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HOUSE BILL 462

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Ben Lujan

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; ENACTING THE TAX INCREMENT FOR
DEVELOPMENT ACT; DECLARING AN EMERGENCY.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Tax Increment for Development Act".

Section 2. FINDINGS AND PURPOSE.--

A. The purpose of the Tax Increment for Development
Act is to create a mechanism for providing gross receipts tax
financing and property tax financing for public infrastructure
for the purpose of supporting economic development and job
creation.

B. The legislature finds and declares that the
powers conferred by the Tax Increment for Development Act are
for public uses and purposes for which public money may be

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1 expended and the public power exercised, and that it is
2 necessary and in the public interest for the provisions enacted
3 in the Tax Increment for Development Act to be declared as a
4 matter of legislative determination.

5 Section 3. DEFINITIONS.--As used in the Tax Increment for
6 Development Act:

7 A. "base gross receipts taxes" means:

8 (1) the amount of gross receipts taxes
9 collected within a tax increment development district in the
10 calendar year preceding the formation of the tax increment
11 development district or, when an area is added to an existing
12 district, the amount of gross receipts taxes collected in the
13 calendar year preceding the effective date of the modification
14 of the tax increment development plan and designated by the
15 governing body to be available as part of the gross receipts
16 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 option gross receipts taxes" means gross
18 receipts taxes imposed by counties pursuant to the County Local
19 Option Gross Receipts Taxes Act and designated by the governing
20 body of the county to be available as part of the gross
21 receipts tax increment;

22 D. "district" means a tax increment development
23 district;

24 E. "district board" means a board formed in
25 accordance with the provisions of the Tax Increment for

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1 Development Act to govern a tax increment development district;

2 F. "enhanced services" means public services
3 provided by a municipality or county within the district at a
4 higher level or to a greater degree than otherwise available to
5 the land located in the district from the municipality or
6 county, including such services as public safety, fire
7 protection, street or sidewalk cleaning or landscape
8 maintenance in public areas; provided that "enhanced services"
9 does not include the basic operation and maintenance related to
10 infrastructure improvements financed by the district pursuant
11 to the Tax Increment for Development Act;

12 G. "governing body" means the city council or city
13 commission of a city, the board of trustees or council of a
14 town or village or the board of county commissioners of a
15 county;

16 H. "gross receipts tax increment" means the gross
17 receipts taxes collected within a tax increment development
18 district in excess of the base gross receipts taxes collected
19 for the duration of the existence of a tax increment
20 development district and distributed to the district in the
21 same manner as distributions are made under the provisions of
22 the Tax Administration Act;

23 I. "gross receipts tax increment bonds" means bonds
24 issued by a district in accordance with the Tax Increment for
25 Development Act, the pledged revenue for which is a gross

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1 receipts tax increment;

2 J. "local government" means a municipality or
3 county;

4 K. "municipal option gross receipts taxes" means
5 those gross receipts taxes imposed by municipalities pursuant
6 to the Municipal Local Option Gross Receipts Taxes Act and
7 designated by the governing body of the municipality to be
8 available as part of the gross receipts tax increment;

9 L. "municipality" means an incorporated city, town
10 or village;

11 M. "owner" means a person owning real property
12 within the boundaries of a district;

13 N. "person" means an individual, corporation,
14 association, partnership, limited liability company or other
15 legal entity;

16 O. "project" means a tax increment development
17 project;

18 P. "property tax increment" means all property tax
19 collected on real property within the designated tax increment
20 development area that is in excess of the base property tax
21 until termination of the district and distributed to the
22 district in the same manner as distributions are made under the
23 provisions of the Tax Administration Act;

24 Q. "property tax increment bonds" means bonds
25 issued by a district in accordance with the Tax Increment for

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1 Development Act, the pledged revenue for which is a property
2 tax increment;

3 R. "public improvements" means on-site improvements
4 and off-site improvements that directly or indirectly benefit a
5 tax increment development district or facilitate development
6 within a tax increment development area and that are dedicated
7 to the governing body in which the district lies. "Public
8 improvements" include:

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

12 (2) drainage and flood control systems,
13 including collection, transport, storage, treatment, dispersal,
14 effluent use and discharge;

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

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

23 (5) trails and areas for pedestrian,
24 equestrian, bicycle or other non-motor vehicle use for travel,
25 ingress, egress and parking;

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1 (6) pedestrian and transit facilities, parks,
2 recreational facilities and open space areas for the use of
3 members of the public for entertainment, assembly and
4 recreation;

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

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

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

11 (10) natural gas distribution facilities;

12 (11) lighting systems;

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

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

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

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

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

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1 (17) inspection, construction management,
2 planning and program management and other professional services
3 costs incidental to the project;

4 (18) workforce housing; and

5 (19) any other improvement that the governing
6 body determines to be primarily for the use or benefit of the
7 public;

8 S. "resident qualified elector" means a person who
9 resides within the boundaries of a tax increment financing
10 district or proposed tax increment financing district and who
11 is qualified to vote in the general elections held in the state
12 pursuant to Section 1-1-4 NMSA 1978;

13 T. "state gross receipts tax" means the gross
14 receipts tax imposed pursuant to the Gross Receipts and
15 Compensating Tax Act, but does not include that portion
16 distributed to municipalities pursuant to Sections 7-1-6.4 and
17 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47
18 NMSA 1978;

19 U. "sustainable development" means land development
20 that achieves sustainable economic and social goals in ways
21 that can be supported for the long term by conserving
22 resources, protecting the environment and ensuring human health
23 and welfare using mixed-use, pedestrian-oriented, multimodal
24 land use planning;

25 V. "tax increment development area" means the land

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1 included within the boundaries of a tax increment development
2 district;

3 W. "tax increment development district" means a
4 district formed for the purposes of carrying out tax increment
5 development projects;

6 X. "tax increment development plan" means a plan
7 for the undertaking of a tax increment development project;

8 Y. "tax increment development project" means
9 activities undertaken within a tax increment development area
10 to enhance the sustainability of the local, regional or
11 statewide economy; to support the creation of jobs, schools and
12 workforce housing; and to generate tax revenue for the
13 provision of public improvements and may include:

14 (1) acquisition of land within a designated
15 tax increment development area or a portion of that tax
16 increment development area;

17 (2) demolition and removal of buildings and
18 improvements and installation, construction or reconstruction
19 of streets, utilities, parks, playgrounds and improvements
20 necessary to carry out the objectives of the Tax Increment for
21 Development Act;

22 (3) installation, construction or
23 reconstruction of streets, water utilities, sewer utilities,
24 parks, playgrounds and other public improvements necessary to
25 carry out the objectives of the Tax Increment for Development

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1 Act;

2 (4) disposition of property acquired or held
3 by a tax increment development district as part of the
4 undertaking of a tax increment development project at the fair
5 market value of such property for uses in accordance with the
6 Tax Increment Development Act;

