT
23 DISTRICT BOARD ARE NOT SUBJECT TO THE PROCUREMENT CODE;
24 PROVIDING THAT THE DEBT OBLIGATIONS OF A PUBLIC IMPROVEMENT
25 DISTRICT OR TAX INCREMENT DEVELOPMENT DISTRICT ARE NOT THOSE OF

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1 A LOCAL GOVERNMENT AND ARE SUBJECT TO AUDIT PURSUANT TO THE
2 AUDIT ACT; MAKING CONFORMING AND TECHNICAL CHANGES.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 SECTION 1. Section 5-11-2 NMSA 1978 (being Laws 2001,
6 Chapter 305, Section 2, as amended) is amended to read:

7 "5-11-2. DEFINITIONS.--As used in the Public Improvement
8 District Act:

9 A. "allowable base" means the sum of the appraised
10 value, not including the value of public infrastructure
11 improvements, of:

12 (1) taxable property in a district that is
13 owned by persons other than the applicant or the applicant's
14 related entities;

15 (2) commercial, industrial or retail property
16 in a district that is owned by the applicant or the applicant's
17 related entities for which a certificate of completion has been
18 issued; and

19 (3) all other taxable property in a district
20 not described in Paragraphs (1) and (2) of this subsection, to
21 the extent that its appraised value is less than or equal to
22 the appraised value of property described in Paragraph (1) of
23 this subsection;

24 B. "applicant" means a person that applies for the
25 formation of a district pursuant to the Public Improvement

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1 District Act;

2 C. "clerk" means the clerk of the municipality or
3 county, or any person appointed by the district board to be the
4 district clerk pursuant to Section 5-11-6 NMSA 1978;

5 D. "county" means the unincorporated area in a
6 county ~~[that forms a public improvement district pursuant to~~
7 ~~the Public Improvement District Act in an unincorporated area~~
8 ~~or in an incorporated area with the municipality's consent]~~ in
9 this state, a combined city and county corporation, an
10 incorporated county, an urban county or a single urban
11 government, including an incorporated area within the county
12 with the municipality's consent, and the entire county for
13 those counties with no unincorporated area;

14 E. "debt service" means the principal of, interest
15 on and premium, if any, on the bonds, when due, whether at
16 maturity or prior redemption; the fees and costs of registrars,
17 trustees, paying agents or other agents necessary to handle the
18 bonds; and the costs of credit enhancement or liquidity
19 support;

20 F. "development agreement" means an agreement
21 between a property owner or developer and the county,
22 municipality or district, concerning the improvement of
23 specific property within the district, which agreement may be
24 used to establish obligations of the owner or developer, the
25 county or municipality or the district concerning the zoning,

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1 subdivision, improvement, impact fees, financial
2 responsibilities and other matters relating to the development,
3 improvement and use of real property within a district;

4 G. "district" means a public improvement district
5 formed pursuant to the Public Improvement District Act by a
6 municipality or by a county in an unincorporated area or in an
7 incorporated area with the municipality's consent;

8 H. "district board" means the board of directors of
9 ~~[the]~~ a district ~~[which]~~ that shall be composed of members of
10 the governing body ~~[ex officio, or, at the option of the~~
11 ~~governing body, five directors appointed by the governing body~~
12 ~~of the municipality or county in which the district is located,~~
13 ~~until replaced by elected directors, which shall occur not~~
14 ~~later than six years after the date on which the resolution~~
15 ~~establishing the district is enacted, as provided in Section~~
16 ~~5-11-9 NMSA 1978];~~

17 I. "election" means an election held in compliance
18 with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978 and
19 pursuant to the provisions of the Local Election Act;

20 J. "enhanced services" means public services
21 provided by a municipality or county within the district at a
22 higher level or to a greater degree than otherwise available to
23 the land located in the district from the municipality or
24 county, including such services as public safety, fire
25 protection, street or sidewalk cleaning or landscape

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1 maintenance in public areas. "Enhanced services" does not
2 include the basic operation and maintenance related to
3 infrastructure improvements financed by the district pursuant
4 to the Public Improvement District Act;

5 K. "general plan" means the general plan described
6 in Section 5-11-3 NMSA 1978, as the plan may be amended from
7 time to time;

8 L. "governing body" means the body or board that by
9 law is constituted as the governing body of the municipality or
10 county [~~in which~~] ordering formation of the [public
11 improvement] district [is located];

12 M. "municipality" means an incorporated city, town
13 or village, [or town] whether incorporated under general act,
14 special act, special charter or territorial charter, but does
15 not mean a combined city and county corporation, an
16 incorporated county or a single urban government;

17 N. "owner" means

18 [~~(1) the person who is listed as the owner of~~
19 ~~real property in the district on the current property tax~~
20 ~~assessment roll in effect at the time that the action,~~
21 ~~proceeding, hearing or election has begun. For purposes of~~
22 ~~voting in elections held pursuant to the Public Improvement~~
23 ~~District Act, when the owner of record title is a married~~
24 ~~person, only one spouse in whose name title is held may vote at~~
25 ~~such election. Where record title is held in more than one~~

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1 ~~name, each owner may vote the number of fractions of acres~~
2 ~~represented by the owner's legal interest or proportionate~~
3 ~~share of and in the lands within the district;~~

4 ~~(2) the administrator or executor of an estate~~
5 ~~holding record title to land within the district;~~

6 ~~(3) the guardian of a minor or incompetent~~
7 ~~person holding record title to land within the district,~~
8 ~~appointed and qualified under the laws of the state;~~

9 ~~(4) an officer of a corporation holding record~~
10 ~~title to land within the district, which officer has been~~
11 ~~authorized by resolution of the corporation's board of~~
12 ~~directors to act with respect to such land;~~

13 ~~(5) the general partner of a partnership~~
14 ~~holding record title to land within the district;~~

15 ~~(6) the trustee of a trust holding record~~
16 ~~title to land within the district; or~~

17 ~~(7) the manager or member of a limited~~
18 ~~liability company holding record title to land within the~~
19 ~~district who has been authorized to represent the company] a~~
20 person owning real property within the boundaries of a
21 district;

22 0. "person" means any individual, estate, trust,
23 receiver, cooperative association, club, corporation, company,
24 firm, partnership, limited liability company, joint venture,
25 syndicate or other association;

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1 P. "public infrastructure improvements" means all
2 improvements listed in this subsection and includes both on-
3 site improvements and off-site improvements that directly or
4 indirectly benefit the district. Such improvements include
5 necessary or incidental work, whether newly constructed,
6 renovated or existing, and all necessary or desirable
7 appurtenances. "Public infrastructure improvements" includes:

8 (1) sanitary sewage systems, including
9 collection, transport, storage, treatment, dispersal, effluent
10 use and discharge;

11 (2) drainage and flood control systems,
12 including collection, transport, diversion, storage, detention,
13 retention, dispersal, use and discharge;

14 (3) water systems for domestic, commercial,
15 office, hotel or motel, industrial, irrigation, municipal or
16 fire protection purposes, including production, collection,
17 storage, treatment, transport, delivery, connection and
18 dispersal;

19 (4) highways, streets, roadways, bridges,
20 crossing structures and parking facilities, including all areas
21 for vehicular use for travel, ingress, egress and parking;

22 (5) trails and areas for pedestrian,
23 equestrian, bicycle or other nonmotor vehicle use for travel,
24 ingress, egress and parking;

25 (6) pedestrian malls, parks, recreational

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1 facilities and open space areas for the use of members of the
2 public for entertainment, assembly and recreation;

3 (7) landscaping, including earthworks,
4 structures, lakes and other water features, plants, trees and
5 related water delivery systems;

6 (8) public buildings, public safety facilities
7 and fire protection and police facilities;

8 (9) electrical generation, transmission and
9 distribution facilities;

10 (10) natural gas distribution facilities;

11 (11) lighting systems;

12 (12) cable or other telecommunications lines
13 and related equipment;

14 (13) traffic control systems and devices,
15 including signals, controls, markings and signage;

16 (14) school sites and facilities with the
17 consent of the governing board of the public school district
18 for which the site or facility is to be acquired, constructed
19 or renovated;

20 (15) library and other public educational or
21 cultural facilities;

22 (16) equipment, vehicles, furnishings and
23 other personalty related to the items listed in this
24 subsection; and

25 (17) inspection, construction management and

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1 program management costs;

2 Q. "public infrastructure purpose" means:

3 (1) planning, design, engineering,
4 construction, acquisition or installation of public
5 infrastructure, including the costs of applications, impact
6 fees and other fees, permits and approvals related to the
7 construction, acquisition or installation of such
8 infrastructure;

9 (2) acquiring, converting, renovating or
10 improving existing facilities for public infrastructure,
11 including facilities owned, leased or installed by an owner;

12 (3) acquiring interests in real property or
13 water rights for public infrastructure, including interests of
14 an owner;

15 (4) establishing, maintaining and replenishing
16 reserves in order to secure payment of debt service on bonds;

17 (5) funding and paying from bond proceeds
18 interest accruing on bonds for a period not to exceed three
19 years from their date of issuance;

20 (6) funding and paying from bond proceeds
21 fiscal, financial and legal consultant fees, trustee fees,
22 discount fees, district formation and election costs and all
23 costs of issuance of bonds issued pursuant to the Public
24 Improvement District Act, including fees and costs for bond
25 counsel, financial advisors, consultants and underwriters,

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1 costs of obtaining credit ratings, bond insurance premiums,
2 fees for letters of credit and other credit enhancement costs
3 and printing costs;

4 (7) providing for the timely payment of debt
5 service on bonds or other indebtedness of the district;

6 (8) refinancing any outstanding bonds with new
7 bonds, including through the formation of a new public
8 improvement district; and

9 (9) incurring expenses of the district
10 incident to and reasonably necessary to carry out the purposes
11 specified in this subsection;

12 R. "related entities" means two or more entities
13 that are owned in an amount greater than fifty percent by the
14 same person, either directly or through one or more persons;

15 S. "special levy" means a levy imposed against real
16 property within a district that may be apportioned according to
17 direct or indirect benefits conferred upon affected real
18 property, as well as acreage, front footage, the cost of
19 providing public infrastructure for affected real property, or
20 other reasonable method, as determined by the ~~[governing body~~
21 ~~or]~~ district board ~~[as applicable]~~; and

22 T. "treasurer" means the treasurer of the governing
23 body or the person appointed ~~[by the district board]~~ as the
24 district treasurer pursuant to Section 5-11-6 NMSA 1978."

25 SECTION 2. Section 5-11-3 NMSA 1978 (being Laws 2001,

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1 Chapter 305, Section 3, as amended) is amended to read:

2 "5-11-3. RESOLUTION DECLARING INTENTION TO FORM
3 DISTRICT.--

4 A. If the public convenience and necessity require,
5 and on presentation of an application required by Section [~~10~~
6 ~~of this 2013 act~~] 5-11-2.1 NMSA 1978 that is supported by a
7 petition signed by the owners of at least twenty-five percent
8 of the real property by assessed valuation proposed to be
9 included in the district, the governing body may adopt a
10 resolution declaring its intention to form a public improvement
11 district to include contiguous or noncontiguous property, which
12 shall be wholly within the corporate boundaries of the
13 municipality or county. If the governing body fails to act
14 within ninety days following presentation of a petition to
15 create a public improvement district, the petition shall be
16 deemed to have been accepted by the governing body, which shall
17 adopt a resolution and hold a public hearing pursuant to this
18 section. The resolution shall state the following:

19 (1) the area or areas to be included in the
20 district;

21 (2) the purposes for which the district is to
22 be formed;

23 (3) that a general plan for the district is on
24 file with the clerk that includes a map depicting the
25 boundaries of the district and the real property proposed to be

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1 included in the district, a general description of anticipated
2 improvements and their locations, general cost estimates,
3 proposed financing methods and anticipated tax levies, special
4 levies or charges, and that may include possible alternatives,
5 modifications or substitutions concerning locations,
6 improvements, financing methods and other information provided
7 in the general plan;

8 (4) the rate, method of apportionment and
9 manner of collection of a special levy, if one is proposed, in
10 sufficient detail to enable each owner or resident within the
11 district to estimate the maximum amount of the proposed levy;

12 (5) a notice of public hearing in conformity
13 with the requirements of Section 5-11-4 NMSA 1978;

14 (6) the place where written objections to the
15 formation of the district may be filed by an owner;

16 (7) that formation of the district may result
17 in the levy of property taxes or the imposition of special
18 levies to pay the costs of public infrastructure constructed by
19 the district and for their operation and maintenance and may
20 result in the assessment of fees or charges to pay the cost of
21 providing enhanced services; and

22 (8) a reference to the Public Improvement
23 District Act. [~~and~~

24 ~~(9) whether the district will be governed by a~~
25 ~~district board comprised of the members of the governing body~~

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1 ~~ex officio or comprised of five directors initially appointed~~
2 ~~by the governing body.]~~

3 B. The resolution shall direct that a hearing on
4 formation of the district be scheduled and that notice be
5 mailed and published as provided in Section 5-11-4 NMSA 1978.

