

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 462

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

AN ACT

RELATING TO TAXATION; ENACTING THE TAX INCREMENT FOR
DEVELOPMENT ACT; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 27 of this act may be cited as the "Tax Increment for
Development Act".

Section 2. [NEW MATERIAL] 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

1 powers conferred by the Tax Increment for Development Act are
2 for public uses and purposes for which public money may be
3 expended and the public power exercised, and that it is
4 necessary and in the public interest for the provisions enacted
5 in the Tax Increment for Development Act to be declared as a
6 matter of legislative determination.

7 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
8 Tax Increment for Development Act:

9 A. "base gross receipts taxes" means:

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

21 (2) any amount of gross receipts taxes that
22 would have been collected in such year if any applicable
23 additional gross receipts taxes imposed after that year had
24 been imposed in that year;

25 B. "base property taxes" means:

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

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

21 C. "county option gross receipts taxes" means gross
22 receipts taxes imposed by counties pursuant to the County Local
23 Option Gross Receipts Taxes Act and designated by the governing
24 body of the county to be available as part of the gross
25 receipts tax increment;

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1 D. "district" means a tax increment development
2 district;

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

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

16 G. "governing body" means the city council or city
17 commission of a city, the board of trustees or council of a
18 town or village or the board of county commissioners of a
19 county;

20 H. "gross receipts tax increment" means the gross
21 receipts taxes collected within a tax increment development
22 district in excess of the base gross receipts taxes collected
23 for the duration of the existence of a tax increment
24 development district and distributed to the district in the
25 same manner as distributions are made under the provisions of

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1 the Tax Administration Act;

2 I. "gross receipts tax increment bonds" means bonds
3 issued by a district in accordance with the Tax Increment for
4 Development Act, the pledged revenue for which is a gross
5 receipts tax increment;

6 J. "local government" means a municipality or
7 county;

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

13 L. "municipality" means an incorporated city, town
14 or village;

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

17 N. "person" means an individual, corporation,
18 association, partnership, limited liability company or other
19 legal entity;

20 O. "project" means a tax increment development
21 project;

22 P. "property tax increment" means all property tax
23 collected on real property within the designated tax increment
24 development area that is in excess of the base property tax
25 until termination of the district and distributed to the

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1 district in the same manner as distributions are made under the
2 provisions of the Tax Administration Act;

3 Q. "property tax increment bonds" means bonds
4 issued by a district in accordance with the Tax Increment for
5 Development Act, the pledged revenue for which is a property
6 tax increment;

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

13 (1) sanitary sewage systems, including
14 collection, transport, treatment, dispersal, effluent use and
15 discharge;

16 (2) drainage and flood control systems,
17 including collection, transport, storage, treatment, dispersal,
18 effluent use and discharge;

19 (3) water systems for domestic, commercial,
20 office, hotel or motel, industrial, irrigation, municipal or
21 fire protection purposes, including production, collection,
22 storage, treatment, transport, delivery, connection and
23 dispersal;

24 (4) highways, streets, roadways, bridges,
25 crossing structures and parking facilities, including all areas

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1 for vehicular use for travel, ingress, egress and parking;

2 (5) trails and areas for pedestrian,
3 equestrian, bicycle or other non-motor vehicle use for travel,
4 ingress, egress and parking;

5 (6) pedestrian and transit facilities, parks,
6 recreational facilities and open space areas for the use of
7 members of the public for entertainment, assembly and
8 recreation;

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

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

13 (9) electrical generation, transmission and
14 distribution facilities;

15 (10) natural gas distribution facilities;

16 (11) lighting systems;

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

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

21 (14) school sites and facilities with the
22 consent of the governing board of the public school district
23 for which the facility is to be acquired, constructed or
24 renovated;

25 (15) library and other public educational or

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1 cultural facilities;

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

5 (17) inspection, construction management,
6 planning and program management and other professional services
7 costs incidental to the project;

8 (18) workforce housing; and

9 (19) any other improvement that the governing
10 body determines to be primarily for the use or benefit of the
11 public;

12 S. "resident qualified elector" means a person who
13 resides within the boundaries of a tax increment development
14 district or proposed tax increment development district and who
15 is qualified to vote in the general elections held in the state
16 pursuant to Section 1-1-4 NMSA 1978;

17 T. "state gross receipts tax" means the gross
18 receipts tax imposed pursuant to the Gross Receipts and
19 Compensating Tax Act, but does not include that portion
20 distributed to municipalities pursuant to Sections 7-1-6.4 and
21 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47
22 NMSA 1978;

23 U. "sustainable development" means land development
24 that achieves sustainable economic and social goals in ways
25 that can be supported for the long term by conserving

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1 resources, protecting the environment and ensuring human health
2 and welfare using mixed-use, pedestrian-oriented, multimodal
3 land use planning;

4 V. "tax increment development area" means the land
5 included within the boundaries of a tax increment development
6 district;

7 W. "tax increment development district" means a
8 district formed for the purposes of carrying out tax increment
9 development projects;

10 X. "tax increment development plan" means a plan
11 for the undertaking of a tax increment development project;

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

18 (1) acquisition of land within a designated
19 tax increment development area or a portion of that tax
20 increment development area;

21 (2) demolition and removal of buildings and
22 improvements and installation, construction or reconstruction
23 of streets, utilities, parks, playgrounds and improvements
24 necessary to carry out the objectives of the Tax Increment for
25 Development Act;