7 (5) payments for professional services
8 contracts necessary to implement a tax increment development
9 plan or project;

10 (6) borrowing to purchase land, buildings or
11 infrastructure in an amount not to exceed the revenue stream
12 that may be derived from the gross receipts tax increment or
13 the property tax increment estimated to be received by a tax
14 increment development district; and

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

17 Z. "taxing entity" means the governing body of a
18 political subdivision of the state, the gross receipts tax
19 increment or property tax increment of which may be used for a
20 tax increment development project; and

21 AA. "workforce housing" means decent, safe and
22 sanitary dwellings, apartments, single-family dwellings or
23 other living accommodations that are affordable for persons or
24 families earning less than eighty percent of the median income
25 within the county in which the tax increment development

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1 project is located; provided that an owner-occupied housing
2 unit is affordable to a household if the expected sales price
3 is reasonably anticipated to result in monthly housing costs
4 that do not exceed thirty-three percent of the household's
5 gross monthly income; provided that:

6 (1) determination of mortgage amounts and
7 payments are to be based on down payment rates and interest
8 rates generally available to lower- and moderate-income
9 households; and

10 (2) a renter-occupied housing unit is
11 affordable to a household if the unit's monthly housing costs,
12 including rent and basic utility and energy costs, do not
13 exceed thirty-three percent of the household's gross monthly
14 income.

15 Section 4. RESOLUTION FOR FORMATION OF A DISTRICT.--

16 A. A tax increment development plan shall be
17 approved by the governing body of the municipality or county
18 within which tax increment development projects are proposed.
19 Upon filing with the clerk of the governing body of an approved
20 tax increment development plan and upon receipt of a petition
21 bearing the signatures of the owners of at least fifty percent
22 of the real property located within a proposed tax increment
23 development area, the governing body may adopt a resolution
24 declaring its intent to form a tax increment development
25 district. Prior to the formation of a district, the owner or

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1 developer of the real property located within an area proposed
2 to be designated as a tax increment development area may enter
3 into an agreement with the governing body concerning the
4 improvement of specific property within the district, and that
5 agreement may be used to establish obligations of the owner or
6 developer and the governing body concerning the zoning,
7 subdivision, improvement, impact fees, financial
8 responsibilities and other matters relating to the development,
9 improvement and use of real property within the district.

10 B. A governing body may adopt a resolution on its
11 own motion upon its finding that a need exists for the
12 formation of a district.

13 C. The resolution to form a district shall include:

14 (1) the area or areas to be included within
15 the boundaries of the district;

16 (2) the purposes for which the district is to
17 be formed;

18 (3) a statement that a tax increment
19 development plan is on file with the clerk of the governing
20 body and that the plan includes a map depicting the boundaries
21 of the tax increment development area and the real property
22 proposed to be included in the area;

23 (4) the rate of any proposed property tax
24 levy;

25 (5) identification of gross receipts tax

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1 increment and property tax increment financing mechanisms
2 proposed;

3 (6) identification of gross receipts tax
4 increments and property tax increments proposed to secure
5 proposed gross receipts tax increment bonds or property tax
6 increment bonds;

7 (7) requirement of a public hearing for the
8 formation of the district and notice of the hearing;

9 (8) a statement that formation of a district
10 may result in the use of gross receipts tax increments or
11 property tax increments to pay the costs of construction,
12 operation and maintenance of public improvements made by the
13 district; and

14 (9) a reference to the Tax Increment for
15 Development Act.

16 D. A resolution may direct that, prior to holding a
17 hearing on formation of a district, petitioners for the
18 formation of a district prepare a study of the feasibility, the
19 financing and the estimated costs of improvements, services and
20 benefits to result from the formation of the proposed district.
21 The governing body may require those petitioners to deposit
22 with the clerk or treasurer of the governing body an amount
23 equal to the estimated costs of conducting the study and other
24 estimated formation costs. The deposit shall be reimbursed if
25 the district is formed and if gross receipts tax increment

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1 bonds or property tax increment bonds are issued by that
2 district pursuant to the Tax Increment for Development Act.

3 E. A resolution adopted pursuant to this section
4 shall direct that a public hearing on formation of the district
5 be scheduled and that notice of the hearing be mailed and
6 published.

7 Section 5. CONTENTS OF TAX INCREMENT DEVELOPMENT PLAN.--A
8 tax increment development plan shall include:

9 A. a map depicting the geographical boundaries of
10 the area proposed for inclusion within the tax increment
11 development area;

12 B. the estimated time necessary to complete the tax
13 increment development project;

14 C. a description and the estimated cost of all
15 public improvements proposed for the tax increment development
16 project;

17 D. whether it is proposed to use gross receipts tax
18 increment bonds or property tax increment bonds or both to
19 finance all or part of the public improvements;

20 E. the estimated annual gross receipts tax
21 increment to be generated by the tax increment development
22 project and the portion of that gross receipts tax increment to
23 be allocated during the time necessary to complete the payment
24 of the tax increment development project;

25 F. the estimated annual property tax increment to

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1 be generated by the tax increment development project and the
2 portion of that property tax increment to be allocated during
3 the time necessary to complete the payment of the tax increment
4 development project;

5 G. the general proposed land uses for the tax
6 increment development project;

7 H. the number and types of jobs expected to be
8 created by the tax increment development project;

9 I. the amount and characteristics of workforce
10 housing expected to be created by the tax increment development
11 project;

12 J. the location and characteristics of public
13 school facilities expected to be created, improved,
14 rehabilitated or constructed by the tax increment development
15 project;

16 K. a description of innovative planning techniques,
17 including mixed-use transit-oriented development, traditional
18 neighborhood design or sustainable development techniques, that
19 are deemed by the governing body to be beneficial and that will
20 be incorporated into the tax increment development project; and

21 L. the amount and type of private investment in
22 each tax increment development project.

23 Section 6. NOTICE OF PUBLIC HEARING.--

24 A. Upon adoption of a resolution indicating an
25 intent to form a tax increment development district, a

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1 governing body shall set a date no sooner than thirty days and
2 no later than sixty days after the adoption of the resolution
3 for a public hearing regarding the formation of the district.

4 B. Notice of the hearing shall be provided by the
5 governing body by:

6 (1) publication once each week for two
7 consecutive weeks in a newspaper of general circulation in the
8 municipality or county in which the proposed district is
9 located;

10 (2) posting in a prominent location on
11 property located within the proposed tax increment development
12 area for fourteen days prior to the hearing; and

13 (3) written notice via registered or certified
14 United States mail, postage prepaid, to all owners of real
15 property within the proposed tax increment development area no
16 later than ten days prior to the hearing.

17 C. The notice of the hearing shall contain:

18 (1) the date, time and place of the hearing;

19 (2) information regarding alternative methods
20 for submission of objects or comments;

21 (3) a statement that the formation of a
22 district is proposed;

23 (4) a map showing the boundaries of the
24 proposed district; and

25 (5) a statement that a tax increment

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1 development plan is on file with the clerk of the governing
2 body and may be reviewed upon request.