6 C. Before adopting a resolution pursuant to this
7 section, a general plan for the district shall be filed with
8 the clerk."

9 SECTION 3. Section 5-11-6 NMSA 1978 (being Laws 2001,
10 Chapter 305, Section 6, as amended) is amended to read:

11 "5-11-6. ORDER FORMING DISTRICT--~~[FORMATION~~
12 ~~DETERMINATION]~~ ELECTION PROCEDURES--FORMATION DETERMINATION.--

13 A. After the hearing, the governing body shall
14 determine whether the district should be formed based upon the
15 interests, convenience or necessity of the owners, residents of
16 the district and citizens of the municipality or county in
17 which the proposed district would be located. If the governing
18 body determines that the district should be formed, it shall
19 adopt a resolution ordering that the district be formed,
20 deleting any property determined not to be directly or
21 indirectly benefited by the district or modifying the general
22 plan and then ordering that a formation determination be
23 conducted and an election be held on the question whether to
24 form the district. A resolution ordering a formation of the
25 district shall require the owners to authorize by determination

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1 the issuance of general obligation bonds and that an election
2 be called to submit the question of imposing a property tax to
3 pay debt service on the bonds pursuant to Section 5-11-19 NMSA
4 1978 to the qualified electors or declare that a special levy
5 may be imposed in the district in compliance with Section
6 5-11-20 NMSA 1978 and set a maximum levy for each class of
7 property. A resolution ordering a formation of the district
8 shall state that the district will be governed by a district
9 board consisting of members of the governing body. [~~ex~~
10 ~~officio, or, upon determination of the governing body, five~~
11 ~~directors appointed by the governing body, and shall contain~~
12 ~~the names of the five initial directors and the terms of office~~
13 ~~of each. If the governing body appoints a district board, it~~
14 ~~shall appoint a treasurer and a clerk from the appointed~~
15 ~~members] The resolution may also provide for appointment of an
16 administrative committee to administer the day-to-day operation
17 and oversight of the district, composed of five members
18 appointed pursuant to Section 5-11-9 NMSA 1978; provided that
19 if the members of the administrative committee are to serve by
20 virtue of the member's title, the person who holds that title
21 shall fill that position on the committee. The resolution
22 shall also assign the duties of clerk and treasurer for the
23 district, which may be assigned to one or more members of an
24 administrative committee.~~

25 B. Before submitting the question of formation of

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1 the district to the qualified electors of the proposed
2 district, a formation determination shall be conducted by the
3 governing body among the owners unless a petition is presented
4 to the governing body pursuant to Subsection F of Section
5 5-11-7 NMSA 1978. ~~[In the formation determination, each owner~~
6 ~~shall have the number of votes or portions of votes equal to~~
7 ~~the number of acres or portions of acres rounded upward to the~~
8 ~~nearest one-fifth of an acre owned by that owner in the~~
9 ~~submitted district.]~~

10 C. A formation or other determination shall not be
11 a local election for purposes of the Local Election Act or a
12 special election for purposes of the Special Election Act. The
13 governing body ~~[or the district board]~~ may establish local
14 procedures for noticing, conducting and canvassing
15 determinations, which may include determinations made by
16 unanimous written approval of the owners in affidavits executed
17 by the owners and confirmed in a review by the district board.
18 In a determination, each owner shall have one vote for each
19 one-fifth of an acre located within the district rounded upward
20 to the nearest one-fifth of an acre.

21 D. Should the formation determination by the owners
22 result in a three-fourths' majority vote in favor of formation,
23 the question shall also be submitted to a vote of the qualified
24 electors of the proposed district. The conduct of a formation
25 election by qualified electors shall meet the requirements of

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1 Section 5-11-7 NMSA 1978.

2 E. The right of the qualified electors to vote on
3 the question of formation of the district shall not be assigned
4 or delegated to the property owners, or related entities of the
5 property owners, signing a petition submitted to the governing
6 body for formation of a district."

7 SECTION 4. Section 5-11-7 NMSA 1978 (being Laws 2001,
8 Chapter 305, Section 7, as amended) is amended to read:

9 "5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

10 A. ~~[Any]~~ Except as otherwise provided by this
11 section, an election by qualified electors pursuant to the
12 Public Improvement District Act shall be a nonpartisan election
13 called, conducted and canvassed pursuant to the provisions of
14 the ~~[Election Code]~~ Local Election Act.

15 B. In addition to those matters required for notice
16 as provided in the Local Election Act, the notice of election
17 shall state:

18 (1) if the election is a formation election,
19 the boundaries of the proposed district;

20 (2) if the election is a bond election, the
21 amount of bonds to be authorized for the district, the maximum
22 rate of interest to be paid on the bonds and the maximum term
23 of the bonds, not exceeding thirty years;

24 (3) if the election is a property tax levy
25 election pursuant to Section 5-11-19 NMSA 1978, the maximum tax
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1 rate per one thousand dollars (\$1,000) of assessed valuation to
2 be imposed, the purposes for which the revenues raised will be
3 used and the existing maximum tax rate, if any;

4 (4) that a general plan is on file with the
5 clerk;

6 (5) the purposes for which the property taxes
7 or the special levies will be imposed, and the revenues raised
8 will be used, including a description of the public
9 improvements to be financed with tax revenues, special levies,
10 district revenues or bond proceeds; and

11 (6) that the imposition of property taxes or
12 special levies will result in a lien for the payment thereof on
13 property within the district.

14 ~~[B. The district board, or in the case of a~~
15 ~~formation election, the governing body, shall determine the~~
16 ~~date of the election by passing a resolution to place the~~
17 ~~ballot question on a regular local election or general election~~
18 ~~ballot or by adopting a proclamation calling for a special~~
19 ~~election.]~~

20 ~~C. Except as otherwise provided by this section,~~
21 ~~the election shall comply with the Local Election Act.]~~

22 C. The ballot material provided to each qualified
23 elector shall include:

24 (1) for a formation election, an impartial
25 description of the district improvements contemplated and a

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1 brief description of arguments for and against the formation of
2 the district, if any;

3 (2) for an election concerning the imposition
4 of property taxes, an impartial description of the taxes to be
5 imposed, the method of apportionment, collection and
6 enforcement and other details sufficient to enable each elector
7 to determine the amount of tax it will be obligated to pay; a
8 brief description of arguments for and against the imposition
9 of taxes that are the subject of the election, if any; and a
10 statement that the imposition of property taxes is for the
11 provision of certain but not necessarily all public
12 infrastructure improvements and services that may be needed or
13 desirable within the district, and that other taxes, levies or
14 assessments by other governmental entities may be presented for
15 approval by owners and qualified electors; and

16 (3) for a formation election, the ballot,
17 which shall pose the question to be voted upon as [~~"district,~~
18 ~~yes"~~] "for district" and [~~"district, no"~~] "against district";
19 for a bond election, [~~"bonds, yes"~~] "for bonds" and [~~"bonds,~~
20 ~~no"~~] "against bonds"; for a property tax election, if no tax is
21 in place, [~~"property tax, yes"~~] "for property tax" and
22 [~~"property tax, no"~~] "against property tax"; and for an
23 election to change an existing maximum or eliminate an existing
24 tax, [~~"tax change, yes"~~] "for tax change" and [~~"tax change,~~
25 ~~no"~~] "against tax change", specifying the type of tax to which

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1 the proposed change pertains.

2 D. At least a three-fourths' majority of the votes
3 cast by qualified electors at the election shall be required
4 for formation, issuing the bonds or imposing ~~[the]~~ a property
5 tax ~~[or special levy]~~ or changing the tax ~~[or special levy]~~.
6 Failure of a required majority to vote in favor of the matter
7 submitted shall not prejudice the submission of the same or
8 similar matters at a later election.

9 E. If a person listed on the assessment roll is no
10 longer the owner of land in the district and the name of the
11 successor owner becomes known to the governing body or the
12 district board, as applicable, and is verified by recorded deed
13 or other similar evidence of transfer of ownership, the
14 successor owner is deemed to be the owner for the purposes of
15 the Public Improvement District Act.

16 F. Notwithstanding any other provision of the
17 Public Improvement District Act, if a petition for formation is
18 signed by owners of all of the land in the district described
19 in the petition and is approved by the municipality or county,
20 the municipality or county may waive any or all requirements of
21 posting, publication, mailing, notice, hearing and owner
22 determination. On receipt of such a petition, and after
23 approval by an election of qualified electors, if any, the
24 municipality or county shall declare the district formed
25 without being required to comply with the provisions of the

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1 Public Improvement District Act for posting, publication,
2 mailing, notice, hearing or owner determination.

3 G. If no person is registered to vote within the
4 district or proposed district areas within [~~seventy~~] sixty-
5 three days immediately preceding any scheduled election date,
6 the election required to be held pursuant to the Public
7 Improvement District Act shall be canceled and the
8 determination made by the owners of land in the district or
9 proposed district areas shall prevail. Under such
10 circumstances, when the question is on the formation of the
11 district, the results of the formation determination of the
12 owners shall prevail, unless the formation determination was
13 waived by the governing body pursuant to Subsection F of this
14 section. To the extent allowable by the constitution of New
15 Mexico, when the question is on any other allowable action
16 otherwise requiring a vote of the qualified electors, the
17 owners or the owners of the proposed district areas shall make
18 a determination, the result of which shall prevail."

19 SECTION 5. Section 5-11-7.1 NMSA 1978 (being Laws 2019,
20 Chapter 212, Section 274) is amended to read:

21 "5-11-7.1. POSTING OF NOTICES.--For any election
22 conducted pursuant to the Public Improvement District Act, in
23 addition to the notice requirements set forth in Section 5-11-7
24 NMSA 1978, the [~~owners~~] district board shall ensure that
25 notices shall be posted in three conspicuous public places

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1 within the boundaries of the district not less than twenty days
2 before the first day for voting in the election."

3 SECTION 6. Section 5-11-8 NMSA 1978 (being Laws 2001,
4 Chapter 305, Section 8, as amended) is amended to read:

5 "5-11-8. FORMATION--DEBT LIMITATION.--

6 A. If ~~[the formation of the]~~ a district is
7 ~~[approved by at least a three-fourths' majority of the votes~~
8 ~~east at the election]~~ formed pursuant to Section 5-11-7 NMSA
9 1978, the governing body shall cause a copy of the resolution
10 ordering formation of the district to be delivered to the
11 county assessor and the county treasurer and shall be recorded
12 by the county clerk for the county in which the district is
13 located and to the taxation and revenue department and the
14 local government division of the department of finance and
15 administration. A notice of the formation showing the number
16 and date of the resolution and giving a description of the land
17 included in the district shall be recorded with the county
18 clerk.

19 B. Except as otherwise provided in this section, a
20 district shall be a political subdivision of the state,
21 separate and apart from the municipality or county. The amount
22 of indebtedness evidenced by general obligation bonds issued
23 pursuant to Section 5-11-19 NMSA 1978, special levy bonds
24 issued pursuant to Section 5-11-20 NMSA 1978 and revenue bonds
25 issued pursuant to Section 5-11-21 NMSA 1978 shall not exceed
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1 the estimated cost of the public infrastructure improvements
2 plus all costs connected with the public infrastructure
3 purposes and issuance and sale of bonds, including, without
4 limitation, formation costs, credit enhancement and liquidity
5 support fees and costs. The total aggregate outstanding amount
6 of bonds and any other indebtedness for which the full faith
7 and credit of the district are pledged shall not exceed sixty
8 percent of the market value of the real property and
9 improvements in the district after the public infrastructure
10 improvements of the district are completed plus the value of
11 the public infrastructure owned or to be acquired by the
12 district with the proceeds of the bonds and shall not affect
13 the general obligation bonding capacity of the municipality or
14 county in which the district is located.

15 C. Bonds issued by a district shall not be a
16 general obligation of the state, the county or the municipality
17 in which the district is located and shall not pledge the full
18 faith and credit of the state, the county or the municipality
19 in which the district is located [~~irrespective of whether the~~
20 ~~district board is governed by the governing body of the county~~
21 ~~or municipality in which the district is located~~].

22 D. The formation resolution may provide for the
23 delegation of authority by the district board to an
24 administrative committee for the exercise of all district
25 powers, except:

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1 (1) the imposition of an ad valorem property
2 tax;

3 (2) the initial allocation to and imposition
4 of a special levy on taxable parcels within the district;
5 provided that the authority to allocate, collect and annually
6 budget for a special levy following its initial imposition may
7 be delegated to the administrative committee; and

8 (3) the issuance of bonds or other debt
9 obligations pursuant to the Public Improvement District Act.

10 ~~[D-]~~ E. Following formation of the district, the
11 district board or an administrative committee, if applicable,
12 shall administer in a reasonable manner the implementation of
13 the general plan for the public infrastructure improvements of
14 the district.