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1 (3) installation, construction or
2 reconstruction of streets, water utilities, sewer utilities,
3 parks, playgrounds and other public improvements necessary to
4 carry out the objectives of the Tax Increment for Development
5 Act;

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

11 (5) payments for professional services
12 contracts necessary to implement a tax increment development
13 plan or project;

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

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

21 Z. "taxing entity" means the governing body of a
22 political subdivision of the state, the gross receipts tax
23 increment or property tax increment of which may be used for a
24 tax increment development project; and

25 AA. "workforce housing" means decent, safe and

1 sanitary dwellings, apartments, single-family dwellings or
2 other living accommodations that are affordable for persons or
3 families earning less than eighty percent of the median income
4 within the county in which the tax increment development
5 project is located; provided that an owner-occupied housing
6 unit is affordable to a household if the expected sales price
7 is reasonably anticipated to result in monthly housing costs
8 that do not exceed thirty-three percent of the household's
9 gross monthly income; provided that:

10 (1) determination of mortgage amounts and
11 payments are to be based on down payment rates and interest
12 rates generally available to lower- and moderate-income
13 households; and

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

19 Section 4. [NEW MATERIAL] RESOLUTION FOR FORMATION OF A
20 DISTRICT.--

21 A. A tax increment development plan shall be
22 approved by the governing body of the municipality or county
23 within which tax increment development projects are proposed.
24 Upon filing with the clerk of the governing body of an approved
25 tax increment development plan and upon receipt of a petition

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1 bearing the signatures of the owners of at least fifty percent
2 of the real property located within a proposed tax increment
3 development area, the governing body may adopt a resolution
4 declaring its intent to form a tax increment development
5 district. Prior to the formation of a district, the owner or
6 developer of the real property located within an area proposed
7 to be designated as a tax increment development area may enter
8 into an agreement with the governing body concerning the
9 improvement of specific property within the district, and that
10 agreement may be used to establish obligations of the owner or
11 developer and the governing body concerning the zoning,
12 subdivision, improvement, impact fees, financial
13 responsibilities and other matters relating to the development,
14 improvement and use of real property within the district.

15 B. A governing body may adopt a resolution on its
16 own motion upon its finding that a need exists for the
17 formation of a district.

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

- 19 (1) the area or areas to be included within
20 the boundaries of the district;
21 (2) the purposes for which the district is to
22 be formed;
23 (3) a statement that a tax increment
24 development plan is on file with the clerk of the governing
25 body and that the plan includes a map depicting the boundaries

1 of the tax increment development area and the real property
2 proposed to be included in the area;

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

5 (5) identification of gross receipts tax
6 increment and property tax increment financing mechanisms
7 proposed;

8 (6) identification of gross receipts tax
9 increments and property tax increments proposed to secure
10 proposed gross receipts tax increment bonds or property tax
11 increment bonds;

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

14 (8) a statement that formation of a district
15 may result in the use of gross receipts tax increments or
16 property tax increments to pay the costs of construction,
17 operation and maintenance of public improvements made by the
18 district; and

19 (9) a reference to the Tax Increment for
20 Development Act.

21 D. A resolution may direct that, prior to holding a
22 hearing on formation of a district, petitioners for the
23 formation of a district prepare a study of the feasibility, the
24 financing and the estimated costs of improvements, services and
25 benefits to result from the formation of the proposed district.

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1 The governing body may require those petitioners to deposit
2 with the clerk or treasurer of the governing body an amount
3 equal to the estimated costs of conducting the study and other
4 estimated formation costs. The deposit shall be reimbursed if
5 the district is formed and if gross receipts tax increment
6 bonds or property tax increment bonds are issued by that
7 district pursuant to the Tax Increment for Development Act.

8 E. A resolution adopted pursuant to this section
9 shall direct that a public hearing on formation of the district
10 be scheduled and that notice of the hearing be mailed and
11 published.

12 Section 5. [NEW MATERIAL] CONTENTS OF TAX INCREMENT
13 DEVELOPMENT PLAN.--A tax increment development plan shall
14 include:

15 A. a map depicting the geographical boundaries of
16 the area proposed for inclusion within the tax increment
17 development area;

18 B. the estimated time necessary to complete the tax
19 increment development project;

20 C. a description and the estimated cost of all
21 public improvements proposed for the tax increment development
22 project;

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

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1 E. the estimated annual gross receipts tax
2 increment to be generated by the tax increment development
3 project and the portion of that gross receipts tax increment to
4 be allocated during the time necessary to complete the payment
5 of the tax increment development project;

6 F. the estimated annual property tax increment to
7 be generated by the tax increment development project and the
8 portion of that property tax increment to be allocated during
9 the time necessary to complete the payment of the tax increment
10 development project;

11 G. the general proposed land uses for the tax
12 increment development project;

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

15 I. the amount and characteristics of workforce
16 housing expected to be created by the tax increment development
17 project;

18 J. the location and characteristics of public
19 school facilities expected to be created, improved,
20 rehabilitated or constructed by the tax increment development
21 project;

22 K. a description of innovative planning techniques,
23 including mixed-use transit-oriented development, traditional
24 neighborhood design or sustainable development techniques, that
25 are deemed by the governing body to be beneficial and that will

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1 be incorporated into the tax increment development project; and

2 L. the amount and type of private investment in
3 each tax increment development project.

4 Section 6. [NEW MATERIAL] NOTICE OF PUBLIC HEARING.--

5 A. Upon adoption of a resolution indicating an
6 intent to form a tax increment development district, a
7 governing body shall set a date no sooner than thirty days and
8 no later than sixty days after the adoption of the resolution
9 for a public hearing regarding the formation of the district.