3 D. A summary of the resolution declaring the
4 governing body's intent to form a tax increment development
5 district shall be attached to a notice issued pursuant to this
6 section. The clerk of the governing body shall mail a copy of
7 the notice to each owner of real property within the proposed
8 tax increment development area and to all other persons
9 claiming an interest in the property who have filed a written
10 request for a copy of the notice within the six months
11 preceding or at any time following the adoption of the
12 resolution. The clerk of the governing body shall publish a
13 copy of the notice and resolution summary at least twice in a
14 newspaper of general circulation in the municipality or county
15 in which the proposed tax increment development district is
16 located. The clerk of the governing body shall obtain an
17 affidavit from that newspaper after each publication is made.
18 The clerk of the governing body shall cause the affidavits to
19 be placed in the official records of the municipality or
20 county. The affidavits are conclusive evidence of the mailing
21 and publishing of notice. Notice shall not be held invalid for
22 failure of delivery to the addressee.

23 E. A clerk of a governing body who is informed of a
24 transfer of ownership of real property within a proposed
25 district and who obtains the name and address of the current

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1 property owner shall mail a copy of the notice and resolution
2 as soon as practicable after learning of the transfer.

3 F. Inadvertent failure to comply with the
4 requirements of the notice provisions shall not invalidate the
5 formation of a district or create a cause of action in favor of
6 any person.

7 Section 7. PUBLIC HEARING.--

8 A. At a public hearing conducted pursuant to the
9 Tax Increment for Development Act, the governing body shall
10 hear all relevant evidence and testimony and make findings. A
11 record of the hearing shall be kept and may consist of a
12 transcription by a court reporter, an electronic recording or
13 minutes taken by a designated person. The record shall be
14 preserved in the official records of the governing body and
15 shall be open to public inspection pursuant to the Inspection
16 of Public Records Act.

17 B. Testimony at a hearing is not required to be
18 given under oath.

19 C. At the conclusion of a hearing, the governing
20 body shall determine whether the tax increment development
21 district should be formed based upon the interests, convenience
22 or necessity of the owners, the residents of the proposed tax
23 increment development district and the residents of the
24 municipality or county in which the proposed tax increment
25 development district is to be located. The governing body

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1 shall make the following findings before adopting a resolution
2 to approve the formation of a district:

3 (1) the tax increment development plan
4 reasonably protects the interests of the governing body in
5 meeting its goals to support:

6 (a) job creation;

7 (b) workforce housing;

8 (c) public school facility creation and
9 improvement, including the creation and improvement of
10 facilities for charter schools; and

11 (d) underdeveloped area or historical
12 area redevelopment;

13 (2) the tax increment development plan
14 demonstrates elements of innovative planning techniques,
15 including mixed-use transit-oriented development, traditional
16 neighborhood design or sustainable development techniques, that
17 are deemed by the governing body to benefit community
18 development;

19 (3) the tax increment development plan
20 incorporates sustainable development considerations; and

21 (4) the tax increment development plan
22 conforms to general or long-term planning of the governing
23 body.

24 D. If the governing body determines that the
25 district should be formed, it shall adopt a resolution ordering

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1 that the tax increment development district be formed and shall
2 set the matter for an election or declare that an election is
3 waived, as provided in the Tax Increment for Development Act.

4 Section 8. ELECTION.--

5 A. The election procedures set forth in this
6 section shall be used for:

7 (1) formation of a new tax increment
8 development district;

9 (2) election of a district board member;

10 (3) adoption of a property tax levy by a tax
11 increment development district;

12 (4) use of property tax increment financing by
13 a tax increment development district; or

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

16 B. An election may be waived and a tax increment
17 development district shall be formed upon the governing body's
18 adoption of a resolution to form a tax increment development
19 district if a petition is presented to a governing body in
20 accordance with the Tax Increment for Development Act and if
21 the petition contains the signatures of all owners of the real
22 property within the proposed tax increment development area and
23 states that the owners waive the right to an election.

24 C. An election pursuant to the Tax Increment for
25 Development Act shall be a nonpartisan election called by

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1 posting notices in three public places within the boundaries of
2 the district not less than twenty days before the election.

3 Notice shall also be published in a newspaper of general
4 circulation once each week for two consecutive weeks before the
5 election in the municipality or county in which the proposed
6 district is located.

7 D. The notice shall state:

8 (1) the place of holding the election and
9 provisions for voting by mail, if any;

10 (2) the hours during the day during which the
11 polls will be open;

12 (3) if the election is a formation election,
13 the boundaries of the proposed tax increment development
14 district;

15 (4) if the election is a bond election, the
16 purpose for which the bonds are to be issued and the amount of
17 the issue;

18 (5) if the election is a property tax levy
19 election, the maximum tax rate per one thousand dollars
20 (\$1,000) of assessed valuation to be imposed, the purposes for
21 which the revenues raised will be used and the existing maximum
22 tax rate, if any;

23 (6) that an approved tax increment development
24 plan is on file with the clerk of the governing body;

25 (7) the purposes for which property taxes will

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1 be imposed and for which the revenues raised will be used,
2 including a description of the public improvements to be
3 financed with tax revenues, bond proceeds or other revenues of
4 the tax increment development district; and

5 (8) that the imposition of property taxes will
6 result in a lien for the payment on property within the
7 district.

8 E. The district board, or, in the case of a
9 formation election, the governing body, shall determine the
10 date of the election and the polling places for the election
11 and may consolidate county precincts. Polling places shall be
12 open for not less than six hours during the day. The district
13 board or the governing body may establish provisions for voting
14 by mail.

15 F. Voter lists shall be used to determine the
16 resident qualified electors. If a district or proposed
17 district includes land lying partly in and partly out of any
18 county election precinct, the voter lists may contain the names
19 of all registered voters in the precinct, and the precinct
20 boards at these precincts shall require that a prospective
21 elector execute an affidavit stating that the elector is also a
22 resident qualified elector.

23 G. For an election held pursuant to the Tax
24 Increment for Development Act, a prospective elector who is not
25 a resident qualified elector shall execute an affidavit stating

1 that the elector is the owner of land in the proposed or
2 existing district and stating the area of land in acres owned
3 by the prospective elector. If the prospective elector is not
4 an individual, the affidavit shall provide that the individual
5 casting the vote is the designated representative of the
6 corporation, association, partnership, limited liability
7 company or other legal entity entitled to vote in the election.
8 Precinct board members may administer oaths or accept
9 affirmations for those purposes.