15 F. The district board may impose a property tax
16 levy upon real property within the boundaries of the district,
17 which may be imposed for operation, maintenance and capital
18 purposes. All property taxes for the operation and maintenance
19 expenses of the district shall not exceed an amount equal to
20 three dollars (\$3.00) per one thousand dollars (\$1,000) of net
21 taxable value for all real and personal property in the
22 district. The rate of a property tax shall remain in effect
23 until increased or decreased at a subsequent election; provided
24 that upon presentation of a petition signed by the owners of a
25 majority of the property in the district, the district board

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1 shall adopt a resolution to reduce or eliminate the portion of
2 the property tax, beginning the next calendar year, required
3 for one or more services or enhanced services specified in the
4 petition. Signatures on a petition to reduce or eliminate a
5 property tax shall be valid for a period of sixty days."

6 SECTION 7. Section 5-11-9 NMSA 1978 (being Laws 2001,
7 Chapter 305, Section 9, as amended) is amended to read:

8 "5-11-9. APPOINTMENT OF [DIRECTORS--QUALIFICATIONS]
9 ADMINISTRATIVE COMMITTEE [TERMS--RESUMPTION OF GOVERNANCE BY
10 GOVERNING BODY].--

11 A. The [~~governing body~~] district board, at its
12 option, may [~~authorize the appointment of a separate district~~
13 ~~board. In the case of an appointed district board, three of~~
14 ~~the appointed directors shall serve an initial term to expire~~
15 ~~following a regular local election and not to exceed six years.~~
16 ~~Two of the appointed directors shall serve an initial term to~~
17 ~~expire following a regular local election and not to exceed~~
18 ~~four years. The resolution forming the district shall state~~
19 ~~which directors shall serve the longer terms and which shall~~
20 ~~serve the shorter terms. If a vacancy occurs on the district~~
21 ~~board because of death, resignation or inability of the~~
22 ~~director to discharge the duties of director, the governing~~
23 ~~body shall appoint a director to fill the vacancy, who shall~~
24 ~~hold office for the remainder of the unexpired term until a~~
25 ~~successor is appointed or elected.~~

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1 ~~B. At the end of the appointed directors' terms,~~
2 ~~the governing body shall resume governance of the district as~~
3 ~~its board either directly or through the governing body's~~
4 ~~designees or, at the governing body's option, shall hold an~~
5 ~~election of new directors by majority vote of the qualified~~
6 ~~electors or if the election is canceled pursuant to Subsection~~
7 ~~G of Section 5-11-7 NMSA 1978, an owner's determination~~
8 ~~conducted by ballot shall decide the new directors]~~ appoint a
9 separate administrative committee consisting of five members,
10 to which the district board may delegate any powers authorized
11 that may be delegated pursuant to the Public Improvement
12 District Act.

13 B. Until the obligations owed by and to
14 nongovernmental persons who are parties to a development
15 agreement to which the district is a party have been fully
16 performed, two of the members shall be nominated by the
17 nongovernmental persons, or their successors, subject to the
18 approval of the district board. Three of the members shall be
19 appointed by the district board and shall have experience in
20 civil engineering, public administration, public finance or
21 public agency budgeting or accounting. After all obligations
22 pursuant to a development agreement by and to the
23 nongovernmental persons have been performed, the district board
24 shall appoint all five members of the administrative committee,
25 as vacancies in committee positions occur.

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1 C. The members of the administrative committee
2 shall serve annual terms as specified by the district board,
3 which shall not exceed five years. If a vacancy occurs on the
4 administrative committee because of death, resignation or
5 inability of a committee member to discharge the member's
6 duties, the district board shall appoint a member to fill the
7 vacancy, who shall hold office for the remainder of the
8 unexpired term. If there is a vacancy in one of these
9 positions before the end of a term, the nongovernmental persons
10 who are parties to the development agreement, or their
11 successors in interest, shall nominate a person to fill that
12 vacancy, subject to approval of the district board.

13 D. At the end of each term, the district board
14 shall appoint members to the administrative committee pursuant
15 to Subsection A of this section or assume the responsibilities
16 of the administrative committee to appoint a separate
17 administrative committee consisting of five members, to which
18 the district board may delegate to the administrative committee
19 any powers that may be delegated to pursuant to the Public
20 Improvement District Act."

21 SECTION 8. Section 5-11-10 NMSA 1978 (being Laws 2001,
22 Chapter 305, Section 10) is amended to read:

23 "5-11-10. POWERS OF A PUBLIC IMPROVEMENT DISTRICT
24 BOARD.--

25 A. In addition to the powers otherwise granted to a
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1 district pursuant to the Public Improvement District Act, the
2 district board or the administrative committee on the board's
3 behalf, in implementing the general plan, may:

4 (1) enter into contracts and expend money for
5 any public infrastructure purpose with respect to the district;

6 (2) enter into development agreements with
7 municipalities, counties or other local government entities in
8 connection with property located within the boundaries of the
9 district;

10 (3) enter into intergovernmental agreements as
11 provided in the Joint Powers Agreements Act for the planning,
12 design, inspection, ownership, control, maintenance, operation
13 or repair of public infrastructure or the provision of enhanced
14 services by the municipality or the county in the district and
15 any other purpose authorized by the Public Improvement District
16 Act;

17 (4) sell, lease or otherwise dispose of
18 district property if the sale, lease or conveyance is not a
19 violation of the terms of any contract or bond covenant of the
20 district;

21 (5) reimburse the municipality or county in
22 which the district is located for providing enhanced services
23 in the district;

24 (6) operate, maintain and repair public
25 infrastructure;

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1 [~~(7)~~ establish, impose and collect special
2 levies for the purposes of funding public infrastructure
3 improvements or enhanced services;

4 ~~(8)~~ (7) employ staff, counsel and
5 consultants;

6 ~~(9)~~ (8) reimburse the municipality or county
7 in which the district is located for staff and consultant
8 services and support facilities supplied by the municipality or
9 county;

10 ~~(10)~~ (9) accept gifts or grants and incur
11 and repay loans for any public infrastructure purpose;

12 ~~(11)~~ (10) enter into agreements with owners
13 concerning the advance of money by owners for public
14 infrastructure purposes or the granting of real property by the
15 owner for public infrastructure purposes;

16 ~~(12) levy property taxes~~ (11) impose
17 special levies or fees and charges for any public
18 infrastructure purpose on any real property located in the
19 district and, in conjunction with the [~~levy~~] imposition of such
20 [~~taxes~~] special levies, fees and charges, set and collect
21 administrative fees;

22 ~~(13)~~ (12) pay the financial, legal and
23 administrative costs of the district;

24 ~~(14)~~ (13) enter into contracts, agreements
25 and trust indentures to obtain credit enhancement or liquidity

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1 support for its bonds and process the issuance, registration,
2 transfer and payment of its bonds and the disbursement and
3 investment of proceeds of the bonds;

4 [~~(15)~~] (14) with the consent of the governing
5 body of the municipality or county that formed the district,
6 enter into agreements with persons outside of the district to
7 provide enhanced services to persons and property outside of
8 the district; and

9 [~~(16)~~] (15) use public easements and rights of
10 way in or across public property, roadways, highways, streets
11 or other thoroughfares and other public easements and rights of
12 way, whether in or out of the geographical limits of the
13 district, the municipality or the county.

14 B. Public infrastructure improvements other than
15 personalty may be located only in or on lands, easements or
16 rights of way owned by the state, a county, a municipality or
17 the district, whether in or out of the district, the
18 municipality or the county.

19 C. An agreement pursuant to Paragraph [~~(11)~~] (10)
20 of Subsection A of this section may include agreements to repay
21 all or part of such advances, fees and charges from the
22 proceeds of bonds if issued or from advances, fees and charges
23 collected from other owners or users or those having a right to
24 use any public infrastructure. A person does not have
25 authority to compel the issuance or sale of the bonds of the

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1 district or the exercise of any taxing power of the district to
2 make repayment under any agreement.

3 D. ~~[Notwithstanding the provisions of the~~
4 ~~Procurement Code, or local procurement requirements that may~~
5 ~~otherwise be applicable to the municipality or county in which~~
6 ~~the district is located, the district board, whether appointed~~
7 ~~or composed of members of the governing body, ex officio, may~~
8 ~~enter into contracts to carry out any of the district's~~
9 ~~authorized powers, including the planning, design, engineering,~~
10 ~~financing, construction and acquisition of public improvements~~
11 ~~for the district, with a contractor, an owner or other person~~
12 ~~or entity, on such terms and with such persons as the district~~
13 ~~board determines to be appropriate]~~ The district board is not
14 subject to the Procurement Code."

15 SECTION 9. Section 5-11-19 NMSA 1978 (being Laws 2001,
16 Chapter 305, Section 19, as amended) is repealed and a new
17 Section 5-11-19 NMSA 1978 is enacted to read:

18 "5-11-19. [NEW MATERIAL] GENERAL OBLIGATION BONDS--
19 PROPERTY TAX LEVY.--

20 A. A district board may determine that general
21 obligation bonds should be issued to provide money for public
22 infrastructure purposes consistent with the general plan. If
23 such determination is made, the district board shall call a
24 general obligation bond election to submit the question to the
25 qualified electors. The question shall include authorization

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1 for a levy, including a limitation on the levy, of a property
2 tax to pay debt service on the bonds. The election shall be
3 held pursuant to the provisions of the Local Election Act and
4 may be held in conjunction with the formation election.

5 B. The district board shall promptly hold a hearing
6 to determine whether the election should be called. If the
7 district board determines an election should be called, the
8 district board shall hold an election on the question of
9 imposing a property tax on property in the district pursuant to
10 Section 5-11-7 NMSA 1978. If the required majority votes in
11 favor of the matter, the district board shall, subject to the
12 limitation provided in Section 5-11-8 NMSA 1978, levy and cause
13 the property tax to be collected, at the same time and in the
14 same manner as other property taxes are levied and collected on
15 taxable property in the district, together with any money from
16 the sources described in Section 5-11-17 NMSA 1978 to pay debt
17 service on the bonds when due. Money derived from the levy of
18 property taxes that are pledged to pay the debt service on the
19 bonds shall be kept separately from other funds of the
20 district. Property tax revenues not pledged to pay debt
21 service on bonds may be used to pay other costs of the
22 district, including costs of formation, administration,
23 operation and maintenance, services or enhanced services. A
24 levy of property taxes shall constitute a lien on all taxable
25 property within the district, including all leased property or

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1 improvements to leased land, which shall be subject to
2 foreclosure in the same manner as other property tax liens
3 under the laws of this state. The lien shall include
4 delinquencies and interest thereon at a rate not to exceed ten
5 percent per year, the actual costs of foreclosure and any other
6 costs of the district resulting from the delinquency. The
7 proceeds of any foreclosure sale shall be deposited in the
8 special bond fund for payment of any obligations secured
9 thereby.

10 C. Once the district board has levied a property
11 tax, the district board may issue and sell general obligation
12 bonds of the district; provided that the district board shall
13 have determined by resolution that the principal amount of all
14 district general obligation bonds currently outstanding and the
15 district general obligation bonds proposed for issuance and
16 sale shall not result in a total annual debt service that
17 exceeds five-tenths percent of the allowable base. After the
18 bonds are issued, the district board shall enter in its minutes
19 a record of the bonds sold and their numbers and dates.

20 D. Bonds may be sold in a public offering or in a
21 negotiated sale.

22 E. Subject to the determination and election
23 provisions of this section, a district may issue general
24 obligation bonds at such times and in such amounts as the
25 district deems appropriate to carry out a project or projects

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1 in phases.

2 F. Pursuant to this section, the district may issue
3 and sell refunding bonds to refund general obligation bonds of
4 the district authorized by the Public Improvement District Act.
5 No determination or election is required in connection with the
6 issuance and sale of refunding bonds. Refunding bonds issued
7 pursuant to this section shall have a final maturity date no
8 later than the final maturity date of the bonds being
9 refunded."

10 SECTION 10. Section 5-11-20 NMSA 1978 (being Laws 2001,
11 Chapter 305, Section 20, as amended) is repealed and a new
12 Section 5-11-20 NMSA 1978 is enacted to read:

13 "5-11-20. [NEW MATERIAL] SPECIAL LEVY--BONDS--IMPOSITION
14 OF SPECIAL LEVY.--

15 A. A special levy may be imposed, and special levy
16 bonds may be issued to provide money for any public
17 infrastructure purpose consistent with the general plan of a
18 district.

19 B. The district board may at any time hold a
20 hearing to determine whether a special levy should be imposed.
21 If the district board determines the special levy should be
22 imposed, the district board shall, by resolution and subject to
23 the limitations provided in Subsection D of this section, set a
24 maximum levy for each class of property that may be imposed for
25 debt service on special levy bonds, and impose and cause the

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underscored material = new
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1 special levy to be collected, at the same time and in the same
2 manner as property taxes are levied and collected on all
3 property within the district, which may be payable from such
4 areas of the district as determined by the district board and
5 that may be subject to the levy, including all leased property
6 or improvements to leased land, together with any other money
7 lawfully available to pay debt service on the bonds when due,
8 except to the extent that the district board has provided for
9 other imposition, collection and foreclosure procedures in
10 connection with special levies. Money derived from the
11 imposition of the special levy when collected that is pledged
12 to pay the debt service on the bonds shall be kept separately
13 from other funds of the district. Special levy revenues not
14 pledged to pay debt service on bonds may be used to pay other
15 costs of the district, including costs of formation,
16 administration, operation and maintenance, service or enhanced
17 services.

