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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Padilla</u>	<b>LAST UPDATED</b> _____
<b>SHORT TITLE</b> <u>Tax Increment Development District Changes</u>	<b>ORIGINAL DATE</b> <u>2/16/23</u>
	<b>BILL NUMBER</b> <u>Senate Bill 303</u>
	<b>ANALYST</b> <u>Graeser/Faubion/Leach/Ortiz*</u>

\*Because of the complexity of the provisions of this bill, LFC staff have joined with DFA/Board of Finance and DFA/Local Government Division staff to prepare this FIR.

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
	No direct fiscal impact but changes to governance may result in more TIDDs being formed				Recurring	General Fund
	No direct fiscal impact but changes to governance may result in more TIDDs being formed				Recurring	TIDD Boards
	No direct fiscal impact but changes to governance may result in more PIDs being formed				Recurring	PID Boards

Parenthesis ( ) indicate revenue decreases.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Unknown	Unknown	Unknown	Recurring	TRD, Local Governments, TIDD boards, PID boards

Parenthesis ( ) indicate expenditure decreases.

Duplicates House Bill 310

Relates to Senate Bill 353

### Sources of Information

LFC Files

### Responses Received From

New Mexico Attorney General's Office (NMAG)

Department of Finance/Board of Finance (DFA/BoF)

Department of Finance/Local Government Division (DFA/LGD)

Economic Development Department (EDD)

### No Response Received

New Mexico Counties

Municipal League

Taxation and Revenue Department (TRD)

## SUMMARY

### Synopsis of Senate Bill 303

Senate Bill 303 proposes significant changes to the Public Improvement District (PID) Act and the Tax Increment for Development District (TIDD) Act. The overall impact of the bill provisions would be to increase utilization of both instruments and to give developers more authority over decision-making and flexibility with respect to utilization. Another important point of these proposed changes is (1) to clearly preserve nontaxable bond status for TIDD property tax bonds where authority to impose the underlying property tax must be made by a governing body elected in a general election and (2) to distinguish provisions applicable to TIDDs that have not and do not plan to issue nontaxable bonds. This bifurcation renders the bill somewhat difficult to analyze.

The New Mexico Attorney General’s Office has prepared the following high-level summary of the provisions of this bill:

SB303 seeks to amend the Public Improvement District Act at NMSA 1978, §§ 5-11-1 *et seq.*, the Tax Increment for Development Act, NMSA 1978, §§ 5-15-1 *et seq.*, and the Audit Act of Miscellaneous Public Affairs Matters at NMSA 1978, § 12-6-3.

Proposed changes to the Public Improvement District Act include

- Changes to definitions of “county,” “district board,” and “owner”, § 5-11-2.
- Changes to the procedures for forming a district, § 5-11-6.
- Provides for the delegation of some of the board’s authority to an “administrative committee”, § 5-11-8.
- Establishes an administrative committee § 5-11-9.
- Provides that the board may issue general obligation bonds and provides procedures, § 5-11-19.
- Provides that the board may impose special levies and bonds and provides procedures, § 5-11-20.
- Requires that the board issue annual statements and estimates to be certified to local government division departments of finance and administration § 5-11-23.

Proposed changes to the Tax Increment for Development Act include

- Definitions are provided for “county,” “development agreement,” “district board” and “municipality” §5-15-3.
- Governance and procedure for the administrative committee § 5-15-10.

Proposed change to the Audit Act

- A public improvement district is not a component of the local government that formed it.

Section 24 of SB303 sets dates for terms of current and future district board members.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed. Section 24 provides for continuity of administration and sets an effective date of January 1, 2025, for membership of a PID or TIDD board.

## FISCAL IMPLICATIONS

There are no immediate fiscal implications of the provisions of this bill. However, allowing developers more flexibility and fewer restrictions may make both PIDs and TIDDs more attractive for use by developers.

Specifically, distinguishing between conventional TIDDs (Type 1) that seek a state gross receipts tax increment and are subject to fairly elaborate and stringent requirements of a Board of Finance rule and primarily property tax or local option gross receipts tax supported local TIDDs (Type 2) may prompt more type 2 TIDDs to form. It is unlikely these proposed changes will materially affect the number of Type 1 TIDDs that are proposed.

## SIGNIFICANT ISSUES

### Summary of Major Issues

The Board of Finance has identified the most significant issues related to the changes to the governance of PIDs and TIDDs and the changes to the audit requirements of component units.