10 B. Notice of the hearing shall be provided by the
11 governing body by:

12 (1) publication once each week for two
13 consecutive weeks in a newspaper of general circulation in the
14 municipality or county in which the proposed district is
15 located;

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

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

23 C. The notice of the hearing shall contain:

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

25 (2) information regarding alternative methods

1 for submission of objects or comments;

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

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

6 (5) a statement that a tax increment
7 development plan is on file with the clerk of the governing
8 body and may be reviewed upon request.

9 D. A summary of the resolution declaring the
10 governing body's intent to form a tax increment development
11 district shall be attached to a notice issued pursuant to this
12 section. The clerk of the governing body shall mail a copy of
13 the notice to each owner of real property within the proposed
14 tax increment development area and to all other persons
15 claiming an interest in the property who have filed a written
16 request for a copy of the notice within the six months
17 preceding or at any time following the adoption of the
18 resolution. The clerk of the governing body shall publish a
19 copy of the notice and resolution summary at least twice in a
20 newspaper of general circulation in the municipality or county
21 in which the proposed tax increment development district is
22 located. The clerk of the governing body shall obtain an
23 affidavit from that newspaper after each publication is made.
24 The clerk of the governing body shall cause the affidavits to
25 be placed in the official records of the municipality or

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1 county. The affidavits are conclusive evidence of the mailing
2 and publishing of notice. Notice shall not be held invalid for
3 failure of delivery to the addressee.

4 E. A clerk of a governing body who is informed of a
5 transfer of ownership of real property within a proposed
6 district and who obtains the name and address of the current
7 property owner shall mail a copy of the notice and resolution
8 as soon as practicable after learning of the transfer.

9 F. Inadvertent failure to comply with the
10 requirements of the notice provisions shall not invalidate the
11 formation of a district or create a cause of action in favor of
12 any person.

13 Section 7. [NEW MATERIAL] PUBLIC HEARING.--

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

23 B. Testimony at a hearing is not required to be
24 given under oath.

25 C. At the conclusion of a hearing, the governing

1 body shall determine whether the tax increment development
2 district should be formed based upon the interests, convenience
3 or necessity of the owners, the residents of the proposed tax
4 increment development district and the residents of the
5 municipality or county in which the proposed tax increment
6 development district is to be located. The governing body
7 shall make the following findings before adopting a resolution
8 to approve the formation of a district:

9 (1) the tax increment development plan
10 reasonably protects the interests of the governing body in
11 meeting its goals to support:

- 12 (a) job creation;
- 13 (b) workforce housing;
- 14 (c) public school facility creation and
15 improvement, including the creation and improvement of
16 facilities for charter schools; and
- 17 (d) underdeveloped area or historical
18 area redevelopment;

19 (2) the tax increment development plan
20 demonstrates elements of innovative planning techniques,
21 including mixed-use transit-oriented development, traditional
22 neighborhood design or sustainable development techniques, that
23 are deemed by the governing body to benefit community
24 development;

25 (3) the tax increment development plan

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1 incorporates sustainable development considerations; and

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

5 D. If the governing body determines that the
6 district should be formed, it shall adopt a resolution ordering
7 that the tax increment development district be formed and shall
8 set the matter for an election or declare that an election is
9 waived, as provided in the Tax Increment for Development Act.

10 Section 8. ~~[NEW MATERIAL]~~ ELECTION.--

11 A. The election procedures set forth in this
12 section shall be used for:

13 (1) formation of a new tax increment
14 development district;

15 (2) election of a district board member;

16 (3) adoption of a property tax levy by a tax
17 increment development district;

18 (4) use of property tax increment financing by
19 a tax increment development district; or

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

22 B. An election may be waived and a tax increment
23 development district shall be formed upon the governing body's
24 adoption of a resolution to form a tax increment development
25 district if a petition is presented to a governing body in

1 accordance with the Tax Increment for Development Act and if
2 the petition contains the signatures of all owners of the real
3 property within the proposed tax increment development area and
4 states that the owners waive the right to an election.

5 C. An election pursuant to the Tax Increment for
6 Development Act shall be a nonpartisan election called by
7 posting notices in three public places within the boundaries of
8 the district not less than twenty days before the election.
9 Notice shall also be published in a newspaper of general
10 circulation once each week for two consecutive weeks before the
11 election in the municipality or county in which the proposed
12 district is located.

13 D. The notice shall state:

- 14 (1) the place of holding the election and
15 provisions for voting by mail, if any;
- 16 (2) the hours during the day during which the
17 polls will be open;
- 18 (3) if the election is a formation election,
19 the boundaries of the proposed tax increment development
20 district;
- 21 (4) if the election is a bond election, the
22 purpose for which the bonds are to be issued and the amount of
23 the issue;
- 24 (5) if the election is a property tax levy
25 election, the maximum tax rate per one thousand dollars

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

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

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

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

14 E. The district board, or, in the case of a
15 formation election, the governing body, shall determine the
16 date of the election and the polling places for the election
17 and may consolidate county precincts. Polling places shall be
18 open for not less than six hours during the day. The district
19 board or the governing body may establish provisions for voting
20 by mail.