18 C. Once approved by resolution of the district
19 board, the rate of a special levy shall remain in effect until
20 increased or decreased by resolution of the district board at a
21 subsequent hearing. Upon presentation of a petition signed by
22 the owners of a majority of the property in the district, the
23 district board shall adopt a resolution to reduce or eliminate
24 the portion of the special levy, beginning the next fiscal
25 year, required for one or more services or enhanced services

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1 specified in the petition. Signatures on a petition to reduce
2 or eliminate a special levy shall be valid for a period of
3 sixty days.

4 D. Special levies against privately owned
5 residential property shall be subject to the following
6 provisions:

7 (1) the amount of special levy that may be
8 imposed shall not be increased over time by an amount exceeding
9 two percent per year, except that the amount of special levy
10 actually imposed may be increased by up to ten percent as a
11 result of the delinquency or default by the owner of any other
12 parcel within the district, but in no case shall the amount of
13 the special levy imposed exceed the maximum special levy
14 provided in the rate and method of apportionment;

15 (2) the special levy shall be imposed for a
16 specified time period, after which no further special levy
17 shall be imposed and collected, except that special levies
18 imposed solely to finance the cost of ongoing district
19 services, maintenance or operations or enhanced services may be
20 levied while such services, maintenance or operations or
21 enhanced services are continuing; and

22 (3) nothing in this subsection shall preclude
23 the establishment of different categories of residential
24 property or changing the amount of the special levies for a
25 parcel whose size or use is changed. A change in the amount of

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underscored material = new
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1 a special levy imposed upon a parcel due to a change in its
2 size or use shall not require voter approval if the method for
3 changing the amount of special levy was approved in the
4 election approving the special levy in sufficient detail to
5 enable the owner of the affected parcel to determine how the
6 change in size or use of the parcel would affect the amount of
7 the special levy.

8 E. The imposition of a special levy shall
9 constitute a lien on the property within the district subject
10 to the special levy, including any portion of the special levy
11 imposed but not yet due and owing to the district and property
12 acquired by the state or its political subdivisions after
13 imposition of the special levy, which shall be effective during
14 the period in which the special levy is imposed and shall have
15 priority co-equal to the lien of property taxes. Any portion
16 of the special levy imposed but not yet due and owing to the
17 district shall also constitute and remain a lien on the
18 property. A special levy shall be subject to foreclosure by
19 the district at any time after six months following written
20 notice of delinquency to the owner of the real property to
21 which the delinquency applies. The lien shall include
22 delinquencies, penalties and interest thereon at a rate not to
23 exceed the maximum legal rate of interest per year and
24 penalties otherwise applicable for delinquent property taxes,
25 the district's actual costs of foreclosure and any other costs

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1 of the district resulting from the delinquency. All rights of
2 redemption applicable to property sold in connection with
3 property tax foreclosures pursuant to the laws of this state
4 shall apply to property sold following foreclosure of a special
5 levy lien. The portion of proceeds of any foreclosure sale
6 necessary to discharge the lien for the special levy shall be
7 deposited in the special bond fund for payment of any
8 obligations secured thereby.

9 F. If the district board imposes a special levy,
10 the district board may issue special levy bonds pursuant to
11 this section. After the bonds are issued, the district board
12 shall enter in its minutes a record of the bonds sold and their
13 numbers and dates.

14 G. Unless a governing body has enacted an ordinance
15 providing a greater limitation, no special levy bonds may be
16 issued if at the time of issuance of such bonds the estimated
17 total tax and assessment obligation for a class of property,
18 including projected ad valorem taxes and special levies as
19 provided in the feasibility study, exceeds one and ninety-five
20 hundredths percent of the anticipated, average market value of
21 each class of property at the time of issuance of a certificate
22 of occupancy as determined by a member appraiser of the
23 appraisal institute.

24 H. Special levy bonds may be sold in a public
25 offering or in a negotiated sale.

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underscoring material = new
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1 I. No holder of special levy bonds issued pursuant
2 to the Public Improvement District Act may compel any exercise
3 of the taxing power of the district, municipality or county to
4 pay the bonds or the interest on the bonds. Special levy bonds
5 issued pursuant to that act are not a debt of the district,
6 municipality or county, nor is the payment of special levy
7 bonds enforceable out of any money other than the revenue
8 pledged to the payment of the bonds.

9 J. Subject to the requirements of this section, a
10 district may issue special levy bonds at such times and in such
11 amounts as the district deems appropriate to carry out a
12 project or projects in phases. Action by a district board
13 shall be required for the initial imposition of a special levy
14 on any taxable parcel within a district. Following the initial
15 imposition of a special levy, an administrative committee, if
16 one has been appointed, shall be permitted to budget annual
17 installments of the special levy pursuant to Section 5-11-23
18 NMSA 1978.

19 K. Pursuant to this section, the district may issue
20 and sell refunding bonds to refund any special levy bonds of
21 the district authorized by the Public Improvement District Act.
22 Refunding bonds issued pursuant to this section shall have a
23 final maturity date no later than the final maturity date of
24 the bonds being refunded."

25 SECTION 11. Section 5-11-23 NMSA 1978 (being Laws 2001,
.223818.2

underscoring material = new
[bracketed material] = delete

1 Chapter 305, Section 23, as amended) is amended to read:

2 "5-11-23. [~~DISTRICT TAXES~~] ANNUAL FINANCIAL ESTIMATE--
3 ANNUAL FINANCIAL ESTIMATE AND BUDGET--CERTIFICATION TO LOCAL
4 GOVERNMENT DIVISION.--

5 A. [~~All property taxes for the operation and~~
6 ~~maintenance expenses of the district shall not exceed an amount~~
7 ~~equal to three dollars (\$3.00) per one thousand dollars~~
8 ~~(\$1,000) of net taxable value for all real and personal~~
9 ~~property in the district, unless a higher rate is approved by a~~
10 ~~vote of the qualified electors voting at an election conducted~~
11 ~~pursuant to the provisions of the Local Election Act not less~~
12 ~~than three years after the date of the formation of the~~
13 ~~district.~~

14 B. ~~Once approved at an election or, in the case of~~
15 ~~a special levy, by resolution of the district board, the~~
16 ~~maximum rate of a property tax shall remain in effect until~~
17 ~~increased or decreased at a subsequent election, and the~~
18 ~~maximum rate of a special levy shall remain in effect until~~
19 ~~increased or decreased by resolution of the district board at a~~
20 ~~subsequent hearing.~~

21 C. ~~If a maximum property tax rate is in effect, the~~
22 ~~district board, on petition of twenty-five percent of the~~
23 ~~qualified electors, or by the owners of twenty-five percent of~~
24 ~~the land area of the district, shall call an election pursuant~~
25 ~~to the provisions of the Local Election Act to reduce the~~

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[bracketed material] = delete

1 ~~maximum tax rate but not below the lesser of that rate~~
2 ~~determined by the district board to be necessary to maintain~~
3 ~~the district's facilities and improvements where the tax was~~
4 ~~authorized for operation and maintenance, or the actual rate~~
5 ~~then in effect, but in no event shall the rate be reduced below~~
6 ~~the rate necessary to satisfy the district's obligations in~~
7 ~~connection with any outstanding bonds issued pursuant to the~~
8 ~~Public Improvement District Act.~~

9 D. ~~If a maximum special levy is in effect, the~~
10 ~~district board, on petition of twenty-five percent of the~~
11 ~~qualified electors, or by the owners of twenty-five percent of~~
12 ~~the land area of the district, shall hold a hearing to~~
13 ~~determine whether to reduce the maximum special levy but not~~
14 ~~below the lesser of that rate determined by the district board~~
15 ~~to be necessary to maintain the district's facilities and~~
16 ~~improvements, where the special levy was authorized for~~
17 ~~operation and maintenance, or the actual rate then in effect,~~
18 ~~but in no event shall the rate be reduced below the rate~~
19 ~~necessary to satisfy the district's obligations in connection~~
20 ~~with any outstanding bonds issued pursuant to the Public~~
21 ~~Improvement District Act.~~

22 E. ~~Upon presentation to the district board of a~~
23 ~~petition signed by the owners of a majority of the property in~~
24 ~~the district, the district board shall adopt a resolution to~~
25 ~~reduce or eliminate the portion of the tax or special levy,~~

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1 ~~beginning the next fiscal year, required for one or more~~
2 ~~services or enhanced services specified in the petition.~~
3 ~~Signatures on a petition to reduce or eliminate a tax or~~
4 ~~special levy shall be valid for a period of sixty days.~~

5 F. ~~When levying property tax or imposing a special~~
6 ~~levy]~~ The district board shall make annual statements and
7 estimates of:

8 (1) the operation and maintenance expenses of
9 the district;

10 (2) the costs of public infrastructure
11 improvements [~~to be financed by the taxes or special levy and]~~
12 financed or to be financed by the district;

13 (3) the amount of all other expenditures for
14 public infrastructure [~~improvements]~~ and enhanced services
15 [~~proposed to be paid from the taxes or special levy and of];~~
16 and

17 (4) the amount to be raised to pay general
18 obligation bonds of the district or special levy bonds. [~~all~~
19 ~~of which shall be provided for by the levy and collection of~~
20 ~~property taxes on the net taxable value of the real property in~~
21 ~~the district or by the imposition and collection of special~~
22 ~~levies.]~~

23 B. The district board or administrative committee,
24 as applicable, shall file the annual statements and estimates
25 with the clerk, except as to the amount to be raised to pay

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1 general obligation bonds of the district. The district board
2 or administrative committee shall publish a notice of the
3 filing of the estimate, shall hold ~~[hearings]~~ a hearing on the
4 portions of the estimate not relating to debt service on
5 general obligation bonds or special levy bonds and shall adopt
6 a budget, ~~[The district board, on or before the date set by law~~
7 ~~for certifying the annual budget of the municipality or county,~~
8 ~~shall fix, levy and assess the amounts to be raised by property~~
9 ~~taxes or special levies of the district and]~~ which shall fix,
10 levy and assess the amounts to be raised by property taxes or
11 special levies of the district, if any.

12 C. After the hearing, the district board or
13 administrative committee shall cause certified copies of the
14 ~~[order]~~ adopted budget to be delivered to the local government
15 division of the department of finance and administration ~~[All~~
16 ~~statutes relating to the levy and collection of property taxes,~~
17 ~~including the collection of delinquent taxes and sale of~~
18 ~~property for nonpayment of taxes, apply to district property~~
19 ~~taxes and to special levies, except to the extent that the~~
20 ~~district board has provided for other imposition, collection~~
21 ~~and foreclosure procedures in connection with special levies]~~
22 in advance of any deadline required by the local government
23 division."

24 SECTION 12. Section 5-15-3 NMSA 1978 (being Laws 2006,
25 Chapter 75, Section 3, as amended by Laws 2019, Chapter 212,
.223818.2

underscored material = new
~~[bracketed material] = delete~~

1 Section 199 and also by Laws 2019, Chapter 275, Section 1) is
2 amended to read:

3 "5-15-3. DEFINITIONS.--As used in the Tax Increment for
4 Development Act:

5 A. "base gross receipts taxes" means:

6 (1) the total amount of gross receipts taxes
7 collected within a [~~tax increment development~~] district, as
8 estimated by the governing body that adopted a resolution to
9 form that district, in consultation with the taxation and
10 revenue department, in the calendar year preceding the
11 formation of the [~~tax increment development~~] district or, when
12 an area is added to an existing district, the amount of gross
13 receipts taxes collected in the calendar year preceding the
14 effective date of the modification of the tax increment
15 development plan and designated by the governing body to be
16 available as part of the gross receipts tax increment; and

17 (2) any amount of gross receipts taxes that
18 would have been collected in such year if any applicable
19 additional gross receipts taxes imposed after that year had
20 been imposed in that year;

21 B. "base property taxes" means:

22 (1) the portion of property taxes produced by
23 the total of all property tax levied at the rate fixed each
24 year by each governing body levying a property tax on the
25 assessed value of taxable property within the tax increment

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1 development area last certified for the year ending immediately
2 prior to the year in which a tax increment development plan is
3 approved for the tax increment development area, or, when an
4 area is added to an existing tax increment development area,
5 "base property taxes" means that portion of property taxes
6 produced by the total of all property tax levied at the rate
7 fixed each year by each governing body levying a property tax
8 upon the assessed value of taxable property within the tax
9 increment development area on the date of the modification of
10 the tax increment development plan and designated by the
11 governing body to be available as part of the property tax
12 increment; and

13 (2) any amount of property taxes that would
14 have been collected in such year if any applicable additional
15 property taxes imposed after that year had been imposed in that
16 year;

17 C. "county" means the unincorporated area in a
18 county in this state, a combined city and county corporation,
19 an incorporated county, an urban county or a single urban
20 government, including an incorporated area within the county
21 with the municipality's consent, and the entire county for
22 those counties with no unincorporated area;