Regarding the governance of PIDs, the bill potentially expands the role of the developer in the authority over and decision-making of the PID, because the administrative committee, which may be appointed by the district board, with two positions nominated by the developer, could technically be composed of a majority of developer representatives, or potentially composed of all developer representatives. This provides vast autonomy for the day-to-day operations with less oversight and input of the district board. This will likely improve efficiency of implementing the development plan, but it likely reduces public oversight.

Regarding governance of TIDDs, while the bill's proposed governance structure protects the ability of a TIDD to issue tax-exempt bonds to fund infrastructure projects, and possibly increases the efficiency and effectiveness of TIDD activities, it essentially eliminates the state's input on TIDDs that both receive and do not receive state increment. The state's dedicated increment is typically the largest contributor to TIDD revenues, which are used to secure debt. Further, in its consideration of dedicating state increment to a TIDD, the State Board of Finance must ensure the state benefits from future gross receipts tax revenues, prioritizing revenues to the state that would not otherwise have been generated but for the TIDD. The state may be more reluctant to dedicate state increments if the state does not have the ability to participate in the TIDDs governance or operations to ensure that what was projected in the development plan and was the basis for the state's increment dedication be a continued focus and goal of the TIDD as it functions. If any state funds are dedicated to the TIDD, then the position on a decision-making board or committee must be retained.

For TIDDs that do not receive state increment, should the state not retain a role in either the governance or functioning of the TIDD (say through the administrative committee), the state loses its ability to participate in TIDDs that are utilizing potentially large

amounts of public dollars to fund infrastructure and that are issuing debt. DFA currently has oversight over debt issuances of many public entities. In addition, it also has oversight over TIDD budgets. The inclusion of the state on the TIDD boards (or an administrative committee) provides critical input and oversight that is already established and supports the proper governance and financial accounting of TIDDs. Without that participation at the state level, oversight of public funds is greatly reduced, particularly given the district board's ability to delegate the financial operations to an appointed administrative committee that may not necessarily be composed of public body members.

Regarding changes to the audit requirements: Preparation of the Statewide Financial Report (Report) requires the Independent Public Auditor of the Report to follow group audit standards (AU-C 600), which require the auditors to evaluate the component auditor's work and their reputation (including a review of their peer review), auditors should not be **required** to accept other audits and reference the other audit, as this may impact the auditor's opinion. Furthermore, the legislation should outline approval from the component unit oversight agency of change to the due date which must then be earlier than the primary government.

The Economic Development Department (EDD) and Local Government Division (LGD) of the Department of Finance and Administration (DFA) point out that making PID and TIDD boards exempt from state and local Procurement Codes may have negative impact on public transparency, compliance, and fiscal oversight of district boards.

### **PID Act Amendment Details**

Sections 1 through 11 and Sections 23 and 24 of the bill modify the Public Improvement District Act (5-15-1 et seq) and the PID references in the Audit Act (12-6-3 NMSA 1978).

The changes proposed in the bill streamline the operation of a public improvement district at the cost of reducing public input and scrutiny of the operations of a PID and increasing the authority granted to a developer.

1. The governing body of the area in which a developer or property owners would petition for the formation of a public utility district would appoint a district board composed of members of the governing body. The district board would make initial decisions consistent with the formation and bond elections but, as noted by the Board of Finance above, delegate operational authority to an appointed administrative committee largely composed of employees of the developer.
2. A developer, by petition, could negate the authority of a PID district board or administrative committee to increase the authorized property tax or special levy. However, the administrative committee would be able to impose limited increases in the special levies.
3. The PID levies go with the land. A developer could install the public improvements and designate the administrative committee. If the developer subsequently sells property within the PID district, then the purchasers automatically become subject to the property tax levy and any special levies the district board or administrative committee have imposed.
4. The district board and the administrative committee could execute contracts without following the procedures and provisions of the Procurement Code, an issue of concern to EDD and LGD as noted above.

The Board of Finance expands on the PID Act Amendments:

The bill requires a governing body that formed or will form a public improvement district (PID) to serve as the district board.

- Permits the appointment of an administrative committee to undertake the day-to-day operations of the district. The administrative committee has all powers except to impose an ad valorem property tax, allocate and impose an initial special levy, and issue bonds or other debt obligations.
  - Five members, with clerk and treasurer to be assigned.
  - Each member serves a term of no more than five years.
  - Membership, while the third party's obligations or district's obligations to the developer are outstanding:
    - Two members are nominated by the developer, approved by district board;
    - Three members are appointed by district board with experience in civil engineering, public admin, public finance, or public agency budgeting and accounting;
  - Membership once obligations have been fulfilled:
    - All five are appointed by the district board as vacancies occur.

