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HOUSE BILL 26

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

G. Andrés Romero

AN ACT

RELATING TO PUBLIC FINANCE; EXCLUDING GREENFIELD AREAS FROM THE
TAX INCREMENT FOR DEVELOPMENT ACT.

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

SECTION 1. Section 5-15-3 NMSA 1978 (being Laws 2006,
Chapter 75, Section 3, as amended by Laws 2019, Chapter 212,
Section 199 and also by Laws 2019, Chapter 275, Section 1) is
amended to read:

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

A. "base gross receipts taxes" means:

(1) the total amount of gross receipts taxes
collected within a tax increment development district, as
estimated by the governing body that adopted a resolution to
form that district, in consultation with the taxation and

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1 revenue department, in the calendar year preceding the
2 formation of the tax increment development district or, when an
3 area is added to an existing district, the amount of gross
4 receipts taxes collected in the calendar year preceding the
5 effective date of the modification of the tax increment
6 development plan and designated by the governing body to be
7 available as part of the gross receipts tax increment; and

8 (2) any amount of gross receipts taxes that
9 would have been collected in such year if any applicable
10 additional gross receipts taxes imposed after that year had
11 been imposed in that year;

12 B. "base property taxes" means:

13 (1) the portion of property taxes produced by
14 the total of all property tax levied at the rate fixed each
15 year by each governing body levying a property tax on the
16 assessed value of taxable property within the tax increment
17 development area last certified for the year ending immediately
18 prior to the year in which a tax increment development plan is
19 approved for the tax increment development area, or, when an
20 area is added to an existing tax increment development area,
21 "base property taxes" means that portion of property taxes
22 produced by the total of all property tax levied at the rate
23 fixed each year by each governing body levying a property tax
24 upon the assessed value of taxable property within the tax
25 increment development area on the date of the modification of

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1 the tax increment development plan and designated by the
2 governing body to be available as part of the property tax
3 increment; and

4 (2) any amount of property taxes that would
5 have been collected in such year if any applicable additional
6 property taxes imposed after that year had been imposed in that
7 year;

8 C. "county option gross receipts taxes" means gross
9 receipts taxes imposed by counties pursuant to the County Local
10 Option Gross Receipts and Compensating Taxes Act and designated
11 by the governing body of the county to be available as part of
12 the gross receipts tax increment;

13 D. "district" means a tax increment development
14 district;

15 E. "district board" means a board formed in
16 accordance with the provisions of the Tax Increment for
17 Development Act to govern a tax increment development district;

18 F. "enhanced services" means public services
19 provided by a municipality or county within the district at a
20 higher level or to a greater degree than otherwise available to
21 the land located in the district from the municipality or
22 county, including such services as public safety, fire
23 protection, street or sidewalk cleaning or landscape
24 maintenance in public areas; provided that "enhanced services"
25 does not include the basic operation and maintenance related to

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1 infrastructure improvements financed by the district pursuant
2 to the Tax Increment for Development Act;

3 G. "governing body" means the city council or city
4 commission of a city, the board of trustees or council of a
5 town or village or the board of county commissioners of a
6 county;

7 H. "greenfield area" means an area in which a
8 potential project may be considered:

9 (1) consisting of land, the majority of which
10 has not been previously developed and is not currently served
11 by municipal or county public infrastructure adequate to serve
12 the potential project development; or

13 (2) for which the potential project would
14 primarily rely on the development of new structures and the
15 infrastructure required to support them, rather than the
16 redevelopment of existing structures and their infrastructure;

17 [~~H.~~] I. "gross receipts tax increment" means the
18 gross receipts taxes collected within a tax increment
19 development district in excess of the base gross receipts taxes
20 collected in the district;

21 [~~I.~~] J. "gross receipts tax increment bonds" means
22 bonds issued by a district in accordance with the Tax Increment
23 for Development Act, the pledged revenue for which is a gross
24 receipts tax increment;

25 [~~J.~~] K. "local government" means a municipality or

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1 county;

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

8 ~~[H.]~~ M. "municipality" means an incorporated city,
9 town or village;

10 ~~[M.]~~ N. "new full-time economic base job" means a
11 job:

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

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

16 (3) that is:

17 (a) involved, directly or in a
18 supervisory capacity, with the production of: 1) a service;
19 provided that the majority of the revenue generated from the
20 service is from sources outside the state; or 2) tangible or
21 intangible personal property for sale; or

22 (b) held by an employee that is employed
23 at a regional, national or international headquarters operation
24 or at an operation that primarily provides services for other
25 operations of the qualifying entity that are located outside

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1 the state; and

2 (4) that is not directly involved with natural
3 resources extraction or processing, on-site services where the
4 customer is present for the delivery of the service, retail,
5 construction or agriculture except for value-added processing
6 performed on agricultural products that would then be sold for
7 wholesale or retail consumption;