21 F. Voter lists shall be used to determine the
22 resident qualified electors. If a district or proposed
23 district includes land lying partly in and partly out of any
24 county election precinct, the voter lists may contain the names
25 of all registered voters in the precinct, and the precinct

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1 boards at these precincts shall require that a prospective
2 elector execute an affidavit stating that the elector is also a
3 resident qualified elector.

4 G. For an election held pursuant to the Tax
5 Increment for Development Act, a prospective elector who is not
6 a resident qualified elector shall execute an affidavit stating
7 that the elector is the owner of land in the proposed or
8 existing district and stating the area of land in acres owned
9 by the prospective elector. If the prospective elector is not
10 an individual, the affidavit shall provide that the individual
11 casting the vote is the designated representative of the
12 corporation, association, partnership, limited liability
13 company or other legal entity entitled to vote in the election.
14 Precinct board members may administer oaths or accept
15 affirmations for those purposes.

16 H. Except as otherwise provided by this section,
17 the election shall comply with the general election laws of the
18 state. The ballot material provided to each voter shall
19 include:

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

24 (2) for an election concerning the imposition
25 of property taxes, an impartial description of the taxes to be

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

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

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

20 (5) for a property tax increment election, the
21 question to be voted upon as "property tax, yes" and "property
22 tax, no";

23 (6) for an election to change an existing
24 maximum tax or eliminate an existing tax, the question to be
25 voted upon as "tax change, yes" and "tax change, no" and shall

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1 specify the type of tax to which the proposed change pertains;
2 and

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

6 I. The governing body or, if after district
7 formation, the district board, may provide for the returns of
8 the election to be made in person or by mail.

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

20 K. If a person transfers real property located in a
21 district and the name of the successor owner becomes known and
22 is verified by recorded deed or other similar evidence of
23 transfer of ownership, the successor owner is deemed to be the
24 owner of the real property for the purposes of the Tax
25 Increment for Development Act.

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1 L. If there are no persons registered to vote
2 within a district or proposed district within fifty days
3 immediately preceding a scheduled election date, an election
4 required to be held pursuant to the Tax Increment for
5 Development Act shall be held by vote of the owners of property
6 within the district or proposed district. Each owner shall
7 have the number of votes or portion of votes equal to the
8 number of acres or portion of acres rounded upward to the
9 nearest one-fifth of an acre owned in the district by that
10 owner.

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

18 Section 9. [NEW MATERIAL] FORMATION OF A DISTRICT.--

19 A. If the formation of the tax increment
20 development district is approved by a majority of the voters
21 casting votes at the election, or if an election is held by
22 vote of the owners of property within the district or proposed
23 district, the governing body shall deliver a copy of the
24 resolution ordering formation of the tax increment development
25 district to each of the following persons or entities:

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1 (1) the county assessor and the clerk of the
2 county in which the district is located;

3 (2) the school district within which any
4 portion of the property located within a tax increment
5 development area lies;

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

9 (4) the taxation and revenue department; and

10 (5) the local government division of the
11 department of finance and administration.

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

16 C. A tax increment development district shall be a
17 political subdivision of the state, separate and apart from a
18 municipality or county.

19 Section 10. [NEW MATERIAL] GOVERNANCE OF THE DISTRICT.--

20 A. Following formation of a tax increment
21 development district, a district board shall administer in a
22 reasonable manner the implementation of the tax increment
23 development plan as approved by the governing body.

24 B. The district shall be governed by a five-member
25 board. The members of the district board shall be composed of

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1 members:

2 (1) appointed by the governing body upon
3 adoption of a resolution approving the formation of the
4 district; or

5 (2) of the governing body, if the governing
6 body, at its option, designates itself as the board of the
7 district.

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

19 D. A director may be a director of more than one
20 district.

21 E. In the case of an appointed board of directors
22 that is not the governing body, at the end of the appointed
23 directors' initial terms, the board shall hold an election of
24 new directors by majority vote of owners and qualified resident
25 electors in accordance with the Tax Increment for Development

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

5 Section 11. [NEW MATERIAL] RECORDS--OPEN MEETINGS.--

6 A. A district shall keep the following records,
7 which shall be open to the public:

8 (1) minutes of all meetings of the district
9 board;

10 (2) all resolutions;

11 (3) accounts showing all money received and
12 disbursed;

13 (4) the annual budget; and

14 (5) all other records required to be
15 maintained by law.

16 B. A district board shall appoint a clerk and
17 treasurer for the district.

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

20 Section 12. [NEW MATERIAL] DISTRICT POWERS.--

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

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

25 (2) enter into agreements with a municipality,

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1 county or other local government entity in connection with real
2 property located within the district;

3 (3) enter into an intergovernmental agreement
4 in accordance with the Joint Powers Agreements Act for the
5 planning, design, inspection, ownership, control, maintenance,
6 operation or repair of public infrastructure or the provision
7 of enhanced services by the municipality or county in which the
8 district lies or for any other purpose authorized by the Tax
9 Increment for Development Act;

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

14 (5) reimburse a municipality or county in
15 which the tax increment development district is located for
16 providing services within the tax increment development area;

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

19 (7) employ staff, counsel, advisors and
20 consultants;

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

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

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1 (10) enter into an agreement with an owner
2 concerning the advance of money by an owner for a public
3 purpose or the granting of real property by the owner for a
4 public purpose;

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

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

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

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

25 (15) use public easements and rights of way in

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1 or across public property, roadways, highways, streets or other
2 thoroughfares and other public easements and rights of way,
3 whether in or out of the geographical limits of the district,
4 the municipality or the county.