Major changes to the PID Act in sections 1 through 11 and Section 23 and 24 of the bill include

- The governing body may appoint a district board from elected members of the governing body. The governing body may allow the district board to impose a property tax levy for the purpose of constructing public improvements. The district board, in turn, may appoint an administrative committee to exercise administrative functions relating to the PID. This administrative committee would have all powers except to impose an ad valorem property tax, allocate and impose an initial special levy and issue bonds or other debt obligations. Two seats on the five-member administrative committee may be nominated by the developer. The remaining three seats will be appointed by the district board, but there are occupational and education requirements for incumbents. Apparently, other employees of a developer could be offered positions on the administrative committee.
- Section 8 (A) enumerates the powers accorded to the district board or the appointive administrative committee acting on behalf of the board. (7) repeals the direct authority for the board or administrative committee to establish, impose and collect special levies for the purpose of funding public infrastructure. Renumbered (10) allows owners to advance funds for public infrastructure purposes and renumbered (11) allows the district board or appointed administrative committee to impose special levies, fees or charges for public infrastructure and to impose and collect administrative fees on these special levies, fees or charges.
- This is a notable change to the conventional PID arrangement and may be appropriate for a particular proposed PID. It may, at the same time, forestall the conventional arrangement in which the PID levy is used to service a bond, the proceeds of which have been used to create the public improvements.
- Beyond the amendments to the governance of PIDs, the bill requires a district board to make annual statements and estimates of certain information, and the district board or administrative committee to file annual statements with the clerk and adopt a budget. This budget must subsequently be presented at a hearing and submitted to the Local Government Division of the Department of Finance and Administration. It also requires the district board to call an election (or elections if separate) for the imposition of a property tax and issuance of general obligation bonds. Property tax revenues that are not pledged to pay debt service

may be used to pay costs of formation, administration, operations and maintenance, and services or enhanced services. In current law, the property tax or special levy could be changed upon petition of 25 percent of the owners or electors in the PID and, for property tax, a subsequent election. The amendments appear to require the petition be made by three-quarters of the owners (and does not reference the electors). This increases the threshold for amendment to the tax once passed. This special property tax levy goes with the land and subsequent purchasers of property served by the public improvements must continue to pay the special levies.

- Contracts entered into by the district board or the administrative committee acting for the district board are exempt from the Procurement Code. Staff from LFC, the Economic Development Department, Board of Finance, and Local Government Division all have concerns about this provision.
- Section 24 provides that a PID board member appointed pursuant to current provisions will continue to serve until December 31, 2024, and that the temporary provision is required to conform the term adjustments to Article 20, Section 3, of the New Mexico Constitution.

### **TIDD Act Amendment Details**

Sections 12 through 22 and Sections 23 and 24 amend a number of provisions applicable to tax increment development districts (Section 5-15-1 NMSA 1978 et. Seq.).

Amendments similar to those proposed for PIDs are proposed that would affect the governance of a tax increment development district (TIDD). TIDDs differ markedly from PIDs, primarily because the sources of funding the public improvements derive not just from property taxes or special levies but through the diversion of a portion of the incremental local and, with approval of the Board of Finance and the Legislature, state gross receipts taxes. Because of these additional sources of funding, TIDD projects can involve a great deal of money and require closer supervision from the state and local governing bodies. The proposed amendments can be divided into changes affecting TIDDs with state increments and TIDDs that are primarily local and do not involve selling bonds. For the purpose of this analysis, type 1 TIDDs are distinguished from type 2 TIDDs.

A type 1 TIDD is distinguished pursuant to Section 15, Subsection B, C, and D, where the district board is composed of members of the governing body and the administrative committee has all of the powers accorded to district board. However, despite type 1 TIDDs enjoying an increment of state gross receipts taxes, the position on the decision-making board and the associated administrative committee formerly required to be filled by the secretary of the Department Of Finance and Administrative has been repealed. A type 2 TIDD is distinguished pursuant to Section 15, Subsections G, where the district board is composed of a board largely nominated by the developer, with one position reserved for the secretary of DFA.

The Board of Finance has provided the following description and significant features of the TIDD Act amendments:

The bill requires the governing body that formed the district serve as the district board IF the district has or will issue tax-exempt debt obligations.

- Requires the district board to be composed of elected members of the governing body. This is required to preserve the nontaxable status of TIDD bonds.
- Permits the day-to-day operations of the district board to be administered by an

administrative committee composed of five members.