23 [~~C.~~] D. "county option gross receipts taxes" means
24 gross receipts taxes imposed by counties pursuant to the County
25 Local Option Gross Receipts and Compensating Taxes Act and

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1 designated by the governing body of the county to be available
2 as part of the gross receipts tax increment;

3 E. "development agreement" means an agreement
4 between a property owner or developer and the county,
5 municipality or district concerning the improvement of specific
6 property within a district, which agreement may be used to
7 establish obligations of the owner or developer, the county or
8 municipality or the district concerning the zoning,
9 subdivision, improvement, impact fees, financial
10 responsibilities and other matters relating to the development,
11 improvement and use of real property within the district;

12 ~~[D.]~~ F. "district" means a tax increment
13 development district formed for the purposes of carrying out
14 tax increment development projects;

15 ~~[E.]~~ G. "district board" means [a] the board
16 ~~[formed in accordance with the provisions of the Tax Increment~~
17 ~~for Development Act to govern a tax increment development] that~~
18 governs a district pursuant to the provisions of the Tax
19 Increment for Development Act;

20 ~~[F.]~~ H. "enhanced services" means public services
21 provided by a municipality or county within the district at a
22 higher level or to a greater degree than otherwise available to
23 the land located in the district from the municipality or
24 county, including such services as public safety, fire
25 protection, street or sidewalk cleaning or landscape

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1 maintenance in public areas; provided that "enhanced services"
2 does not include the basic operation and maintenance related to
3 infrastructure improvements financed by the district pursuant
4 to the Tax Increment for Development Act;

5 [G.] I. "governing body" means the city council or
6 city commission of a [~~city, the board of trustees or council of~~
7 ~~a town or village~~] municipality or the board of county
8 commissioners of a county;

9 [H.] J. "gross receipts tax increment" means the
10 gross receipts taxes collected within a [~~tax increment~~
11 ~~development~~] district in excess of the base gross receipts
12 taxes collected in the district;

13 [I.] K. "gross receipts tax increment bonds" means
14 bonds issued by a district in accordance with the Tax Increment
15 for Development Act, the pledged revenue for which is a gross
16 receipts tax increment;

17 [J.] L. "local government" means a municipality or
18 county;

19 [K.] M. "municipal option gross receipts taxes"
20 means those gross receipts taxes imposed by municipalities
21 pursuant to the Municipal Local Option Gross Receipts and
22 Compensating Taxes Act and designated by the governing body of
23 the municipality to be available as part of the gross receipts
24 tax increment;

25 [L.] N. "municipality" means an incorporated city,

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1 town or village, whether incorporated under general act,
2 special act, special charter or territorial charter, but does
3 not mean a combined city and county corporation, an
4 incorporated county or a single urban government;

5 [M.] O. "new full-time economic base job" means a
6 job:

7 (1) that is primarily performed in New Mexico;

8 (2) that is held by an employee who is hired
9 to work an average of at least thirty-two hours per week for at
10 least forty-eight weeks per year;

11 (3) that is:

12 (a) involved, directly or in a
13 supervisory capacity, with the production of: 1) a service;
14 provided that the majority of the revenue generated from the
15 service is from sources outside the state; or 2) tangible or
16 intangible personal property for sale; or

17 (b) held by an employee that is employed
18 at a regional, national or international headquarters operation
19 or at an operation that primarily provides services for other
20 operations of the qualifying entity that are located outside
21 the state; and

22 (4) that is not directly involved with natural
23 resources extraction or processing, on-site services where the
24 customer is present for the delivery of the service, retail,
25 construction or agriculture except for value-added processing

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1 performed on agricultural products that would then be sold for
2 wholesale or retail consumption;

3 ~~[N.]~~ P. "owner" means a person owning real property
4 within the boundaries of a district;

5 ~~[O.]~~ Q. "person" means an individual, corporation,
6 association, partnership, limited liability company or other
7 legal entity;

8 ~~[P.]~~ R. "project" means a tax increment development
9 project;

10 ~~[Q.]~~ S. "property tax increment" means all property
11 tax collected on real property within the designated tax
12 increment development area that is in excess of the base
13 property tax until termination of the district and distributed
14 to the district in the same manner as distributions are made
15 under the provisions of the Tax Administration Act;

16 ~~[R.]~~ T. "property tax increment bonds" means bonds
17 issued by a district in accordance with the Tax Increment for
18 Development Act, the pledged revenue for which is a property
19 tax increment;

20 ~~[S.]~~ U. "public improvements" means on-site
21 improvements and off-site improvements that directly or
22 indirectly benefit a ~~[tax increment development]~~ district or
23 facilitate development within a tax increment development area
24 and that are dedicated to the ~~[governing body in which the~~
25 ~~district lies. "Public improvements" includes]~~ state or a

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1 local government or other political subdivision, including:

2 (1) sanitary sewage systems, including
3 collection, transport, treatment, dispersal, effluent use and
4 discharge;

5 (2) drainage and flood control systems,
6 including collection, transport, storage, treatment, dispersal,
7 effluent use and discharge;

8 (3) water systems for domestic, commercial,
9 office, hotel or motel, industrial, irrigation, municipal or
10 fire protection purposes, including production, collection,
11 storage, treatment, transport, delivery, connection and
12 dispersal;

13 (4) highways, streets, roadways, bridges,
14 crossing structures and parking facilities, including all areas
15 for vehicular use for travel, ingress, egress and parking;

16 (5) trails and areas for pedestrian,
17 equestrian, bicycle or other non-motor vehicle use for travel,
18 ingress, egress and parking;

19 (6) pedestrian and transit facilities, parks,
20 recreational facilities and open space areas for the use of
21 members of the public for entertainment, assembly and
22 recreation;

23 (7) landscaping, including earthworks,
24 structures, plants, trees and related water delivery systems;

25 (8) public buildings, public safety facilities

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1 and fire protection and police facilities;

2 (9) electrical generation, transmission and
3 distribution facilities;

4 (10) natural gas distribution facilities;

5 (11) lighting systems;

6 (12) cable or other telecommunications lines
7 and related equipment;

8 (13) traffic control systems and devices,
9 including signals, controls, markings and signage;

10 (14) school sites and facilities with the
11 consent of the governing board of the public school district
12 for which the facility is to be acquired, constructed or
13 renovated;

14 (15) library and other public educational or
15 cultural facilities;

16 (16) equipment, vehicles, furnishings and
17 other personal property related to the items listed in this
18 subsection;

19 (17) inspection, construction management,
20 planning and program management and other professional services
21 costs incidental to the project;

22 (18) workforce housing; and

23 (19) any other improvement that the governing
24 body determines to be for the use or benefit of the public;

25 [F.] V. "state gross receipts tax" means the gross
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1 receipts tax imposed pursuant to the Gross Receipts and
2 Compensating Tax Act, but does not include that portion
3 distributed to municipalities pursuant to Sections 7-1-6.4 and
4 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47
5 NMSA 1978;

6 [U.] W. "sustainable development" means land
7 development that achieves sustainable economic and social goals
8 in ways that can be supported for the long term by conserving
9 resources, protecting the environment and ensuring human health
10 and welfare using mixed-use, pedestrian-oriented, multimodal
11 land use planning;

12 [V.] X. "tax increment development area" means the
13 land included within the boundaries of a [~~tax increment~~
14 ~~development~~] district;

15 [~~W.~~ "~~tax increment development district~~" means a
16 ~~district formed for the purposes of carrying out tax increment~~
17 ~~development projects~~;

18 [X.] Y. "tax increment development plan" means a
19 plan for the undertaking of a tax increment development
20 project;

21 [Y.] Z. "tax increment development project" means
22 activities undertaken within a tax increment development area
23 to enhance the sustainability of the local, regional or
24 statewide economy; to support the creation of jobs, schools and
25 workforce housing; and to generate tax revenue for the

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1 provision of public improvements and may include:

2 (1) acquisition of land within a designated
3 tax increment development area or a portion of that tax
4 increment development area;

5 (2) demolition and removal of buildings and
6 improvements and installation, construction or reconstruction
7 of streets, utilities, parks, playgrounds and improvements
8 necessary to carry out the objectives of the Tax Increment for
9 Development Act;

10 (3) installation, construction or
11 reconstruction of streets, water utilities, sewer utilities,
12 parks, playgrounds and other public improvements necessary to
13 carry out the objectives of the Tax Increment for Development
14 Act;

15 (4) disposition of property acquired or held
16 by a [~~tax increment development~~] district as part of the
17 undertaking of a tax increment development project at the fair
18 market value of such property for uses in accordance with the
19 Tax Increment for Development Act;

20 (5) payments for professional services
21 contracts necessary to implement a tax increment development
22 plan or project;

23 (6) borrowing to purchase land, buildings or
24 infrastructure in an amount not to exceed the revenue stream
25 that may be derived from the gross receipts tax increment or

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1 the property tax increment estimated to be received by a [~~tax~~
2 ~~increment development~~] district; and

3 (7) grants for public improvements essential
4 to the location or expansion of a business;

5 [~~Z.~~] AA. "taxing entity" means the governing body
6 of a political subdivision of the state, the gross receipts tax
7 increment or property tax increment of which may be used for a
8 tax increment development project; and

9 [~~AA.~~] BB. "workforce housing" means decent, safe
10 and sanitary dwellings, apartments, single-family dwellings or
11 other living accommodations that are affordable for persons or
12 families earning less than eighty percent of the median income
13 within the county in which the tax increment development
14 project is located; provided that an owner-occupied housing
15 unit is affordable to a household if the expected sales price
16 is reasonably anticipated to result in monthly housing costs
17 that do not exceed thirty-three percent of the household's
18 gross monthly income; provided that:

19 (1) determination of mortgage amounts and
20 payments is to be based on down payment rates and interest
21 rates generally available to lower- and moderate-income
22 households; and

23 (2) a renter-occupied housing unit is
24 affordable to a household if the unit's monthly housing costs,
25 including rent and basic utility and energy costs, do not

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1 exceed thirty-three percent of the household's gross monthly
2 income."

3 SECTION 13. Section 5-15-8 NMSA 1978 (being Laws 2006,
4 Chapter 75, Section 8, as amended) is amended to read:

5 "5-15-8. FORMATION DETERMINATION--ELECTION.--

6 A. The formation determination and election
7 procedures set forth in this section shall be used for:

8 (1) formation of a new [~~tax increment~~
9 ~~development~~] district;

10 (2) [~~selection of a district board member~~]
11 modification of the boundaries of a tax increment development
12 area;

13 (3) [~~adoption~~] the levy of a property tax
14 [~~levy by a tax increment development district~~] on property in
15 the district;

16 (4) use of property tax increment financing by
17 a [~~tax increment development~~] district; or

18 (5) issuing of property tax increment bonds to
19 be repaid by funds raised by property tax increments.

20 B. A formation determination may be waived and a
21 [~~tax increment development~~] district shall be formed upon the
22 governing body's adoption of a resolution to form a [~~tax~~
23 ~~increment development~~] district if a petition is presented to a
24 governing body in accordance with the Tax Increment for
25 Development Act and if the petition contains the signatures of

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1 all owners of the real property within the proposed tax
2 increment development area and states that the owners waive the
3 right to a formation determination.

4 ~~[G. A formation or other determination shall not be~~
5 ~~a local election for purposes of the Local Election Act. The~~
6 ~~governing body or district board may establish local procedures~~
7 ~~for noticing, conducting and canvassing determinations, which~~
8 ~~may include determinations by unanimous written approval of the~~
9 ~~owners in affidavits executed by the owners and confirmed in a~~
10 ~~review by the district board.~~

11 ~~D.]~~ C. Except as otherwise provided by this
12 section, an election by the qualified electors pursuant to the
13 Tax Increment for Development Act shall be a nonpartisan
14 election called, conducted and canvassed pursuant to the
15 provisions of the ~~[Election Code]~~ Local Election Act.

16 ~~[E.]~~ D. In addition to the notice requirements in
17 the Local Election Act, the notice of election shall state:

18 (1) if the election is a formation election,
19 the boundaries of the proposed ~~[tax increment development]~~
20 district;

21 (2) if the election is a bond election, the
22 purpose for which the bonds are to be issued and the amount of
23 the issue;

24 (3) if the election is a property tax levy
25 election, the maximum tax rate per one thousand dollars

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1 (\$1,000) of assessed valuation to be imposed, the purposes for
2 which the revenues raised will be used and the existing maximum
3 tax rate, if any;

4 (4) that an approved tax increment development
5 plan is on file with the clerk of the governing body;

6 (5) the purposes for which property taxes will
7 be imposed and for which the revenues raised will be used,
8 including a description of the public improvements to be
9 financed with tax revenues, bond proceeds or other revenues of
10 the [~~tax increment development~~] district; and

11 (6) that the imposition of property taxes will
12 result in a lien for the payment on property within the
13 district.