10 H. Except as otherwise provided by this section,
11 the election shall comply with the general election laws of the
12 state. The ballot material provided to each voter shall
13 include:

14 (1) for a formation election, an impartial
15 description of the tax increment development plan and a brief
16 description of arguments for and against the formation of the
17 tax increment development district, if any;

18 (2) for an election concerning the imposition
19 of property taxes, an impartial description of the taxes to be
20 imposed, the method of apportionment, collection and
21 enforcement and other details sufficient to enable each
22 resident qualified elector to determine the amount of tax it
23 will be obligated to pay; a brief description of arguments for
24 and against the imposition of taxes that are the subject of the
25 election, if any; and a statement that the imposition of

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1 property taxes is for the provision of certain, but not
2 necessarily all, public improvements that may be needed or
3 desirable within the tax increment development district, and
4 that other taxes, levies or assessments by other governmental
5 entities may be presented for approval by owners and resident
6 qualified electors;

7 (3) for an election concerning the use of
8 property tax increment financing, an impartial description of
9 the estimated increment to be generated over the life of the
10 project and the nature and extent of the public improvements to
11 be constructed and maintained using such financing;

12 (4) for a formation election, the question to
13 be voted upon as "district, yes" and "district, no";

14 (5) for a property tax increment election, the
15 question to be voted upon as "property tax, yes" and "property
16 tax, no";

17 (6) for an election to change an existing
18 maximum tax or eliminate an existing tax, the question to be
19 voted upon as "tax change, yes" and "tax change, no" and shall
20 specify the type of tax to which the proposed change pertains;
21 and

22 (7) for an election concerning the use of
23 property tax increment bonds, the ballot shall pose the
24 question to be voted upon as "bonds, yes" and "bonds, no".

25 I. The governing body or, if after district

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1 formation, the district board, may provide for the returns of
2 the election to be made in person or by mail.

3 J. Within thirty days after an election, the
4 governing body, or if after district formation, the district
5 board, shall meet and canvass the returns, determining the
6 number of votes properly cast by owners and resident qualified
7 electors. A majority of the votes cast at the election shall
8 be required. The canvass may be continued for an additional
9 period not to exceed thirty days at the election of the
10 governing body or district board for the purpose of completing
11 the canvass. Failure of a majority to vote in favor of the
12 matter submitted shall not prejudice the submission of the same
13 or similar matters at a later election.

14 K. If a person transfers real property located in a
15 district and the name of the successor owner becomes known and
16 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 L. If there are no persons registered to vote
21 within a district or proposed district within fifty days
22 immediately preceding a scheduled election date, an election
23 required to be held pursuant to the Tax Increment for
24 Development Act shall be held by vote of the owners of property
25 within the district or proposed district. Each owner shall

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1 have the number of votes or portion of votes equal to the
2 number of acres or portion of acres rounded upward to the
3 nearest one-fifth of an acre owned in the district by that
4 owner.

5 M. In an election held pursuant to the Tax
6 Increment for Development Act, an owner who is also a resident
7 qualified elector shall have the number of votes or portion of
8 votes equal to the number of acres or portion of acres rounded
9 upward to the nearest one-fifth of an acre owned in the
10 district by that owner and shall not be entitled to an
11 additional vote as a result of residing within the district.

12 Section 9. FORMATION OF A DISTRICT.--

13 A. If the formation of the tax increment
14 development district is approved by a majority of the voters
15 casting votes at the election, or if an election is held by
16 vote of the owners of property within the district or proposed
17 district, the governing body shall deliver a copy of the
18 resolution ordering formation of the tax increment development
19 district to each of the following persons or entities:

20 (1) the county assessor of the county in which
21 the district is located;

22 (2) if the tax increment development area is
23 within a municipality, the clerk of the county in which the
24 district is located;

25 (3) the school district within which any

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1 portion of the property located within a tax increment
2 development area lies;

3 (4) any other taxing entities within which any
4 portion of the property located within a tax increment
5 development area lies;

6 (5) the taxation and revenue department; and

7 (6) the local government division of the
8 department of finance and administration.

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

13 C. A tax increment development district shall be a
14 political subdivision of the state, separate and apart from a
15 municipality or county.

16 Section 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 a five-member
22 board. The members of the district board shall be composed of
23 members:

24 (1) appointed by the governing body upon
25 adoption of a resolution approving the formation of the

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1 district; or

2 (2) of the governing body, if the governing
3 body, at its option, designates itself as the board of the
4 district.

5 C. Three of the appointed directors shall serve an
6 initial term of six years. Two of the appointed directors
7 shall serve an initial term of four years. The resolution
8 forming the district shall state which directors shall serve
9 four-year terms and which shall serve six-year terms. If a
10 vacancy occurs on the district board because of the death,
11 resignation or inability of the director to discharge the
12 duties of the director, the governing body shall appoint a
13 director to fill the vacancy, and the director shall hold
14 office for the remainder of the unexpired term until a
15 successor is appointed or elected.

16 D. A director may be a director of more than one
17 district.

18 E. In the case of an appointed board of directors
19 that is not the governing body, at the end of the appointed
20 directors' initial terms, the board shall hold an election of
21 new directors by majority vote of owners and qualified resident
22 electors in accordance with the Tax Increment for Development
23 Act. Each owner shall have the number of votes or portion of
24 votes equal to the number of acres or portion of acres rounded
25 upward to the nearest one-fifth of an acre owned in the

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1 district by that owner.

2 Section 11. RECORDS--OPEN MEETINGS.--

3 A. A district shall keep the following records,
4 which shall be open to the public:

5 (1) minutes of all meetings of the district
6 board;

7 (2) all resolutions;

8 (3) accounts showing all money received and
9 disbursed;

10 (4) the annual budget; and

11 (5) all other records required to be
12 maintained by law.

13 B. A district board shall appoint a clerk and
14 treasurer for the district.

15 C. All meetings of a district shall be open
16 meetings held in accordance with the Open Meetings Act.

17 Section 12. DISTRICT POWERS.--

18 A. In addition to other express or implied
19 authority granted by law, a district shall have the power to:

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

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

25 (3) enter into an intergovernmental agreement

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1 in accordance with the Joint Powers Agreements Act for the
2 planning, design, inspection, ownership, control, maintenance,
3 operation or repair of public infrastructure or the provision
4 of enhanced services by the municipality or county in which the
5 district lies or for any other purpose authorized by the Tax
6 Increment for Development Act;

7 (4) sell, lease or otherwise dispose of
8 district property if the sale, lease or conveyance is not a
9 violation of the terms of any contract or bond covenant of the
10 district;

11 (5) reimburse a municipality or county in
12 which the tax increment development district is located for
13 providing services within the tax increment development area;

14 (6) operate, maintain and repair public
15 infrastructure until dedicated to the governing body;

16 (7) employ staff, counsel, advisors and
17 consultants;

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

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

23 (10) enter into an agreement with an owner
24 concerning the advance of money by an owner for a public
25 purpose or the granting of real property by the owner for a

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1 public purpose;