- Permits the appointment of an administrative committee to undertake the day-to-day operations of the district. The administrative committee has all powers except to impose an ad valorem property tax and issue bonds or other debt obligations.
  - Five members, with clerk and treasurer to be assigned;
  - Each member serves a term of no more than five years, generally;
  - Membership, while the third party's obligations or district's obligations to the developer are outstanding:
    - Two members are nominated by the developer, approved by district board;
    - Three members are appointed by district board with experience in civil engineering, public admin, public finance, or public agency budgeting and accounting;
  - Membership once obligations have been fulfilled:
    - All five are appointed by the district board as vacancies occur.

If the district has not and will not issue tax-exempt debt obligations, the bill requires the governing body that formed the district to appoint a five-member board to govern the district.

- Each member will serve for five years.
- Membership will include
  - Two members nominated by and representative of the developer, approved by district board;
  - One member appointed by the governing body;
  - One member agreed upon by the governing body and developer that is not necessarily a developer representative;
  - The secretary of Finance and Administration or designee.

Beyond the governance of TIDDS, the bill clarifies that public improvements funded by tax increment funds are those that benefit the district or facilitate development within a TIDD that are dedicated to a state or local government or other political subdivision, and not just dedicated to the governing body in which the district lies.

The bill provides one vote for each one-fifth of an acre located in the district for each owner within the district in the election to form a district, as opposed to one vote per acre or portion of acre.

The bill allows the district board or administrative committee access to taxation and revenue department data on the taxable activity within the TIDD following satisfaction of training and qualification requirements prescribed by the Taxation and Revenue Department.

The bill limits any property tax levied by the district board to no more than \$5 per \$1,000 of net taxable value. Additionally, it does not require the district board to seek approval from the taxing entity of the use of a dedication of property tax increment to secure property tax bonds.

Finally, the bill exempts the district board and administrative committee from the Procurement Code. (A section-by-section description and analysis of the TIDD provisions is included as an attachment.)

Since the original Tax Increment for Development District was passed in 2006, the concept has been somewhat controversial. Because the enabling legislation requires the developer to prove to the satisfaction of the Board of Finance that the project and dedication of state gross receipts tax increment is in the best interest of the state, the controversy is primarily over the timing of the impacts. In general, TIDDs provide positive revenue to the state in the construction phase, followed by a developmental stage in which the state loses revenue, and, finally, culminating with the retirement of the TIDD bonds with a durable positive revenue stream from the economic development implicit in the concept.

As described above, there are really two types of TIDDs proposed with two types of TIDD boards. Board of Finance staff, however, point out that DFA participation is valuable for all TIDDs, from a budgetary and fiscal management perspective. DFA is an additional protector of public money.

### **Audit Act Amendments**

In Section 23, SB303 intends to modify the requirements applicable to PIDs currently in the Audit Act, 12-6-3 NMSA 1978, that requires annual audits for all local public bodies. The proposed language appears to decrease fiscal accountability of components by treating the TIDD or PID as a separate entity from the sponsoring government. The examination of the financial affairs of a local public body is determined according to its annual revenue each year. Because the annual revenue of a TIDD or PID will be significantly less than the revenue of the sponsoring entity, the audit requirements will be less stringent.

### **PERFORMANCE IMPLICATIONS**

The LFC tax policy of accountability may not be met because TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports of taxpayers reporting gross receipts subject to the diversion of a portion of the revenues to the TIDD. TRD publishes these diversions monthly but is not required to accumulate this data into an annual report to the Legislature. Type 1 TIDDs are required to present an annual report to the Board of Finance reporting on the status of the TIDD project. However, generally the board does not formally present these reports to the Legislature.

### **ADMINISTRATIVE IMPLICATIONS**

Allowing developers to have more influence and impact on the governance of PIDs and TIDDs may result in PIDs and TIDDs being utilized more frequently. Such an increase could result in local public bodies and the state receiving a greater number of requests for tax increment dedications.

If the state agencies lose their membership on district boards, PIDs and TIDDs could face difficulties in maintaining appropriate budgets and managing revenues and debt obligations. Department of Finance and Administration participation and expertise facilitates improved reporting and fiscal management at the TIDD level.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**



SB303 and House Bill 310 are duplicate bills.

SB303 relates to SB353, which requests authority for the South Campus TIDD to issue up to \$267 million in TIDD bonds, and SB251, which proposes to upgrade the Metropolitan Redevelopment Act funding provisions to include TIDD-like provisions.