14 [~~F. The district board, or, in the case of a~~
15 ~~formation election, the governing body, shall determine the~~
16 ~~date of the election, which shall comply with the provisions of~~
17 ~~the Local Election Act.] E. The ballot material provided to
18 each qualified [~~electors~~] elector shall include:~~

19 (1) for a formation election, an impartial
20 description of the tax increment development plan and a brief
21 description of arguments for and against the formation of the
22 [~~tax increment development~~] district, if any;

23 (2) for an election concerning the imposition
24 of property taxes, an impartial description of the taxes to be
25 imposed, the method of apportionment, collection and

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1 enforcement and other details sufficient to enable each
2 qualified elector to determine the amount of tax it will be
3 obligated to pay; a brief description of arguments for and
4 against the imposition of taxes that are the subject of the
5 election, if any; and a statement that the imposition of
6 property taxes is for the provision of certain, but not
7 necessarily all, public improvements that may be needed or
8 desirable within the [~~tax increment development~~] district, and
9 that other taxes, levies or assessments by other governmental
10 entities may be presented for approval by owners and qualified
11 electors;

12 (3) for an election concerning the use of
13 property tax increment [~~financing~~] bonds, an impartial
14 description of the estimated increment to be generated over the
15 life of the project and the nature and extent of the public
16 improvements to be constructed [~~and maintained~~] using such
17 financing;

18 (4) for a formation election, the question to
19 be voted upon as [~~district, yes~~] "for district" and
20 [~~district, no~~] "against district";

21 (5) for a property tax imposition election,
22 the question to be voted upon as [~~property tax, yes~~] "for
23 property tax" and [~~property tax, no~~] "against property tax";

24 (6) for an election to change an existing
25 maximum tax or eliminate an existing tax, the question to be

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1 voted upon as [~~"tax change, yes"~~] "for tax change" and [~~"tax~~
2 ~~change, no"~~] "against tax change" and shall specify the type of
3 tax to which the proposed change pertains; and

4 (7) for an election concerning the use of
5 property tax increment bonds, the ballot shall pose the
6 question to be voted upon as [~~"bonds, yes"~~] "for tax bonds" and
7 [~~"bonds, no"~~] "against tax bonds".

8 [~~G.~~] F. Failure of a majority to vote in favor of
9 the matter submitted shall not prejudice the submission of the
10 same or similar matters at a later election; provided that an
11 election on the same question shall not be held within one year
12 of the failure of a majority to vote in favor of that question.

13 [~~H.~~] G. If a person transfers real property located
14 in a district and the name of the successor owner becomes known
15 to the [~~governing body or the~~] district board [~~as applicable~~]
16 and is verified by recorded deed or other similar evidence of
17 transfer of ownership, the successor owner is deemed to be the
18 owner of the real property for the purposes of the Tax
19 Increment for Development Act.

20 [~~I.~~] H. If there are no persons registered to vote
21 within a district or proposed district areas within [~~seventy~~]
22 sixty-three days immediately preceding a scheduled election
23 date, an election required to be held pursuant to the Tax
24 Increment for Development Act shall be canceled and the
25 determination made by the owners of property within the

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1 district or proposed district areas shall prevail, unless an
2 election is otherwise required by the constitution of New
3 Mexico or the determination was waived by the governing body
4 pursuant to Subsection B of this section. In a determination,
5 each owner shall have ~~[the number of votes or portion of votes~~
6 ~~equal to the number of acres or portion of acres]~~ one vote for
7 each one-fifth of an acre located in the district, rounded
8 upward to the nearest one-fifth of an acre ~~[owned in the~~
9 ~~district by that owner]."~~

10 SECTION 14. Section 5-15-9 NMSA 1978 (being Laws 2006,
11 Chapter 75, Section 9, as amended) is amended to read:

12 "5-15-9. FORMATION OF A DISTRICT.--

13 A. If the formation of the ~~[tax increment~~
14 ~~development]~~ district is approved in accordance with the
15 provisions of Section 5-15-8 NMSA 1978, the governing body
16 shall deliver a copy of the resolution ordering formation of
17 the ~~[tax increment development]~~ district to each of the
18 following persons or entities:

19 (1) the county assessor, the county treasurer
20 and the clerk of the county in which the district is located;

21 (2) the school district within which any
22 portion of the property located within a tax increment
23 development area lies;

24 ~~[(3) any other taxing entities within which~~
25 ~~any portion of the property located within a tax increment~~

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1 ~~development area lies;~~

2 ~~(4)~~ (3) the taxation and revenue department;

3 ~~(5)~~ (4) the local government division of the
4 department of finance and administration; and

5 ~~(6)~~ (5) the director of the legislative
6 finance committee.

7 B. A notice of the formation showing the number and
8 date of the resolution and giving a description of the land
9 included in the district shall be recorded with the clerk of
10 the county in which the district is located.

11 C. A ~~[tax increment development]~~ district shall be
12 a political subdivision of the state, separate and apart from a
13 municipality or county."

14 SECTION 15. Section 5-15-10 NMSA 1978 (being Laws 2006,
15 Chapter 75, Section 10, as amended) is amended to read:

16 "5-15-10. GOVERNANCE OF THE DISTRICT.--

17 A. Following formation of a ~~[tax increment~~
18 ~~development]~~ district, a district board shall administer in a
19 reasonable manner the implementation of the tax increment
20 development plan as approved by the governing body.

21 B. The district shall be governed by the ~~[governing~~
22 ~~body that adopted a resolution to form the district or by a~~
23 ~~five-member board composed of four members appointed by that~~
24 ~~governing body; provided, however, that the fifth member of the~~
25 ~~five-member board is the secretary of finance and~~

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1 ~~administration or the secretary's designee with full voting~~
2 ~~privileges]~~ district board, composed of the members of the
3 governing body that adopted a resolution to form the district,
4 except as provided in Subsection E of this section.

5 C. ~~[Two of the appointed directors shall serve an~~
6 ~~initial term to expire following a regular local election and~~
7 ~~not to exceed six years. Two of the appointed directors shall~~
8 ~~serve an initial term to expire following a regular local~~
9 ~~election and not to exceed four years. The resolution forming~~
10 ~~the district shall state which directors shall serve the longer~~
11 ~~terms and which shall serve the shorter terms if a vacancy~~
12 ~~occurs on the district board because of the death, resignation~~
13 ~~or inability of the director to discharge the duties of the~~
14 ~~director, the governing body shall appoint a director to fill~~
15 ~~the vacancy, and the director shall hold office for the~~
16 ~~remainder of the unexpired term until a successor is appointed~~
17 ~~or elected.]~~ The district board may, at its option, appoint a
18 separate administrative committee, consisting of five members,
19 to which the district may delegate any powers that may be
20 delegated to it pursuant to the Tax Increment for Development
21 Act.

22 D. ~~[In the case of an appointed board of directors~~
23 ~~that is not the governing body, at the end of the appointed~~
24 ~~directors' initial terms, the board shall hold an election of~~
25 ~~new directors by majority vote of qualified electors in~~

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1 ~~accordance with the Local Election Act and the Tax Increment~~
2 ~~for Development Act. If the election is canceled pursuant to~~
3 ~~Subsection I of Section 5-15-8 NMSA 1978, a determination by~~
4 ~~the owners conducted by ballot shall select the new directors.]~~

5 Until the obligations owed by and to nongovernmental persons
6 who are parties to a development agreement to which the
7 district is a party have been fully performed, two of the
8 members shall be nominated by the nongovernmental persons, or
9 their successors, subject to the approval of the district
10 board. Three of the members shall be appointed by the district
11 board and shall have experience in civil engineering, public
12 administration, public finance or public agency budgeting or
13 accounting. After all obligations owed pursuant to a
14 development agreement by and to the nongovernmental persons
15 have been performed, the district board shall appoint all five
16 members of the administrative committee as vacancies of
17 committee positions occur.

18 E. If the members of the administrative committee
19 are to serve by virtue of the member's title, the person who
20 holds that title shall fill that position on the committee.
21 The resolution shall also assign the duties of clerk and
22 treasurer for the district. If there is a vacancy in one of
23 these positions before the end of a term, the nongovernmental
24 persons who are parties to the development agreement, or their
25 successors in interest, shall nominate a person to fill that

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1 vacancy.

2 F. The members of the administrative committee
3 shall serve annual terms as specified by the district board,
4 not to exceed five years. At the end of each term, the
5 district board shall appoint the administrative committee for a
6 new term or assume the responsibilities of the administrative
7 committee. If a vacancy occurs on the administrative committee
8 because of the death, resignation or inability of the member to
9 discharge the duties of the member, the district board shall
10 appoint a member to fill the vacancy, and the member shall hold
11 office for the remainder of the unexpired term until a
12 successor is appointed.

13 G. A district that has not issued and has
14 determined it will not issue debt obligations, the interest on
15 which is intended to be excludable from gross income for
16 federal tax purposes, shall be governed by an appointed board
17 consisting of two members appointed based on the nominations by
18 a nongovernmental person or persons who are parties to a
19 development agreement with the district, or their successors in
20 interest; one member appointed by the governing body; one
21 member appointed pursuant to an agreement by the governing body
22 and the nongovernmental person or persons who are parties to
23 the development agreement with the district; and the secretary
24 of finance and administration or the secretary's designee.
25 Each member shall serve a five-year term, and if there is a

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1 vacancy in one of these positions before the end of a term, the
2 vacancy shall be filled in the manner in which the member
3 previously holding the vacant position was nominated. A
4 district governed by a district board pursuant to this section
5 shall not be authorized to levy a property tax pursuant to the
6 Tax Increment for Development Act."

7 SECTION 16. Section 5-15-12 NMSA 1978 (being Laws 2006,
8 Chapter 75, Section 12) is amended to read:

9 "5-15-12. DISTRICT POWERS--LIMITATIONS.--

10 A. In addition to other express or implied
11 authority granted by law, a district, through the district
12 board or the administrative committee on behalf of the district
13 board, shall have the power to:

14 (1) enter into contracts or expend money for
15 any public purpose with respect to the district;

16 (2) enter into agreements with a municipality,
17 county or other local government entity in connection with real
18 property located within the district;

19 (3) enter into an intergovernmental agreement
20 in accordance with the Joint Powers Agreements Act for the
21 planning, design, inspection, ownership, control, maintenance,
22 operation or repair of public infrastructure or the provision
23 of enhanced services by the municipality or county in which the
24 district lies or for any other purpose authorized by the Tax
25 Increment for Development Act;

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1 (4) sell, lease or otherwise dispose of
2 district property if the sale, lease or conveyance is not a
3 violation of the terms of any contract or bond covenant of the
4 district;

5 (5) reimburse a municipality or county in
6 which the [~~tax increment development~~] district is located for
7 providing services within the tax increment development area;

8 (6) operate, maintain and repair public
9 infrastructure [~~until dedicated to the governing body~~];

10 (7) employ staff, counsel, advisors and
11 consultants;

12 (8) reimburse a municipality or county in
13 which the district is located for staff and consultant services
14 and support facilities supplied by the municipality or county;

15 (9) accept gifts or grants and incur and repay
16 loans for a public purpose;

17 (10) enter into an agreement with an owner
18 concerning the advance of money by an owner for a public
19 purpose or the granting of real property by the owner for a
20 public purpose;

21 [~~(11) levy property taxes in accordance with~~
22 ~~election requirements of the Tax Increment for Development Act~~
23 ~~for a public purpose on real property located in the district;~~

24 ~~(12)]~~ (11) pay the financial, legal and
25 administrative costs of the district;

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1 [~~(13)~~] (12) enter into contracts, agreements
2 and trust indentures to obtain credit enhancement or liquidity
3 support for its bonds and process the issuance, registration,
4 transfer and payment of its bonds and the disbursement and
5 investment of proceeds of the bonds in accordance with the
6 provisions for investment of funds by municipal treasurers;

7 [~~(14)~~] (13) borrow money within the limits of
8 the Tax Increment for Development Act to fund the construction,
9 operation and maintenance of public improvements; ~~[until~~
10 ~~dedicated to the governing body or for any other lawful public~~
11 ~~purposes related to the purposes of the Tax Increment for~~
12 ~~Development Act; and~~

13 ~~(15)]~~ (14) obtain, through its treasurer,
14 reports and data concerning the taxable activity and payment of
15 gross receipts taxes imposed on persons engaging in business
16 within the district's boundaries. A district treasurer's
17 access to such reports and data shall be subject to
18 satisfaction of the training and qualification requirements
19 applicable to obtaining such information prescribed by the
20 taxation and revenue department; and

21 (15) use public easements and rights of way in
22 or across public property, roadways, highways, streets or other
23 thoroughfares and other public easements and rights of way of
24 the district, municipality or county.