2 (11) levy property taxes in accordance with
3 election requirements of the Tax Increment for Development Act
4 and impose fees and charges for a public purpose on real
5 property located in the district, and in conjunction with the
6 levy of those taxes, fees and charges, set and collect
7 administrative fees;

8 (12) pay the financial, legal and
9 administrative costs of the district;

10 (13) enter into contracts, agreements and
11 trust indentures to obtain credit enhancement or liquidity
12 support for its bonds and process the issuance, registration,
13 transfer and payment of its bonds and the disbursement and
14 investment of proceeds of the bonds in accordance with the
15 provisions for investment of funds by municipal treasurers;

16 (14) borrow money within the limits of the Tax
17 Increment for Development Act to fund the construction,
18 operation and maintenance of public improvements until
19 dedicated to the governing body or for any other lawful public
20 purposes related to the purposes of the Tax Increment for
21 Development Act; and

22 (15) use public easements and rights of way in
23 or across public property, roadways, highways, streets or other
24 thoroughfares and other public easements and rights of way,
25 whether in or out of the geographical limits of the district,

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1 the municipality or the county.

2 B. Notwithstanding the provisions of the
3 Procurement Code or local procurement requirements that may
4 otherwise be applicable to the municipality or county in which
5 the district is located, the district board may enter into
6 contracts to carry out any of the tax increment development
7 district's authorized powers, including the planning, design,
8 engineering, financing, construction and acquisition of public
9 improvements for the district, with a contractor, an owner or
10 other person or entity, on such terms and with such persons as
11 the district board determines to be appropriate.

12 Section 13. AUTHORITY TO IMPOSE PROPERTY TAX LEVY.--A
13 district has the power to establish a property tax levy upon
14 real property located within the tax increment development
15 area, with the following limitations:

16 A. the maximum levy a district may impose is five
17 dollars (\$5.00) on each one thousand dollars (\$1,000) of net
18 taxable value, as that term is defined in the Property Tax
19 Code, which may be used for operation, maintenance and capital
20 improvements, in furtherance of the purposes of the Tax
21 Increment for Development Act; and

22 B. a district may impose a property tax levy only
23 after authorization by a majority vote of the owners of real
24 property and qualified resident electors of a district in an
25 election held in accordance with the Tax Increment for

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1 Development Act.

2 Section 14. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX
3 INCREMENT.--

4 A. Notwithstanding any law to the contrary, but in
5 accordance with the provisions of the Tax Increment for
6 Development Act, a tax increment development plan, as
7 originally approved or as later modified, may contain a
8 provision that all or a portion of certain gross receipts tax
9 increments collected within the tax increment development area
10 after the effective date of approval of the tax increment
11 development plan may be dedicated for the purpose of gross
12 receipts tax increment financing pursuant to the Tax Increment
13 for Development Act.

14 B. As to a district formed by a municipality, all
15 or a portion of any of the following gross receipts tax
16 increments may be paid by the state directly into a special
17 fund of the district to pay the principal of, the interest on
18 and any premium due in connection with the bonds of, loans or
19 advances to, or any indebtedness incurred by, whether funded,
20 refunded, assumed or otherwise, the authority for financing or
21 refinancing, in whole or in part, a tax increment development
22 project within the tax increment development area:

23 (1) municipal gross receipts tax authorized
24 pursuant to the Municipal Local Option Gross Receipts Taxes
25 Act;

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1 (2) municipal environmental services gross
2 receipts tax authorized pursuant to the Municipal Local Option
3 Gross Receipts Taxes Act;

4 (3) municipal infrastructure gross receipts
5 tax authorized pursuant to the Municipal Local Option Gross
6 Receipts Taxes Act;

7 (4) municipal capital outlay gross receipts
8 tax authorized pursuant to the Municipal Local Option Gross
9 Receipts Taxes Act;

10 (5) municipal regional transit gross receipts
11 tax authorized pursuant to the Municipal Local Option Gross
12 Receipts Taxes Act;

13 (6) the portion of the state gross receipts
14 tax distributed to municipalities pursuant to Sections 7-1-6.4
15 and 7-1-6.46 NMSA 1978; and

16 (7) the state gross receipts tax.

17 C. As to a district formed by a county, all or a
18 portion of any of the following gross receipts tax increments
19 may be paid by the state directly into a special fund of the
20 district to pay the principal of, the interest on and any
21 premium due in connection with the bonds of, loans or advances
22 to or any indebtedness incurred by, whether funded, refunded,
23 assumed or otherwise, the district for financing or
24 refinancing, in whole or in part, a tax increment development
25 project within the tax increment development area:

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1 (1) county gross receipts tax authorized
2 pursuant to the County Local Option Gross Receipts Taxes Act;

3 (2) county emergency gross receipts tax
4 authorized pursuant to the County Local Option Gross Receipts
5 Taxes Act;

6 (3) county environmental services gross
7 receipts tax authorized pursuant to the County Local Option
8 Gross Receipts Taxes Act;

9 (4) county infrastructure gross receipts tax
10 authorized pursuant to the County Local Option Gross Receipts
11 Taxes Act;

12 (5) county capital outlay gross receipts tax
13 authorized pursuant to the County Local Option Gross Receipts
14 Taxes Act; and

15 (6) county regional transit gross receipts tax
16 authorized pursuant to the County Local Option Gross Receipts
17 Taxes Act.

18 D. The gross receipts tax increment generated by
19 the imposition of municipal or county local option gross
20 receipts taxes specified by statute for particular purposes may
21 nonetheless be dedicated for the purposes of the Tax Increment
22 for Development Act if intent to do so is set forth in the tax
23 increment development plan approved by the governing body, if
24 the purpose for which the increment is intended to be used is
25 consistent with the purposes set forth in the statute

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1 authorizing the municipal or county local option gross receipts
2 tax and if the municipal or county local option gross receipts
3 tax was not approved in an election.

4 E. An imposition of all or a portion of a gross
5 receipts tax increment by a taxing entity other than the taxing
6 entity that formed the district shall not be dedicated for the
7 purpose of gross receipts tax increment financing pursuant to
8 the Tax Increment for Development Act without the agreement of
9 the governing body that did not form the district, which
10 agreement shall be evidenced by a resolution adopted by a
11 majority vote of that taxing entity.

12 F. The state gross receipts tax shall not be
13 included in the gross receipts tax increment without the
14 agreement of the state board of finance. The agreement shall
15 be evidenced by a resolution adopted by a majority vote of the
16 state board of finance. The resolution of the state board of
17 finance shall find that:

18 (1) the state board of finance has reviewed
19 the request for the use of the state gross receipts tax; and

20 (2) the use of the state gross receipts tax is
21 likely to stimulate the creation of jobs, economic
22 opportunities and general revenue for the state through the
23 addition of new businesses to the state and the expansion of
24 existing businesses within the state.