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

15 Section 13. [NEW MATERIAL] AUTHORITY TO IMPOSE PROPERTY
16 TAX LEVY.--A district has the power to establish a property tax
17 levy upon real property located within the tax increment
18 development area, with the following limitations:

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

25 B. a district may impose a property tax levy only

1 after authorization by a majority of votes cast by the owners
 2 of real property and qualified resident electors of a district
 3 in an election held in accordance with the Tax Increment for
 4 Development Act; and

5 C. a property tax levy imposed by a district shall
 6 not be effective for more than four years.

7 Section 14. [NEW MATERIAL] PROPERTY TAX LEVY RESCISSION
 8 ELECTION.--

9 A. A property tax levy imposed by a district may be
 10 rescinded within the four-year period during which a property
 11 tax levy imposed by a district is effective if:

12 (1) thirty-three and one-third percent of the
 13 number of persons who voted in the election for the imposition
 14 of that property tax levy sign a petition to rescind the
 15 property tax levy; and

16 (2) each person who signs the petition is a
 17 resident qualified elector of the district or an owner of real
 18 property within the tax increment development area.

19 B. The petition shall be filed with the district
 20 board for verification of the signatures, as to both number and
 21 qualifications of the persons signing. If the district board
 22 verifies that the petition contains the requisite number of
 23 signatures by persons qualified to sign the petition pursuant
 24 to Subsection A of this section, the question of rescission of
 25 the property tax levy imposed by the district shall be placed

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1 on the ballot for:

2 (1) a special election held in accordance with
3 the special election procedures of the Election Code that is
4 called and held within ninety days; or

5 (2) the next occurring general election if
6 that election is to be held within less than ninety days.

7 C. A petition for rescission of a property tax levy
8 imposed by a district may be submitted only once during the
9 four-year period during which a property tax levy by a district
10 is effective.

11 Section 15. [NEW MATERIAL] TAX INCREMENT FINANCING--GROSS
12 RECEIPTS TAX INCREMENT.--

13 A. Notwithstanding any law to the contrary, but in
14 accordance with the provisions of the Tax Increment for
15 Development Act, a tax increment development plan, as
16 originally approved or as later modified, may contain a
17 provision that a portion of certain gross receipts tax
18 increments collected within the tax increment development area
19 after the effective date of approval of the tax increment
20 development plan may be dedicated for the purpose of securing
21 gross receipts tax increment bonds pursuant to the Tax
22 Increment for Development Act.

23 B. As to a district formed by a municipality, a
24 portion of any of the following gross receipts tax increments
25 may be paid by the state directly into a special fund of the

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1 district to pay the principal of, the interest on and any
2 premium due in connection with the bonds of, loans or advances
3 to, or any indebtedness incurred by, whether funded, refunded,
4 assumed or otherwise, the authority for financing or
5 refinancing, in whole or in part, a tax increment development
6 project within the tax increment development area:

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

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

13 (3) municipal infrastructure gross receipts
14 tax authorized pursuant to the Municipal Local Option Gross
15 Receipts Taxes Act;

16 (4) municipal capital outlay gross receipts
17 tax authorized pursuant to the Municipal Local Option Gross
18 Receipts Taxes Act;

19 (5) municipal regional transit gross receipts
20 tax authorized pursuant to the Municipal Local Option Gross
21 Receipts Taxes Act;

22 (6) an amount distributed to municipalities
23 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978; and

24 (7) the state gross receipts tax.

25 C. As to a district formed by a county, all or a

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1 portion of any of the following gross receipts tax increments
2 may be paid by the state directly into a special fund of the
3 district to pay the principal of, the interest on and any
4 premium due in connection with the bonds of, loans or advances
5 to or any indebtedness incurred by, whether funded, refunded,
6 assumed or otherwise, the district for financing or
7 refinancing, in whole or in part, a tax increment development
8 project within the tax increment development area:

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

11 (2) county emergency gross receipts tax
12 authorized pursuant to the County Local Option Gross Receipts
13 Taxes Act;

14 (3) county environmental services gross
15 receipts tax authorized pursuant to the County Local Option
16 Gross Receipts Taxes Act;

17 (4) county infrastructure gross receipts tax
18 authorized pursuant to the County Local Option Gross Receipts
19 Taxes Act;

20 (5) county capital outlay gross receipts tax
21 authorized pursuant to the County Local Option Gross Receipts
22 Taxes Act; and

23 (6) county regional transit gross receipts tax
24 authorized pursuant to the County Local Option Gross Receipts
25 Taxes Act.

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

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

25 F. An imposition of a gross receipts tax increment

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1 attributable to the imposition of the state gross receipts tax
2 within a district may be dedicated for the purpose of securing
3 gross receipts tax increment bonds with the agreement of the
4 state board of finance, evidenced by a resolution adopted by a
5 majority vote of the state board of finance. The state board
6 of finance shall not agree to dedicate more than seventy-five
7 percent of the gross receipts tax increment attributable to the
8 imposition of the state gross receipts tax within the district.
9 The resolution of the state board of finance shall become
10 effective only on January 1 or July 1 of the calendar year and
11 shall find that:

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

14 (2) the use of the state gross receipts tax is
15 likely to stimulate the creation of jobs, economic
16 opportunities and general revenue for the state through the
17 addition of new businesses to the state and the expansion of
18 existing businesses within the state.