25 B. ~~[Notwithstanding the provisions of the~~

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1 ~~Procurement Code or local procurement requirements that may~~
2 ~~otherwise be applicable to the municipality or county in which~~
3 ~~the district is located, the district board may enter into~~
4 ~~contracts to carry out any of the tax increment development~~
5 ~~district's authorized powers, including the planning, design,~~
6 ~~engineering, financing, construction and acquisition of public~~
7 ~~improvements for the district, with a contractor, an owner or~~
8 ~~other person or entity, on such terms and with such persons as~~
9 ~~the district board determines to be appropriate.] The district
10 board is not subject to the Procurement Code.~~

11 C. A district shall not have the power of eminent
12 domain for any purpose.

13 D. A casino shall not be located in a district, and
14 a district shall not use the proceeds of property tax increment
15 bonds or gross receipts tax increment bonds to finance public
16 improvements for a casino."

17 SECTION 17. Section 5-15-13 NMSA 1978 (being Laws 2006,
18 Chapter 75, Section 13, as amended) is amended to read:

19 "5-15-13. [~~AUTHORITY TO IMPOSE~~] PROPERTY TAX LEVY--
20 LIMITATIONS.--A [~~district has the power to establish a~~]
21 property tax levy upon real property located within the tax
22 increment development area may be imposed by the district board
23 with the following limitations:

24 A. the maximum property tax levy [~~a district may~~
25 ~~impose is~~] shall not exceed five dollars (\$5.00) on each one

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1 thousand dollars (\$1,000) of net taxable value, as that term is
2 defined in the Property Tax Code, which may be used for
3 operation, maintenance and capital improvements, in furtherance
4 of the purposes of the Tax Increment for Development Act;

5 B. ~~[a district may impose]~~ a property tax levy may
6 be imposed only after authorization through a determination
7 made by the owners of real property in the district and by a
8 majority of votes cast by the qualified resident electors of a
9 district in an election held ~~[in accordance with the Local~~
10 ~~Election Act and the Tax Increment for Development Act]~~
11 pursuant to Section 5-15-8 NMSA 1978; and

12 C. a property tax levy ~~[imposed by a district]~~
13 shall not be effective for more than four years."

14 SECTION 18. Section 5-15-15 NMSA 1978 (being Laws 2006,
15 Chapter 75, Section 15, as amended by Laws 2019, Chapter 274,
16 Section 8 and by Laws 2019, Chapter 275, Section 2) is amended
17 to read:

18 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX
19 INCREMENT TO SECURE BONDS.--

20 A. A tax increment development plan, as originally
21 approved or as later modified, may contain a provision that
22 gross receipts tax increments collected within the tax
23 increment development area after the effective date of approval
24 of the tax increment development plan may be dedicated for the
25 purpose of securing gross receipts tax increment bonds pursuant

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1 to the Tax Increment for Development Act.

2 B. A municipality may dedicate a portion of [~~a~~
3 ~~gross receipts tax increment from~~] any of the following [~~taxes~~]
4 to pay the principal of, the interest on and any premium due in
5 connection with the bonds of, loans or advances to, or any
6 indebtedness incurred by, whether funded, refunded, assumed or
7 otherwise, the authority for financing or refinancing, in whole
8 or in part, a tax increment development project within the tax
9 increment development area:

10 (1) an increment of a municipal option gross
11 receipts tax [~~that is dedicated by the ordinance imposing the~~
12 ~~increment to the tax increment development project~~]; and

13 (2) an amount distributed to municipalities
14 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978.

15 C. A county may dedicate a portion of [~~a gross~~
16 ~~receipts tax increment from~~] any of the following [~~taxes~~] to
17 pay the principal of, the interest on and any premium due in
18 connection with the bonds of, loans or advances to or any
19 indebtedness incurred by, whether funded, refunded, assumed or
20 otherwise, the district for financing or refinancing, in whole
21 or in part, a tax increment development project within the tax
22 increment development area:

23 (1) an increment of a county option gross
24 receipts tax [~~that is dedicated by the ordinance imposing the~~
25 ~~increment to the tax increment development project~~]; and

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1 (2) the amount distributed to counties
2 pursuant to Section 7-1-6.47 NMSA 1978.

3 D. Subject to the provisions of Subsection G of
4 this section, the state board of finance may dedicate a gross
5 receipts tax increment attributable to the state gross receipts
6 tax to pay the financing and refinancing costs, the principal
7 of, the interest on and any premium due in connection with
8 gross receipts tax increment bonds issued to finance a tax
9 increment development project within the tax increment
10 development area; provided that:

11 (1) beginning July 1, 2029, the increment from
12 the state gross receipts tax is no more than the average of:

13 (a) the increment from municipal option
14 gross receipts taxes dedicated by resolution by the
15 municipality, if the district is located in a municipality; and

16 (b) the increment from county option
17 gross receipts taxes dedicated by resolution by the county;

18 (2) the state board of finance has adopted a
19 resolution dedicating an increment attributable to the state
20 gross receipts tax for the purpose of securing gross receipts
21 tax increment bonds pursuant to Subsection G of this section;
22 and

23 (3) the dedication shall be conditioned on the
24 gross receipts tax increment bonds being issued no later than
25 four years after the state board of finance has adopted the

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1 resolution dedicating the increment.

2 E. The gross receipts tax increment generated by
3 the imposition of municipal or county option gross receipts
4 taxes specified by statute for particular purposes may
5 nonetheless be dedicated for the purposes of the Tax Increment
6 for Development Act if intent to do so is set forth in the tax
7 increment development plan approved by the governing body, if
8 the purpose for which the increment is intended to be used is
9 consistent with the purposes set forth in the statute
10 authorizing the municipal or county option gross receipts tax.

11 F. An imposition of a gross receipts tax increment
12 attributable to a gross receipts tax by a taxing entity may be
13 dedicated for the purpose of securing gross receipts tax
14 increment bonds with the agreement of the taxing entity,
15 evidenced by a resolution adopted by a majority vote of that
16 taxing entity. A taxing entity shall not agree to dedicate for
17 the purposes of securing gross receipts tax increment bonds
18 more than seventy-five percent of its gross receipts tax
19 increment attributable to gross receipts taxes by the taxing
20 entity. A resolution of the taxing entity to dedicate a gross
21 receipts tax increment or to increase the dedication of a gross
22 receipts tax increment shall become effective only on January 1
23 or July 1 of the calendar year.

24 G. The state board of finance shall condition a
25 dedication of a gross receipts tax increment attributable to

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1 the state gross receipts tax on the approval required pursuant
2 to Section 5-15-21 NMSA 1978 and that the initial gross
3 receipts tax increment bonds issuance secured by a portion of
4 the gross receipts tax increment attributable to the state
5 gross receipts tax shall be issued no later than four years
6 after the state board of finance has adopted the resolution
7 making the dedication. Subject to the limitations provided in
8 Subsection D of this section, the state board of finance shall
9 not agree to dedicate more than seventy-five percent of the
10 gross receipts tax increment attributable to the state gross
11 receipts tax within the district. The resolution of the state
12 board of finance shall become effective on January 1 or July 1
13 of the calendar year following the notification period pursuant
14 to Section 5-15-27 NMSA 1978 and shall find that:

15 (1) the state board of finance has reviewed
16 the request for the use of the state gross receipts tax;

17 (2) based upon review by the state board of
18 finance of the applicable tax increment development plan, the
19 dedication by the state board of finance of a portion of the
20 gross receipts tax increment within the district for use in
21 meeting the required goals of the tax increment plan is
22 reasonable and in the best interest of the state; and

23 (3) based upon the review by the state board
24 of finance, the use of the state gross receipts tax is likely
25 to stimulate the creation of jobs, economic opportunities and

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1 general revenue for the state through the addition of new
2 businesses to the state and the expansion of existing
3 businesses within the state; provided that, when reviewing the
4 applicable tax increment development plan to create jobs and
5 economic opportunities, the state board of finance shall
6 prioritize in its consideration net, new full-time economic
7 base jobs that would not have occurred on a similar scale and
8 time line but for the use of the state gross receipts tax
9 increment. The benefit to be evaluated is the marginal benefit
10 of the speed-up in time or the incremental change in job
11 creation above expected normal growth and shall exclude retail
12 jobs, call center jobs and service jobs where the customer is
13 typically on site.

14 H. The governing body of the jurisdiction in which
15 a ~~[tax increment development]~~ district has been established
16 shall timely notify the assessor of the county in which the
17 district has been established, the taxation and revenue
18 department and the local government division of the department
19 of finance and administration when:

20 (1) a tax increment development plan has been
21 approved that contains a provision for the allocation of a
22 gross receipts tax increment;

23 (2) any outstanding bonds of the district have
24 been paid off; and

25 (3) the purposes of the district have

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1 otherwise been achieved."

2 SECTION 19. Section 5-15-17 NMSA 1978 (being Laws 2006,
3 Chapter 75, Section 17) is amended to read:

4 "5-15-17. PROPERTY TAX INCREMENT BONDS.--

5 A. Notwithstanding any law to the contrary, but in
6 accordance with the Tax Increment for Development Act, a tax
7 increment development plan, as originally approved or as later
8 modified, may contain a provision that a portion of property
9 taxes levied after the effective date of the approval of the
10 tax increment development plan upon taxable property within a
11 tax increment development area each year, by or for the benefit
12 of any public body, may be dedicated for securing property tax
13 increment bonds pursuant to the Tax Increment for Development
14 Act, according to the following procedures:

15 (1) the base property taxes shall be paid into
16 the funds of each public body as are all other taxes collected
17 by or for the public body;

18 (2) the portion of the property taxes in
19 excess of the base property tax amount shall be allocated to,
20 and, when collected, paid into a special fund of the district
21 to pay the principal of, the interest on and any premiums due
22 in connection with the bonds of, loans or advances to, or
23 indebtedness incurred by, whether funded, refunded, assumed or
24 otherwise, the authority for financing or refinancing, in whole
25 or in part, a tax increment development project within the tax

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1 increment development area. Unless and until the total
2 assessed value of the taxable property in a tax increment
3 development area exceeds the base assessed value of the taxable
4 property in the tax increment development area, all of the
5 taxes levied upon the taxable property in the tax increment
6 development area shall be paid into the funds of the respective
7 public bodies; and

8 (3) when the bonds, loans, advances and
9 indebtedness, if any, including interest thereon and any
10 premiums due in connection with the bonds, loans, advances and
11 indebtedness have been paid, all taxes upon taxable property in
12 a tax increment development area shall be paid into the funds
13 of the respective public bodies.

14 B. The portion of property taxes in excess of the
15 amount of base property taxes may be irrevocably pledged by the
16 district for the payment of the principal of, the interest on
17 and any premiums due in connection with the bonds, loans,
18 advances and indebtedness.

19 C. Upon general reassessment of taxable property
20 valuations in a county, including all or part of a tax
21 increment development area in which a property tax increment
22 has been pledged for property tax increment bonds, the portions
23 of valuations for assessment shall be proportionately adjusted
24 in accordance with that reassessment or change.

25 D. A tax increment development plan, as originally

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1 approved or as later modified, may contain a provision that the
2 taxes levied upon taxable property within the tax increment
3 development area may continue to be allocated after the
4 effective date of the adoption of the property tax increment
5 provision if the existing bonds are in default or about to go
6 into default; except that those taxes shall not be allocated
7 after all bonds of the district issued pursuant to the plan,
8 including loans, advances and indebtedness, if any, and
9 interest thereon, and any premiums due in connection with the
10 loans, advances and indebtedness have been paid.

11 E. The property tax increment generated by the
12 imposition of property taxes may nonetheless be dedicated for
13 the purposes of the Tax Increment for Development Act if intent
14 to do so is set forth in the tax increment development plan
15 approved by the governing body and if the property tax was not
16 approved in an election.

17 F. The municipality in which a [~~tax increment~~
18 ~~development~~] district has been established shall timely notify
19 the assessor of the county in which the district has been
20 established when:

- 21 (1) a tax increment development plan has been
22 approved;
- 23 (2) any outstanding obligation incurred by the
24 district has been paid off; and
- 25 (3) the purposes of the district have

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1 otherwise been achieved.

2 G. As used in this section, "taxes" includes all
3 levies authorized to be made on an ad valorem basis upon real
4 and personal property.

5 H. ~~[The increment attributable to a levy by a~~
6 ~~taxing entity shall not be dedicated for the purpose of~~
7 ~~securing property tax increment bonds without the agreement of~~
8 ~~the taxing entity. The agreement shall be evidenced by a~~
9 ~~resolution adopted by a majority vote of that taxing entity.]~~ A
10 taxing entity shall not ~~[agree to]~~ dedicate for the purpose of
11 securing property tax increment bonds more than seventy-five
12 percent of the property tax increment attributable to a
13 property tax levy by that taxing entity."

14 SECTION 20. Section 5-15-20 NMSA 1978 (being Laws 2006,
15 Chapter 75, Section 20, as amended) is amended to read:

16 "5-15-20. GENERAL BONDING AUTHORITY OF A ~~[TAX INCREMENT~~
17 ~~DEVELOPMENT]~~ DISTRICT--OTHER LIMITATIONS.--

18 A. A district board shall not issue bonds against
19 gross receipts tax increments attributable to:

- 20 (1) the state gross receipts tax without:
 - 21 (a) the state board of finance adopting
 - 22 a resolution dedicating a gross receipts tax increment
 - 23 attributable to the state gross receipts tax for the purpose of
 - 24 securing the gross receipts tax increment bonds pursuant to
 - 25 Subsection G of Section 5-15-15 NMSA 1978; and

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1 (b) the approval required by Section
2 5-15-21 NMSA 1978; and

3 (2) a gross receipts tax imposed by a taxing
4 entity without the agreement of the taxing entity as evidenced
5 by a resolution adopted pursuant to Subsection B or C of
6 Section 5-15-15 NMSA 1978.