HB228 is not directly related but proposes an improvement special assessment to provide a possible mechanism for funding environmental improvement districts.

## **TECHNICAL ISSUES**

### **Suggested Amendments**

LFC staff propose amendments to clarify that type 2 TIDDs should not and will not be subject to the Board of Finance rule that only applies to TIDDs that apply for and are granted a state gross receipts tax increment.

LFC staff also suggest other amendments that sustain a state voice in the decision-making and governance of type 1 TIDDs.

### **Additional Technical Issues**

Section 1(M) (page 3) and Section 12(N) (page 47) provide an extended definition of “municipality” to mean an incorporated city, town, or village, but municipality can also mean incorporated under a general act, special act, special charter, or territorial charter. LFC staff cannot parse this change. It may allow a land grant or an Indian reservation area to qualify for TIDD formation. Testimony should be sought to explain this change.

In Section 16(A)(6), the board is required to operate, maintain, and repair public infrastructure. Deleted is the proviso that this requirement ends when the public infrastructure is dedicated to the governing body. This deletion is either favorable to the governing body or may anticipate that the public infrastructure will not be dedicated to the governing body until the bonds have been retired. Testimony on the intent of this provision should be solicited.

Section 16(A)(14) proposes that TRD grant the TIDD board, acting through its treasurer, access to detailed information about individual taxpayers’ taxable activity and payment of gross receipts taxes. This authority is not supported in the bill with an amendment of the tax confidentiality provisions at 7-1-8.9 NMSA 1978 and would, therefore, not be allowed. However, TRD has in some circumstances, including when a government entity has filed an Inspection of Public Records Request (IPRA), apparently allowed the local government access to this type of information. Further information on this provision should be sought from TRD.

Section 17 must clearly distinguish between the authority of a type 1 TIDD and the lack of authority accorded to a type 2 board.

Section 19(H) provides that the TIDD board no longer needs to seek explicit authority from the taxing entity for the dedication of a property tax increment. It may be that the district board composed of elected members of the governing body is granted the power to impose the dedication without further approval from the governing body. The district board is acting for the

governing body. This provision should be clarified in testimony.

LFC staff propose the following amendments to Section 15:

- (1) Preserve the nontaxable treatment of TIDD bonds by ensuring the tax imposition authority is retained by public officials elected in a general election: This will require amending the provision on page 61, lines 17 through 21, to reserve to the district board the power to levy a property tax and approve the issuance of debt. The other powers enumerated in Section 16 of the bill can be delegated to an administrative committee. In Section 16, there should be a clear difference between the powers of the district board composed of elected public officials which include levying taxes and approving debt and the powers granted to the appointed administrative committee. This change should also reflect the differences incumbent on distinguishing between type 1 and type 2 TIDDs.
- (2) Preserve the voice of the DFA secretary in TIDD decisions because the state, through the dedication of the state gross receipts tax increment, provides the majority of the funding for the TIDD: The seat on the administrative committee for the secretary of the Department of Finance and Administration for type 1 TIDDs should be restored. Because the administrative committee cannot impose a property tax or approve the issuance of debt, the administrative committee will have two roles: (a) approving contracts and executing supervision of the remaining powers of the nonelective administrative committee; and (b) advising the elective district board to exercise the two powers granted solely to the elective district board.
- (3) Clearly identify type 2 TIDDs that are not issuing bonds or other debt and upgrade this limitation to restrict these type 2 TIDDs from soliciting state gross receipts tax increments: On page 63, add a restriction for type 2 TIDDs that will not be eligible to apply for state gross receipts tax increment. If this is imposed, then the seat on the district board restricted for the secretary of the Department of Finance and Administration is no longer needed. The composition of the district board can be retained as in the drafted proposal.

For type 1 TIDDs, the exemption from the Procurement Code (section 16, page 67) is not appropriate when state funds are involved. For type 2 TIDDs that, by amendment suggested above, do not involve state funds, the exemption from the Procurement Code or local Procurement Code should be decided by the local sponsoring government.

## **OTHER SUBSTANTIVE ISSUES**

The success of previous TIDDs, including Mesa del Sol, Winrock Town Center and Winrock 2, Taos Ski Valley, and the Las Cruces TIDD, proves the value of TIDDs as an economic development tool. However, these projects and the proposed South Campus TIDD have conformed to the initial requirements of the 2006 TIDD act and the 2019 amendments. Although greater flexibility might be warranted, it should be a major decision on the part of the Legislature to change a successful program.