19 G. The governing body of the jurisdiction in which
20 a tax increment development district has been established shall
21 timely notify the assessor of the county in which the district
22 has been established, the taxation and revenue department and
23 the local government division of the department of finance and
24 administration when:

25 (1) a tax increment development plan has been

1 approved that contains a provision for the allocation of a
2 gross receipts tax increment;

3 (2) any outstanding bonds of the district have
4 been paid off; and

5 (3) the purposes of the district have
6 otherwise been achieved.

7 Section 16. [NEW MATERIAL] BONDING AUTHORITY--GROSS
8 RECEIPTS TAX INCREMENT.--

9 A. A district may issue gross receipts tax
10 increment revenue bonds, the pledged revenue for which is a
11 gross receipts tax increment, for any one or more of the
12 purposes authorized by the Tax Increment for Development Act.

13 B. A district may pledge irrevocably any or all of
14 a gross receipts tax increment received by the district to the
15 payment of the interest on and principal of the gross receipts
16 tax increment bonds for any of the purposes authorized in the
17 Tax Increment for Development Act. A law that imposes or
18 authorizes the imposition of a municipal or county gross
19 receipts tax or that affects the municipal or county gross
20 receipts tax shall not be repealed, amended or otherwise
21 directly or indirectly modified in any manner to adversely
22 impair any outstanding gross receipts increment bonds that may
23 be secured by a pledge of any municipal or county gross
24 receipts tax increment, unless those outstanding bonds have
25 been discharged in full or provision has been fully made for

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1 those bonds.

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

10 D. Gross receipts tax increment bonds:

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

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

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

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

23 (5) shall be sold for cash at, above or below
24 par and at a price that results in a net effective interest
25 rate that does not exceed the maximum permitted by the Public

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1 Securities Act and the Short-Term Interest Rate Act; and

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

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

5 (1) declares the necessity for issuing gross
6 receipts tax increment bonds;

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

10 (3) designates the sources of gross receipts
11 taxes or portions thereof to be pledged to the repayment of the
12 gross receipts tax increment bonds.

13 Section 17. [NEW MATERIAL] PROPERTY TAX INCREMENT
14 BONDS.--

15 A. Notwithstanding any law to the contrary, but in
16 accordance with the Tax Increment for Development Act, a tax
17 increment development plan, as originally approved or as later
18 modified, may contain a provision that a portion of property
19 taxes levied after the effective date of the approval of the
20 tax increment development plan upon taxable property within a
21 tax increment development area each year, by or for the benefit
22 of any public body, may be dedicated for securing property tax
23 increment bonds pursuant to the Tax Increment for Development
24 Act, according to the following procedures:

25 (1) the base property taxes shall be paid into

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1 the funds of each public body as are all other taxes collected
2 by or for the public body;

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

18 (3) when the bonds, loans, advances and
19 indebtedness, if any, including interest thereon and any
20 premiums due in connection with the bonds, loans, advances and
21 indebtedness have been paid, all taxes upon taxable property in
22 a tax increment development area shall be paid into the funds
23 of the respective public bodies.

24 B. The portion of property taxes in excess of the
25 amount of base property taxes may be irrevocably pledged by the

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1 district for the payment of the principal of, the interest on
2 and any premiums due in connection with the bonds, loans,
3 advances and indebtedness.

4 C. Upon general reassessment of taxable property
5 valuations in a county, including all or part of a tax
6 increment development area in which a property tax increment
7 has been pledged for property tax increment bonds, the portions
8 of valuations for assessment shall be proportionately adjusted
9 in accordance with that reassessment or change.

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

21 E. The property tax increment generated by the
22 imposition of property taxes may nonetheless be dedicated for
23 the purposes of the Tax Increment for Development Act if intent
24 to do so is set forth in the tax increment development plan
25 approved by the governing body and if the property tax was not

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1 approved in an election.

2 F. The municipality in which a tax increment
3 development district has been established shall timely notify
4 the assessor of the county in which the district has been
5 established when:

6 (1) a tax increment development plan has been
7 approved;

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

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

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

15 H. The increment attributable to a levy by a taxing
16 entity shall not be dedicated for the purpose of securing
17 property tax increment bonds without the agreement of the
18 taxing entity. The agreement shall be evidenced by a
19 resolution adopted by a majority vote of that taxing entity. A
20 taxing entity shall not agree to dedicate for the purpose of
21 securing property tax increment bonds more than seventy-five
22 percent of the property tax increment attributable to a
23 property tax levy by that taxing entity.

24 Section 18. [NEW MATERIAL] BONDING AUTHORITY--PROPERTY
25 TAX INCREMENT.--

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

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

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

21 D. The question shall state the purpose for which
22 the property tax increment bonds are to be issued and the
23 amount of the issue. If property tax increment bonds are to be
24 issued for more than one purpose, a separate question shall be
25 submitted to the voters for each purpose to be voted upon. The

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

6 E. Property tax increment bonds:

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

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

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

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

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

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

24 F. Except as otherwise provided by law, the
25 district board shall determine the denominations, places of

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1 payment, terms and conditions and the form of property tax
2 increment bonds.

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

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

8 Section 19. [NEW MATERIAL] REFUNDING BONDS.--

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

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

19 (2) purpose of reducing interest costs or
20 effecting other economies; or

21 (3) purpose of modifying or eliminating
22 restrictive contractual limitations:

23 (a) pertaining to the issuance of
24 additional bonds; or

25 (b) concerning the outstanding bonds or

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1 facilities relating to the outstanding bonds.