25 G. The governing body of the jurisdiction in which

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1 a tax increment development district has been established shall
2 timely notify the assessor of the county in which the district
3 has been established, the taxation and revenue department and
4 the local government division of the department of finance and
5 administration when:

6 (1) a tax increment development plan has been
7 approved that contains a provision for the allocation of a
8 gross receipts tax increment;

9 (2) any outstanding bonds of the district have
10 been paid off; and

11 (3) the purposes of the district have
12 otherwise been achieved.

13 Section 15. BONDING AUTHORITY--GROSS RECEIPTS TAX
14 INCREMENT.--

15 A. A district may issue gross receipts tax
16 increment revenue bonds, the pledged revenue for which is a
17 gross receipts tax increment, for any one or more of the
18 purposes authorized by the Tax Increment for Development Act.

19 B. A district may pledge irrevocably any or all of
20 a gross receipts tax increment received by the district to the
21 payment of the interest on and principal of the gross receipts
22 tax increment bonds for any of the purposes authorized in the
23 Tax Increment for Development Act. A law that imposes or
24 authorizes the imposition of a municipal or county gross
25 receipts tax or that affects the municipal county gross

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1 receipts tax shall not be repealed, amended or otherwise
2 directly or indirectly modified in any manner to adversely
3 impair any outstanding gross receipts increment bonds that may
4 be secured by a pledge of any municipal county gross receipts
5 tax increment, unless those outstanding bonds have been
6 discharged in full or provision has been fully made for those
7 bonds.

8 C. Revenues in excess of the annual principal and
9 interest due on gross receipts tax increment bonds secured by a
10 pledge of gross receipts tax increment revenue may be
11 accumulated in a debt service reserve account. The district
12 may appoint a commercial bank trust department to act as paying
13 agent or trustee of the gross receipts tax increment revenue
14 and to administer the payment of principal of and interest on
15 the bonds.

16 D. Gross receipts tax increment bonds:

17 (1) may have interest, principal value or any
18 part thereof payable at intervals or at maturity as may be
19 determined by the governing body;

20 (2) may be subject to a prior redemption at
21 the district's option at a time and upon terms and conditions,
22 with or without the payment of a premium, as determined by the
23 district board;

24 (3) may mature at any time not exceeding
25 thirty years after the date of issuance;

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1 (4) may be serial in form and maturity, may
2 consist of one bond payable at one time or in installments or
3 may be in another form determined by the district board;

4 (5) shall be sold for cash at, above or below
5 par and at a price that results in a net effective interest
6 rate that does not exceed the maximum permitted by the Public
7 Securities Act and the Short-Term Interest Rate Act; and

8 (6) may be sold at public or negotiated sale.

9 E. At a regular or special meeting, the district
10 board may adopt a resolution that:

11 (1) declares the necessity for issuing gross
12 receipts tax increment bonds;

13 (2) authorizes the issuance of gross receipts
14 tax increment bonds by an affirmative vote of a majority of all
15 the members of the district board; and

16 (3) designates the sources of gross receipts
17 taxes or portions thereof to be pledged to the repayment of the
18 gross receipts tax increment bonds.

19 Section 16. PROPERTY TAX INCREMENT BONDS.--

20 A. Notwithstanding any law to the contrary, but in
21 accordance with the Tax Increment for Development Act, a tax
22 increment development plan, as originally approved or as later
23 modified, may contain a provision that all or a portion of
24 property taxes levied after the effective date of the approval
25 of the tax increment development plan upon taxable property

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1 within a tax increment development area each year, by or for
2 the benefit of any public body, may be dedicated for securing
3 property tax increment bonds pursuant to the Tax Increment for
4 Development Act, according to the following procedures:

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

8 (2) the portion of the property taxes in
9 excess of the base property tax amount shall be allocated to,
10 and, when collected, paid into a special fund of the district
11 to pay the principal of, the interest on and any premiums due
12 in connection with the bonds of, loans or advances to, or
13 indebtedness incurred by, whether funded, refunded, assumed or
14 otherwise, the authority for financing or refinancing, in whole
15 or in part, a tax increment development project within the tax
16 increment development area. Unless and until the total
17 assessed value of the taxable property in a tax increment
18 development area exceeds the base assessed value of the taxable
19 property in the tax increment development area, all of the
20 taxes levied upon the taxable property in the tax increment
21 development area shall be paid into the funds of the respective
22 public bodies; and

23 (3) when the bonds, loans, advances and
24 indebtedness, if any, including interest thereon and any
25 premiums due in connection with the bonds, loans, advances and

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1 indebtedness have been paid, all taxes upon taxable property in
2 a tax increment development area shall be paid into the funds
3 of the respective public bodies.

4 B. The portion of property taxes in excess of the
5 amount of base property taxes may be irrevocably pledged by the
6 district for the payment of the principal of, the interest on
7 and any premiums due in connection with the bonds, loans,
8 advances and indebtedness.

9 C. Upon general reassessment of taxable property
10 valuations in a county, including all or part of a tax
11 increment development area in which a property tax increment
12 has been pledged for property tax increment financing, the
13 portions of valuations for assessment shall be proportionately
14 adjusted in accordance with that reassessment or change.

15 D. A tax increment development plan, as originally
16 approved or as later modified, may contain a provision that the
17 taxes levied upon taxable property within the tax increment
18 development area may continue to be allocated after the
19 effective date of the adoption of the property tax increment
20 provision if the existing bonds are in default or about to go
21 into default; except that those taxes shall not be allocated
22 after all bonds of the district issued pursuant to the plan,
23 including loans, advances and indebtedness, if any, and
24 interest thereon, and any premiums due in connection with the
25 loans, advances and indebtedness have been paid.

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1 E. The property tax increment generated by the
2 imposition of property taxes may nonetheless be dedicated for
3 the purposes of the Tax Increment for Development Act if intent
4 to do so is set forth in the tax increment development plan
5 approved by the governing body and if the property tax was not
6 approved in an election.

7 F. The municipality in which a tax increment
8 development district has been established shall timely notify
9 the assessor of the county in which the district has been
10 established when:

11 (1) a tax increment development plan has been
12 approved;

13 (2) any outstanding obligation incurred by the
14 district has been paid off; and

15 (3) the purposes of the district have
16 otherwise been achieved.

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

20 H. The increment attributable to a levy by a taxing
21 entity other than the taxing entity that formed the district
22 shall not be dedicated for the purpose of property tax
23 increment financing without the agreement of the taxing entity
24 that did not form the district. The agreement shall be
25 evidenced by a resolution adopted by a majority vote of that

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1 taxing entity.

2 Section 17. BONDING AUTHORITY--PROPERTY TAX INCREMENT.--

3 A. Subject to the limitations and in accordance
4 with Article 9 of the constitution of New Mexico and Sections
5 6-15-1 and 6-15-2 NMSA 1978, a district board may issue and
6 dispose of property tax increment bonds for the purpose of
7 securing funds for undertaking tax increment development
8 projects within the purposes of the Tax Increment for
9 Development Act.