8 [~~N-~~] O. "owner" means a person owning real property
9 within the boundaries of a district;

10 [~~Θ-~~] P. "person" means an individual, corporation,
11 association, partnership, limited liability company or other
12 legal entity;

13 [~~P-~~] Q. "project" means a tax increment development
14 project;

15 [~~Q-~~] R. "property tax increment" means all property
16 tax collected on real property within the designated tax
17 increment development area that is in excess of the base
18 property tax until termination of the district and distributed
19 to the district in the same manner as distributions are made
20 under the provisions of the Tax Administration Act;

21 [~~R-~~] S. "property tax increment bonds" means bonds
22 issued by a district in accordance with the Tax Increment for
23 Development Act, the pledged revenue for which is a property
24 tax increment;

25 [~~S-~~] T. "public improvements" means on-site

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1 improvements and off-site improvements that directly or
2 indirectly benefit a tax increment development district or
3 facilitate development within a tax increment development area
4 and that are dedicated to the governing body in which the
5 district lies. "Public improvements" includes:

6 (1) sanitary sewage systems, including
7 collection, transport, treatment, dispersal, effluent use and
8 discharge;

9 (2) drainage and flood control systems,
10 including collection, transport, storage, treatment, dispersal,
11 effluent use and discharge;

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

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

20 (5) trails and areas for pedestrian,
21 equestrian, bicycle or other non-motor vehicle use for travel,
22 ingress, egress and parking;

23 (6) pedestrian and transit facilities, parks,
24 recreational facilities and open space areas for the use of
25 members of the public for entertainment, assembly and

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1 recreation;

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

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

6 (9) electrical generation, transmission and
7 distribution facilities;

8 (10) natural gas distribution facilities;

9 (11) lighting systems;

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

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

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

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

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

23 (17) inspection, construction management,
24 planning and program management and other professional services
25 costs incidental to the project;

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1 (18) workforce housing; and

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

4 [~~T~~] U. "state gross receipts tax" means the gross
5 receipts tax imposed pursuant to the Gross Receipts and
6 Compensating Tax Act, but does not include that portion
7 distributed to municipalities pursuant to Sections 7-1-6.4 and
8 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47
9 NMSA 1978;

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

16 [~~V~~] W. "tax increment development area" means the
17 land included within the boundaries of a tax increment
18 development district;

19 [~~W~~] X. "tax increment development district" means
20 a district formed for the purposes of carrying out tax
21 increment development projects;

22 [~~X~~] Y. "tax increment development plan" means a
23 plan for the undertaking of a tax increment development
24 project;

25 [~~Y~~] Z. "tax increment development project" means

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1 activities undertaken within a tax increment development area
2 to enhance the sustainability of the local, regional or
3 statewide economy; to support the creation of jobs, schools and
4 workforce housing; and to generate tax revenue for the
5 provision of public improvements and may include:

6 (1) acquisition of land within a designated
7 tax increment development area or a portion of that tax
8 increment development area;

9 (2) demolition and removal of buildings and
10 improvements and installation, construction or reconstruction
11 of streets, utilities, parks, playgrounds and improvements
12 necessary to carry out the objectives of the Tax Increment for
13 Development Act;

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

19 (4) disposition of property acquired or held
20 by a tax increment development district as part of the
21 undertaking of a tax increment development project at the fair
22 market value of such property for uses in accordance with the
23 Tax Increment for Development Act;

24 (5) payments for professional services
25 contracts necessary to implement a tax increment development

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1 plan or project;

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

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

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

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

23 (1) determination of mortgage amounts and
24 payments is to be based on down payment rates and interest
25 rates generally available to lower- and moderate-income

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1 households; and

2 (2) a renter-occupied housing unit is
3 affordable to a household if the unit's monthly housing costs,
4 including rent and basic utility and energy costs, do not
5 exceed thirty-three percent of the household's gross monthly
6 income."

7 SECTION 2. A new section of the Tax Increment for
8 Development Act is enacted to read:

9 "[NEW MATERIAL] EXCLUSION.--The provisions of the Tax
10 Increment for Development Act shall not apply to greenfield
11 areas; provided that a tax increment development district may
12 be formed for a greenfield area if a governing body prior to
13 July 1, 2021 has adopted a resolution ordering that a tax
14 increment development district be formed for the greenfield
15 area and for which, prior to July 1, 2021, the state board of
16 finance has adopted a resolution dedicating a gross receipts
17 tax increment attributable to the imposition of the state gross
18 receipts tax within the district for the purpose of securing
19 gross receipts tax increment bonds."

20 SECTION 3. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2021.