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

6 C. Refunding bonds may be issued separately or in
7 combination in one series or more.

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

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

22 F. The proceeds of refunding bonds, including
23 accrued interest and premiums appertaining to the sale of
24 refunding bonds, shall be immediately applied to the retirement
25 of the bonds being refunded or placed in escrow in a commercial

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

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

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

21 H. District refunding bonds:

22 (1) may have interest, principal value or any
23 part thereof payable at intervals or at maturity, as determined
24 by the district board;

25 (2) may be subject to prior redemption at the

1 district's option at a time or times and upon terms and
2 conditions with or without payment of premium or premiums, as
3 determined by the district board;

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

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

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

16 Section 20. [NEW MATERIAL] GENERAL BONDING AUTHORITY OF A
17 TAX INCREMENT DEVELOPMENT DISTRICT--OTHER LIMITATIONS.--

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

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1 than sixty-five thousand persons, according to the most recent
2 federal decennial census, is not required to obtain express
3 written authorization of the department of finance and
4 administration for the issuance of gross receipts tax increment
5 bonds or property tax increment bonds.

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

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

25 D. The indebtedness evidenced by the gross receipts

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1 tax increment bonds or property tax increment bonds shall not
 2 affect the general obligation bonding capacity of the
 3 municipality or county in which the tax increment development
 4 district is located.

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

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

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

21 Section 22. [NEW MATERIAL] PROTECTION FROM IMPAIRMENT.--
 22 If the provisions set forth in the Tax Increment for
 23 Development Act impair the ability of a municipality, county or
 24 other public body to meet its principal or interest payment
 25 obligations for revenue bonds or general obligation bonds

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

9 Section 23. [NEW MATERIAL] TAX INCREMENT ACCOUNTING
10 PROCEDURES.--A district board shall separately account for all
11 revenues and indebtedness based on gross receipts tax
12 increments and property tax increments. The district board
13 shall individually account for all gross receipts tax
14 increments.

15 Section 24. [NEW MATERIAL] MODIFICATION OF TAX INCREMENT
16 DEVELOPMENT AREA BOUNDARIES OR TAX INCREMENT DEVELOPMENT
17 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 25. [NEW MATERIAL] TERMINATION OF TAX INCREMENT
 23 DEVELOPMENT 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 26. [NEW MATERIAL] DEDICATION OF GROSS RECEIPTS

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1 TAX INCREMENT--NOTICE TO TAXATION AND REVENUE DEPARTMENT.--If
 2 the state board of finance or a taxing entity approves a
 3 dedication or increase in the dedication of a portion of a
 4 gross receipts tax increment to a district, the state board of
 5 finance or the taxing entity shall notify the taxation and
 6 revenue department of that approval at least one hundred twenty
 7 days before the effective date of the dedication or increase in
 8 the dedication.

9 Section 27. [NEW MATERIAL] LIBERAL INTERPRETATION.--The
 10 Tax Increment for Development Act shall be liberally construed
 11 to carry out its purpose.

12 Section 28. A new section of the Tax Administration Act
 13 is enacted to read:

14 "[NEW MATERIAL] DISTRIBUTIONS--TAX INCREMENT DEVELOPMENT
 15 DISTRICTS.--A distribution to a tax increment development
 16 district shall be made by the department, in accordance with a
 17 notice that is filed pursuant to the Tax Increment for
 18 Development Act with respect to a taxing entity's dedication of
 19 a portion of a gross receipts tax increment to the tax
 20 increment development district."

21 Section 29. Section 7-1-6.4 NMSA 1978 (being Laws 1983,
 22 Chapter 211, Section 9, as amended) is amended to read:

23 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS
 24 TAX.--

25 A. Except as provided in Subsection B of this

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1 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
2 shall be made to each municipality in an amount, subject to any
3 increase or decrease made pursuant to Section 7-1-6.15 NMSA
4 1978, equal to the product of the quotient of one and two
5 hundred twenty-five thousandths percent divided by the tax rate
6 imposed by Section 7-9-4 NMSA 1978 [~~times~~] multiplied by the
7 net receipts for the month attributable to the gross receipts
8 tax from business locations:

9 (1) within that municipality;

10 (2) on land owned by the state, commonly known
11 as the "state [~~fair grounds~~] fairgrounds", within the exterior
12 boundaries of that municipality;

13 (3) outside the boundaries of any municipality
14 on land owned by that municipality; and

15 (4) on an Indian reservation or pueblo grant
16 in an area that is contiguous to that municipality and in which
17 the municipality performs services pursuant to a contract
18 between the municipality and the Indian tribe or Indian pueblo
19 if:

20 (a) the contract describes an area in
21 which the municipality is required to perform services and
22 requires the municipality to perform services that are
23 substantially the same as the services the municipality
24 performs for itself; and

25 (b) the governing body of the

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1 municipality has submitted a copy of the contract to the
2 secretary.

3 B. If the reduction made by Laws 1991, Chapter 9,
4 Section 9 to the distribution under this section impairs the
5 ability of a municipality to meet its principal or interest
6 payment obligations for revenue bonds outstanding prior to July
7 1, 1991 that are secured by the pledge of all or part of the
8 municipality's revenue from the distribution made under this
9 section, then the amount distributed pursuant to this section
10 to that municipality shall be increased by an amount sufficient
11 to meet any required payment, provided that the distribution
12 amount does not exceed the amount that would have been due that
13 municipality under this section as it was in effect on June 30,
14 1992.