10 B. Before property tax increment bonds are issued,
11 the district board shall submit to a vote of the registered
12 qualified electors within the tax increment development area
13 and the nonresident electors owning property within the tax
14 increment development area the question of issuing the property
15 tax increment bonds.

16 C. The district board shall give notice of the time
17 and place of holding the election and the purpose for which the
18 property tax increment bonds are to be issued. Notice of a
19 property tax increment bond election shall be given as required
20 by the Tax Increment for Development Act. A change in the
21 location of a polling place after notice has been given shall
22 not invalidate a bond election.

23 D. The question shall state the purpose for which
24 the property tax increment bonds are to be issued and the
25 amount of the issue. If property tax increment bonds are to be

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1 issued for more than one purpose, a separate question shall be
2 submitted to the voters for each purpose to be voted upon. The
3 ballots shall contain words indicating the purpose of the bond
4 issued and a place for a vote in favor of or in opposition to
5 each property tax increment bond issue. The ballots shall be
6 deposited in a separate ballot box, unless voting machines are
7 used.

8 E. Property tax increment bonds:

9 (1) may have interest, principal value or any
10 part thereof payable at intervals or at maturity, as determined
11 by the governing body;

12 (2) may be subject to a prior redemption at
13 the district's option at a time or upon terms and conditions
14 with or without payment of premium or premiums, as determined
15 by the district board;

16 (3) may mature at any time not exceeding
17 thirty years after the date of issuance;

18 (4) may be serial in form and maturity or may
19 consist of one bond payable at one time or in installments or
20 may be in another form, as determined by the district board;

21 (5) shall be sold for cash at, above or below
22 par and at a price that results in a net effective interest
23 rate that does not exceed the maximum permitted by the Public
24 Securities Act and the Short-Term Interest Rate Act; and

25 (6) may be sold at public or negotiated sale.

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1 F. Except as otherwise provided by law, the
2 district board shall determine the denominations, places of
3 payment, terms and conditions and the form of property tax
4 increment bonds.

5 G. The secretary and treasurer of the district
6 board shall sign property tax increment bonds.

7 H. The property tax increment bonds may be executed
8 in the manner provided by the Uniform Facsimile Signature of
9 Public Officials Act.

10 Section 18. REFUNDING BONDS.--

11 A. A district board that has issued bonds in
12 accordance with the Tax Increment for Development Act may issue
13 refunding bonds for the purpose of refinancing, paying and
14 discharging all or any part of outstanding bonds for the:

15 (1) acceleration, deceleration or other
16 modification of the payment of the outstanding bonds,
17 including, without limitation, any capitalization of any
18 interest thereon in arrears or about to become due for any
19 period not exceeding two years from the date of the refunding
20 bonds;

21 (2) purpose of reducing interest costs or
22 effecting other economies; or

23 (3) purpose of modifying or eliminating
24 restrictive contractual limitations:

25 (a) pertaining to the issuance of

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1 additional bonds; or

2 (b) concerning the outstanding bonds or
3 facilities relating to the outstanding bonds.

4 B. A district board may pledge irrevocably for the
5 payment of interest, principal and premium, if any, on
6 refunding bonds the appropriate pledged revenues, which may be
7 pledged to an original issue of bonds.

8 C. Refunding bonds may be issued separately or in
9 combination in one series or more.

10 D. Refunding bonds shall be authorized by
11 resolution. Bonds that are refunded shall be paid at maturity
12 or on any permitted prior redemption date in the amounts, at
13 the time and places and, if called prior to maturity, in
14 accordance with any applicable notice provisions, all as
15 provided in the proceedings authorizing the issuance of the
16 refunded bonds or otherwise appertaining thereto, except for
17 any such bond that is voluntarily surrendered for exchange or
18 payment by the holder or owner.

19 E. The principal amount of the refunding bonds may
20 exceed the principal amount of the refunded bonds and may also
21 be less than or the same as the principal amount of the bonds
22 being refunded if provision is duly and sufficiently made for
23 the payment of the refunded bonds.

24 F. The proceeds of refunding bonds, including
25 accrued interest and premiums appertaining to the sale of

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1 refunding bonds, shall be immediately applied to the retirement
2 of the bonds being refunded or placed in escrow in a commercial
3 bank or trust company that possesses and exercises trust powers
4 and that is a member of the federal deposit insurance
5 corporation. The proceeds shall be applied to the principal
6 of, interest on and any prior redemption premium due in
7 connection with the bonds being refunded; provided that the
8 refunding bond proceeds, including accrued interest and
9 premiums appertaining to a sale of refunding bonds, may be
10 applied to the establishment and maintenance of a reserve fund
11 and to the payment of expenses incidental to the refunding and
12 the issuance of the refunding bonds, the interest on those
13 bonds and the principal of those bonds, or both interest and
14 principal as the district board determines. This section does
15 not require the establishment of an escrow if the refunded
16 bonds and the amounts necessary to retire the refunded bonds
17 within that time are deposited with the paying agent for the
18 refunded bonds. Any such escrow shall not necessarily be
19 limited to proceeds of refunding bonds but may include other
20 money available for its purpose. Proceeds in escrow pending
21 such use may be invested or reinvested in bills, certificates
22 of indebtedness, notes or bonds that are direct obligations of,
23 or the principal and interest of which obligations are
24 unconditionally guaranteed by, the United States or in
25 certificates of deposit of banks that are members of the

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1 federal deposit insurance corporation; provided that the par
2 value of the certificates of deposit is collateralized by a
3 pledge of obligations or by a pledge of payment that is
4 unconditionally guaranteed by the United States; and further
5 provided that the par value of those obligations is at least
6 seventy-five percent of the par value of the certificates of
7 deposit. Such proceeds and investments in escrow, together
8 with any interest or other income to be derived from any such
9 investment, shall be in an amount at all times sufficient as to
10 principal, interest, any prior redemption premium due and any
11 charges of the escrow agent payable therefrom to pay the bonds
12 being refunded as they become due at their respective
13 maturities or at any designated prior redemption date or dates
14 in connection with which the municipality shall exercise a
15 prior redemption option. A purchaser of a refunding bond
16 issued is not responsible for the application of the proceeds
17 by the district or any of its officers, agents or employees.

18 G. Refunding bonds may bear additional terms and
19 provisions as determined by the district subject to the
20 limitations in this section relating to original bond issues.
21 Refunding bonds are not subject to the provisions of any other
22 statute.

23 H. District refunding bonds:

24 (1) may have interest, principal value or any
25 part thereof payable at intervals or at maturity, as determined

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1 by the district board;

2 (2) may be subject to prior redemption at the
3 district's option at a time or times and upon terms and
4 conditions with or without payment of premium or premiums, as
5 determined by the district board;

6 (3) may be serial in form and maturity or may
7 consist of a single bond payable in one or more installments or
8 may be in another form, as determined by the district board;
9 and

10 (4) shall be exchanged for the bonds and any
11 matured unpaid interest being refunded at not less than par or
12 sold at public or negotiated sale at, above or below par and at
13 a price that results in a net effective interest rate that does
14 not exceed the maximum permitted by the Public Securities Act.