## **POSSIBLE QUESTIONS**

TIDD diversions may or may not constitute tax expenditures. TRD does not consider TIDDs to

be tax expenditures. The questions, therefore, are unique to the provisions of this bill. Those issues are identified in the “Technical Issues” section and are phrased as questions requiring the sponsors and advocates to clarify certain provisions.

Attachment

1. Section-by-section of TIDD Governance Provisions

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## **Section-by Section of the TIDD governance provisions.**

**Section 12** clarifies certain definitions – primarily technical; however the new definition of “development agreement” seems to anticipate a contractual arrangement between a developer and the sponsoring government. The definition of “municipality” is expanded with uncertain impact (See TECHNICAL ISSUES). DFA/BoF points out that the definitions clarify that public infrastructure does not have to be dedicated to the governing body in which the district lies but other public entities.

**Section 13** clarifies the procedures for forming a TIDD and anticipates changes in the selection of the district board in later sections. It also clarifies that if all of the property owners in a proposed district sign a petition, the formation election can be waived. A technical point is raised by the deletion of the former subsection C in favor of an amendment calling the formation or other determination election an eligible election pursuant to the Local Election Act. This point may be to preserve the federally nontaxable status of bonds supported by property tax increments.

**Section 14** is technical.

**Section 15** provides for a significant change in governance of a TIDD. This mirrors the proposed changes in governance of PIDs as discussed earlier in the bill. The sponsoring governing body will appoint a district board composed of five elected members of the governing board. That district board then appoints an administrative committee composed of five members with two seats nominated by the developer and three by the district board. The one seat formerly reserved for a representative of the state board of finance has been deleted. In subsection C, the district board may delegate to the administrative committee all the powers and duties assigned to the district board including, apparently, the imposition of a property tax and the approval of a bond supported by the property tax. If a district determines that it will not issue debt, there is a special provision for the composition of the district board. In that case, the board is appointed by the sponsoring governing body, with two members nominated by the developer, one member appointed by the sponsoring governing body, one member chosen by agreement between the sponsoring governing body and the developer and the final seat occupied by the secretary of the department of finance and administration or the secretary’s designate. Pursuant to this option, the district board does not have the authority to appoint an administrative committee or impose a property tax.

**Section 16** deletes the authority of the district board or administrative committee on behalf of the district board to impose a property tax. In Section 17, the requirement that only the district board may impose the property tax is restored. Another deletion is of some concern (See TECHNICAL ISSUES for more discussion.) Section 16 also allows a breach of TRD confidentiality provisions in excess of the usual data rendered to other local government entities. The breach is not supported by an amendment of 7-1-8 NMSA 1978. Apparently, Taos Ski Valley TIDD, perhaps by filing an IPRA request, has been able to obtain some of this information from TRD, following special training in preserving confidentiality. This section also provides that the TIDD board or its administrative committee are exempt from the provisions of the Procurement Code.

**Section 17** again invokes the bifurcation previously identified. This allows the type 1 board to impose a property tax not to exceed five mills (\$5 per \$1,000 of net taxable value). This property

tax must be validated by a determination of property owners and a positive vote from registered voters resident within the district. This provision is not applicable to the type 2 TIDD.

**Section 18** is primarily technical and clarifies the authority of a county or a municipality to dedicate an increment of local option gross receipts taxes, including the distributions of the 1.225 percent pursuant to 7-1-6.4 NMSA 1978 and the food and medical hold-harmless distributions of 7-1-6.46 and 7-1 6-46 NMSA 1978.

**Section 19** clarifies the authority of a TIDD board to impose a property tax and dedicate up to 75 percent of the increment to TIDD purposes. The major change here is that the TIDD board no longer needs to seek explicit authority from the taxing entity for this dedication. It is unclear if this change is applicable to both type 1 and type 2 TIDDs

**Section 20** is technical.

**Section 21** confirms the TIDD board exemption from explicitly obtaining the approval of the taxing district for modifications of the TIDD plan.

**Section 22** is technical.

**Section 23** provides that an annual audit of a TIDD is separate and distinct from the audit of the sponsoring governing body. Since the annual revenue of the TIDD is likely to be far less than the revenue of the sponsoring government, this provision will probably subject the TIDD to a lesser degree of scrutiny.

**Section 24** provides that a TIDD board member appointed pursuant to current provisions will continue to serve until December 31, 2024, and that the temporary provision is required to conform the term adjustments to Article 20, Section 3 of the New Mexico Constitution.

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