7 B. Except as otherwise provided in this section, a
8 district board shall not issue bonds against either gross
9 receipts tax increments or property tax increments without the
10 express written authorization of the department of finance and
11 administration, as evidenced by a letter signed by the
12 secretary of finance and administration. A district formed and
13 approved by a class A county or by a municipality within a
14 class A county if the municipality has a population of more
15 than sixty-five thousand persons, according to the most recent
16 federal decennial census, is not required to obtain express
17 written authorization of the department of finance and
18 administration for the issuance of gross receipts tax increment
19 bonds or property tax increment bonds.

20 C. Prior to the issuance of indebtedness evidenced
21 by the gross receipts tax increment bonds or property tax
22 increment bonds issued by a district pursuant to the Tax
23 Increment for Development Act, the property owners within the
24 district shall contribute a minimum of twenty percent of the
25 initial public infrastructure costs, which may be reimbursed

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1 with proceeds of gross receipts tax increment bonds or property
2 tax increment bonds; unless the project to be financed with
3 gross receipts tax increment bonds or property tax increment
4 bonds is a metropolitan redevelopment project pursuant to the
5 Metropolitan Redevelopment Code.

6 D. The amount of indebtedness evidenced by the
7 gross receipts tax increment bonds or property tax increment
8 bonds issued pursuant to the Tax Increment for Development Act
9 shall not exceed the estimated cost of the public improvements
10 plus all costs connected with the public infrastructure
11 purposes and the issuance and sale of bonds, including, without
12 limitation, formation costs, credit enhancement and liquidity
13 support fees and costs.

14 E. The indebtedness evidenced by the gross receipts
15 tax increment bonds or property tax increment bonds shall not
16 affect the general obligation bonding capacity of the
17 municipality or county in which the [~~tax increment development~~]
18 district is located.

19 F. The indebtedness evidenced by the gross receipts
20 tax increment bonds or property tax increment bonds shall be
21 payable only from the special funds into which are deposited
22 the gross receipts tax increments and property tax increments
23 as set forth in the Tax Increment for Development Act.

24 G. Bonds issued by a [~~tax increment development~~]
25 district shall not be a general obligation of the state, the

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1 county or the municipality in which the [~~tax increment~~
2 ~~development~~] district is located and shall not pledge the full
3 faith and credit of the state, the county or the municipality
4 in which the [~~tax increment development~~] district is located."

5 SECTION 21. Section 5-15-25 NMSA 1978 (being Laws 2006,
6 Chapter 75, Section 25, as amended) is amended to read:

7 "5-15-25. MODIFICATION OF TAX INCREMENT DEVELOPMENT AREA
8 BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--

9 A. Following formation of a district, an area may
10 be eliminated from the tax increment development area only
11 following a hearing conducted upon notice given to the owners
12 of land in the tax increment development area in the manner
13 prescribed for the formation hearing, adoption of a resolution
14 of intention to do so by the district board, a determination by
15 the owners of real property within the district to eliminate
16 the area and voter approval by the qualified electors as
17 provided in the Local Election Act and the Tax Increment for
18 Development Act. Real property within the tax increment
19 development area that is subject to the lien of property taxes
20 [~~special levies~~] or other charges or taxes imposed and
21 dedicated to the district pursuant to the Tax Increment for
22 Development Act shall not be eliminated from the district while
23 there are bonds or other obligations outstanding that are
24 payable by [~~those~~] the revenues generated from the dedicated
25 amounts of taxes [~~special levies~~] or charges, except in

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1 circumstances where such revenues continue to be impressed with
2 the obligation to repay the outstanding bonds or obligations.

3 B. Following formation of a district, an area may
4 be added to the district upon a determination by the owners of
5 real property in the proposed additional area and the approval
6 of the qualified electors residing therein, as well as a
7 determination by the owners of real property in the district
8 and approval of the qualified electors, as provided in the
9 Local Election Act and the Tax Increment for Development Act.

10 C. The district board, following a hearing
11 conducted upon notice given to the owners of real property
12 located in the district in the manner prescribed for the
13 formation hearing, may [~~subject to the approval of the~~
14 ~~governing body that approved the district's tax increment~~
15 ~~development plan~~] amend the tax increment development plan in
16 any manner that it determines will not substantially reduce the
17 benefits to be received by any land in the district from the
18 public infrastructure on completion of the work to be performed
19 under the general plan. A determination by the owners and an
20 election shall not be required solely for the purposes of this
21 subsection."

22 SECTION 22. Section 5-15-25.3 NMSA 1978 (being Laws 2014,
23 Chapter 11, Section 3) is amended to read:

24 "5-15-25.3. BASE YEAR REVISION--EFFECT.--

25 A. Upon notice of the approval of a revision of the
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1 base year used to determine a district's gross receipts tax
2 increment, the district shall:

3 (1) return to the taxation and revenue
4 department any gross receipts tax increment credited to the
5 period between the time that the revenue collection began and
6 the end of the revised base year and distributed to the
7 district;

8 (2) update the district tax increment
9 development plan to reflect the revision; and

10 (3) file with the clerk of the governing body
11 that formed the district the revised tax increment development
12 plan.

13 B. Upon receipt of the revenue identified in
14 Paragraph (1) of Subsection A of this section, the taxation and
15 revenue department shall remit to the taxing entities that have
16 dedicated a gross receipts tax increment to the district an
17 amount of [~~that~~] revenue dedicated from a gross receipts tax
18 increment in proportion to the amount of gross receipts tax
19 increment attributable to [~~their~~] the dedication."

20 SECTION 23. Section 12-6-3 NMSA 1978 (being Laws 1969,
21 Chapter 68, Section 3, as amended) is amended to read:

22 "12-6-3. ANNUAL AND SPECIAL AUDITS--FINANCIAL
23 EXAMINATIONS.--

24 A. Except as otherwise provided in Subsection B of
25 this section, the financial affairs of every agency shall be

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1 thoroughly examined and audited each year by the state auditor,
2 personnel of the state auditor's office designated by the state
3 auditor or independent auditors approved by the state auditor.
4 The comprehensive annual financial report for the state shall
5 be thoroughly examined and audited each year by the state
6 auditor, personnel of the state auditor's office designated by
7 the state auditor or independent auditors approved by the state
8 auditor. The audits shall be conducted in accordance with
9 generally accepted auditing standards and rules issued by the
10 state auditor.

11 B. The examination of the financial affairs of a
12 local public body shall be determined according to its annual
13 revenue each year. All examinations and compliance with
14 agreed-upon procedures shall be conducted in accordance with
15 generally accepted auditing standards and rules issued by the
16 state auditor. If a local public body has an annual revenue,
17 calculated on a cash basis of accounting, exclusive of capital
18 outlay funds, federal or private grants or capital outlay funds
19 disbursed directly by an administrating agency, of:

20 (1) less than ten thousand dollars (\$10,000)
21 and does not directly expend at least fifty percent of, or the
22 remainder of, a single capital outlay award, it is exempt from
23 submitting and filing quarterly reports and final budgets for
24 approval to the local government division of the department of
25 finance and administration and from any financial reporting to

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1 the state auditor;

2 (2) at least ten thousand dollars (\$10,000)
3 but less than fifty thousand dollars (\$50,000), it shall comply
4 only with the applicable provisions of Section 6-6-3 NMSA 1978;

5 (3) less than fifty thousand dollars (\$50,000)
6 and directly expends at least fifty percent of, or the
7 remainder of, a single capital outlay award, it shall submit to
8 the state auditor a financial report consistent with agreed-
9 upon procedures for financial reporting that are:

10 (a) focused solely on the capital outlay
11 funds directly expended;

12 (b) economically feasible for the
13 affected local public body; and

14 (c) determined by the state auditor
15 after consultation with the affected local public body;

16 (4) at least fifty thousand dollars (\$50,000)
17 but not more than two hundred fifty thousand dollars
18 (\$250,000), it shall submit to the state auditor, at a minimum,
19 a financial report that includes a schedule of cash basis
20 comparison and that is consistent with agreed-upon procedures
21 for financial reporting that are:

22 (a) narrowly tailored to the affected
23 local public body;

24 (b) economically feasible for the
25 affected local public body; and

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1 (c) determined by the state auditor
2 after consultation with the affected local public body;

3 (5) at least fifty thousand dollars (\$50,000)
4 but not more than two hundred fifty thousand dollars (\$250,000)
5 and expends any capital outlay funds, it shall submit to the
6 state auditor, at a minimum, a financial report that includes a
7 schedule of cash basis comparison and a test sample of expended
8 capital outlay funds and that is consistent with agreed-upon
9 procedures for financial reporting that are:

10 (a) narrowly tailored to the affected
11 local public body;

12 (b) economically feasible for the
13 affected local public body; and

14 (c) determined by the state auditor
15 after consultation with the affected local public body;

16 (6) at least two hundred fifty thousand
17 dollars (\$250,000) but not more than five hundred thousand
18 dollars (\$500,000), it shall submit to the state auditor, at a
19 minimum, a compilation of financial statements and a financial
20 report consistent with agreed-upon procedures for financial
21 reporting that are:

22 (a) economically feasible for the
23 affected local public body; and

24 (b) determined by the state auditor
25 after consultation with the affected local public body; or

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1 (7) five hundred thousand dollars (\$500,000)
2 or more, it shall be thoroughly examined and audited as
3 required by Subsection A of this section.

4 C. In addition to the annual audit, the state
5 auditor may cause the financial affairs and transactions of an
6 agency to be audited in whole or in part.

7 D. Annual financial and compliance audits of
8 agencies under the oversight of the financial control division
9 of the department of finance and administration shall be
10 completed and submitted by an agency and independent auditor to
11 the state auditor no later than sixty days after the state
12 auditor receives notification from the financial control
13 division to the effect that an agency's books and records are
14 ready and available for audit. The local government division
15 of the department of finance and administration shall inform
16 the state auditor of the compliance or failure to comply by a
17 local public body with the provisions of Section 6-6-3 NMSA
18 1978.

19 E. In order to comply with United States department
20 of housing and urban development requirements, the financial
21 affairs of a public housing authority that is determined to be
22 a component unit in accordance with generally accepted
23 accounting principles, other than a housing department of a
24 local government or a regional housing authority, at the public
25 housing authority's discretion, may be audited separately from

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1 the audit of its local primary government entity. If a
2 separate audit is made, the public housing authority audit
3 shall be included in the local primary government entity audit
4 and need not be conducted by the same auditor who audits the
5 financial affairs of the local primary government entity.

6 F. A public improvement district formed pursuant to
7 the Public Improvement District Act or a tax increment
8 development district formed pursuant to the Tax Increment for
9 Development Act shall not be a component unit of the primary
10 government entity that formed the district, and debt
11 obligations issued by the district shall not be treated as debt
12 obligations of that primary government entity or included in
13 its net position on its balance sheet.

14 ~~[F.]~~ G. The state auditor shall notify the
15 legislative finance committee and the public education
16 department if:

17 (1) a school district, charter school or
18 regional education cooperative has failed to submit a required
19 audit report within ninety days of the due date specified by
20 the state auditor; and

21 (2) the state auditor has investigated the
22 matter and attempted to negotiate with the school district,
23 charter school or regional education cooperative but the school
24 district, charter school or regional education cooperative has
25 not made satisfactory progress toward compliance with the Audit

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underscoring material = new
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1 Act.

2 [G-] H. The state auditor shall notify the
3 legislative finance committee and the secretary of finance and
4 administration if:

5 (1) a state agency, state institution,
6 municipality or county has failed to submit a required audit
7 report within ninety days of the due date specified by the
8 state auditor; and

9 (2) the state auditor has investigated the
10 matter and attempted to negotiate with the state agency, state
11 institution, municipality or county but the state agency, state
12 institution, municipality or county has not made satisfactory
13 progress toward compliance with the Audit Act."

14 SECTION 24. TEMPORARY PROVISION--TERMS OF MEMBERS AND
15 DIRECTORS PRIOR TO EFFECTIVE DATE OF THIS ACT.--

16 A. The term of a district board member appointed or
17 elected prior to the effective date of this act pursuant to the
18 Public Improvement District Act or the Tax Increment for
19 Development Act shall continue and expire on December 31, 2024,
20 and the term of that member's successor shall begin on January
21 1, 2025.

22 B. Pursuant to Article 20, Section 3 of the
23 constitution of New Mexico, the legislature finds that the term
24 adjustments provided for in this act are necessary to align the
25 elections with the Local Election Act, passed and signed into

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underscoring material = new
~~[bracketed material] = delete~~

1 law in 2018, to ensure the efficient administration of
2 elections and to increase clarity for voters.

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