15 I. At a regular or special meeting, a district
16 board may adopt a resolution by majority vote to authorize the
17 issuance of the refunding bonds.

18 Section 19. GENERAL BONDING AUTHORITY OF A TAX INCREMENT
19 DEVELOPMENT DISTRICT--OTHER LIMITATIONS.--

20 A. Except as otherwise provided in this section, a
21 district board shall not issue bonds against either gross
22 receipts tax increments or property tax increments without the
23 express written authorization of the department of finance and
24 administration, as evidenced by a letter signed by the
25 secretary of finance and administration. A district formed and

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1 approved by a class A county or by a municipality within a
2 class A county if the municipality has a population of more
3 than sixty-five thousand persons, according to the most recent
4 federal decennial census, is not required to obtain express
5 written authorization of the department of finance and
6 administration for the issuance of gross receipts tax increment
7 bonds or property tax increment bonds.

8 B. Prior to the issuance of indebtedness evidenced
9 by the gross receipts tax increment bonds or property tax
10 increment bonds issued by a district pursuant to the Tax
11 Increment for Development Act, the property owners within the
12 district shall contribute a minimum of twenty percent of the
13 initial public infrastructure costs, which may be reimbursed
14 with proceeds of gross receipts tax increment or property tax
15 increment financing; unless the project to be financed with
16 gross receipts tax increment bonds or property tax increment
17 bonds is a metropolitan redevelopment project pursuant to the
18 Metropolitan Redevelopment Code.

19 C. The amount of indebtedness evidenced by the
20 gross receipts tax increment bonds or property tax increment
21 bonds issued pursuant to the Tax Increment for Development Act
22 shall not exceed the estimated cost of the public improvements
23 plus all costs connected with the public infrastructure
24 purposes and the issuance and sale of bonds, including, without
25 limitation, formation costs, credit enhancement and liquidity

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1 support fees and costs.

2 D. The indebtedness evidenced by the gross receipts
3 tax increment bonds or property tax increment bonds shall not
4 affect the general obligation bonding capacity of the
5 municipality or county in which the tax increment development
6 district is located.

7 E. The indebtedness evidenced by the gross receipts
8 tax increment bonds or property tax increment bonds shall be
9 payable only from the special funds into which are deposited
10 the gross receipts tax increments and property tax increments
11 as set forth in the Tax Increment for Development Act.

12 F. Bonds issued by a tax increment development
13 district shall not be a general obligation of the state, the
14 county or the municipality in which the tax increment
15 development district is located and shall not pledge the full
16 faith and credit of the state, the county or the municipality
17 in which the tax increment development district is located.

18 Section 20. EXEMPTION FROM TAXATION.--The bonds
19 authorized by the Tax Increment for Development Act and the
20 income from the bonds or any other instrument executed as
21 security for the bonds shall be exempt from all taxation by the
22 state or any political subdivision of the state.

23 Section 21. PROTECTION FROM IMPAIRMENT.--If the tax
24 increment financing provisions set forth in the Tax Increment
25 for Development Act impair the ability of a municipality,

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1 county or other public body to meet its principal or interest
2 payment obligations for revenue bonds or general obligation
3 bonds outstanding prior to the effective date of the Tax
4 Increment for Development Act that are secured by the pledge of
5 all or part of the municipality, county or other public body's
6 revenue gross receipts tax or property tax, then the amount
7 otherwise payable to the district pursuant to the Tax Increment
8 for Development Act shall be paid instead to the municipality,
9 county or public body in an amount sufficient to meet any
10 required payment.

11 Section 22. TAX INCREMENT ACCOUNTING PROCEDURES.--A
12 district board shall separately account for all revenues and
13 indebtedness based on gross receipts tax increments and
14 property tax increments. The district board shall individually
15 account for all local option gross receipts taxes.

16 Section 23. MODIFICATION OF TAX INCREMENT DEVELOPMENT
17 AREA BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--

18 A. After an election to form a district, an area
19 may be eliminated from the tax increment development area only
20 following a hearing conducted upon notice given to the owners
21 of land in the tax increment development area in the manner
22 prescribed for the formation hearing, adoption of a resolution
23 of intention to do so by the district board and voter approval
24 by the owners and resident qualified electors as provided in
25 the Tax Increment for Development Act. Real property within

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1 the tax increment development area that is subject to the lien
2 of property taxes, special levies or other charges imposed
3 pursuant to the Tax Increment for Development Act shall not be
4 eliminated from the district while there are bonds outstanding
5 that are payable by those taxes, special levies or charges.

6 B. At any time after adoption of a resolution
7 creating a district, an area may be added to the district upon
8 the approval of the owners of real property in the proposed
9 additional area and the resident qualified electors residing
10 therein, as well as the owners of real property in the district
11 and resident qualified electors, in the same manner as required
12 for the formation of a district.

13 C. The district board, following a hearing
14 conducted upon notice given to the owners of real property
15 located in the district in the manner prescribed for the
16 formation hearing, may amend the tax increment development plan
17 in any manner that it determines will not substantially reduce
18 the benefits to be received by any land in the district from
19 the public infrastructure on completion of the work to be
20 performed under the general plan. An election shall not be
21 required solely for the purposes of this subsection.

22 Section 24. TERMINATION OF TAX INCREMENT DEVELOPMENT
23 DISTRICT.--

24 A. A district shall be terminated by a resolution
25 of the district board that all of the following conditions

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1 exist:

2 (1) all improvements owned by the district
3 have been, or provision has been made for all improvements to
4 be, conveyed to the municipality or county in which the
5 district is located;

6 (2) either the district does not have any
7 outstanding bond obligations or the municipality or county has
8 assumed all of the outstanding bond obligations of the
9 district; and

10 (3) all obligations of the district pursuant
11 to any agreement with the municipality or county have been
12 satisfied.

13 B. Property in the district that is subject to the
14 lien of district taxes shall remain subject to the lien for the
15 payment of bonds, notwithstanding termination of the district.
16 The district shall not be terminated if any bonds of the
17 district remain outstanding unless an amount of money
18 sufficient, together with investment income thereon, to make
19 all payments due on the bonds either at maturity or prior
20 redemption has been deposited with a trustee or escrow agent
21 and pledged to the payment and redemption of the bonds. The
22 district may continue to operate after termination only as
23 needed to collect money and make payments on any outstanding
24 bonds.

25 Section 25. LIBERAL INTERPRETATION.--The Tax Increment
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1 for Development Act shall be liberally construed to carry out
2 its purpose.

3 Section 26. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect immediately.

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