15 C. A distribution pursuant to this section may be
16 adjusted for a distribution made to a tax increment development
17 district with respect to a portion of a gross receipts tax
18 increment dedicated by a municipality pursuant to the Tax
19 Increment for Development Act."

20 Section 30. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
21 Chapter 211, Section 17, as amended) is amended to read:

22 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION
23 GROSS RECEIPTS TAXES.--

24 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
25 shall be made to each municipality for which the department is

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1 collecting a local option gross receipts tax imposed by that
2 municipality in an amount, subject to any increase or decrease
3 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
4 receipts attributable to the local option gross receipts tax
5 imposed by that municipality, less any deduction for
6 administrative cost determined and made by the department
7 pursuant to the provisions of the act authorizing imposition by
8 that municipality of the local option gross receipts tax and
9 any additional administrative fee withheld pursuant to
10 Subsection C of Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA
11 1978.

12 B. A transfer pursuant to this section may be
13 adjusted for a distribution made to a tax increment development
14 district with respect to a portion of a gross receipts tax
15 increment dedicated by a municipality pursuant to the Tax
16 Increment for Development Act."

17 Section 31. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
18 Chapter 211, Section 18, as amended) is amended to read:

19 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
20 GROSS RECEIPTS TAXES.--

21 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
22 shall be made to each county for which the department is
23 collecting a local option gross receipts tax imposed by that
24 county in an amount, subject to any increase or decrease made
25 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net

1 receipts attributable to the local option gross receipts tax
 2 imposed by that county, less any deduction for administrative
 3 cost determined and made by the department pursuant to the
 4 provisions of the act authorizing imposition by that county of
 5 the local option gross receipts tax and any additional
 6 administrative fee withheld pursuant to Subsection C of Section
 7 7-1-6.41 NMSA 1978.

8 B. A transfer pursuant to this section may be
 9 adjusted for a distribution made to a tax increment development
 10 district with respect a portion of a gross receipts tax
 11 increment dedicated by a county pursuant to the Tax Increment
 12 for Development Act."

13 Section 32. Section 7-1-6.46 NMSA 1978 (being Laws 2004,
 14 Chapter 116, Section 1) is amended to read:

15 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
 16 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES
 17 DEDUCTION.--

18 A. A distribution pursuant to Section 7-1-6.1 NMSA
 19 1978 shall be made to a municipality in an amount, subject to
 20 any increase or decrease made pursuant to Section 7-1-6.15 NMSA
 21 1978, equal to the sum of:

22 (1) the total deductions claimed pursuant to
 23 Section 7-9-92 NMSA 1978 for the month by taxpayers from
 24 business locations attributable to the municipality multiplied
 25 by the sum of the combined rate of all municipal local option
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1 gross receipts taxes in effect in the municipality for the
2 month plus one and two hundred twenty-five thousandths percent;
3 and

4 (2) the total deductions claimed pursuant to
5 Section 7-9-93 NMSA 1978 for the month by taxpayers from
6 business locations attributable to the municipality multiplied
7 by the sum of the combined rate of all municipal local option
8 gross receipts taxes in effect in the municipality for the
9 month plus one and two hundred twenty-five thousandths percent.

10 B. The distribution pursuant to Subsection A of
11 this section is in lieu of revenue that would have been
12 received by the municipality but for the deductions provided by
13 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall
14 be considered gross receipts tax revenue and shall be used by
15 the municipality in the same manner as gross receipts tax
16 revenue, including payment of gross receipts tax revenue bonds.

17 C. For the purposes of this section, "business
18 locations attributable to the municipality" means business
19 locations:

20 (1) within the municipality;

21 (2) on land owned by the state, commonly known
22 as the "state fairgrounds", within the exterior boundaries of
23 the municipality;

24 (3) outside the boundaries of the municipality
25 on land owned by the municipality; and

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1 (4) on an Indian reservation or pueblo grant
 2 in an area that is contiguous to the municipality and in which
 3 the municipality performs services pursuant to a contract
 4 between the municipality and the Indian tribe or Indian pueblo
 5 if:

6 (a) the contract describes an area in
 7 which the municipality is required to perform services and
 8 requires the municipality to perform services that are
 9 substantially the same as the services the municipality
 10 performs for itself; and

11 (b) the governing body of the
 12 municipality has submitted a copy of the contract to the
 13 secretary.

14 D. A distribution pursuant to this section may be
 15 adjusted for a distribution made to a tax increment development
 16 district with respect to a portion of a gross receipts tax
 17 increment dedicated by a municipality pursuant to the Tax
 18 Increment for Development Act."

19 Section 33. Section 7-1-6.47 NMSA 1978 (being Laws 2004,
 20 Chapter 116, Section 2) is amended to read:

21 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD
 22 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

23 A. A distribution pursuant to Section 7-1-6.1 NMSA
 24 1978 shall be made to a county in an amount, subject to any
 25 increase or decrease made pursuant to Section 7-1-6.15 NMSA

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1 1978, equal to the sum of:

2 (1) the total deductions claimed pursuant to
3 Section 7-9-92 NMSA 1978 for the month by taxpayers from
4 business locations within a municipality in the county
5 multiplied by the combined rate of all county local option
6 gross receipts taxes in effect for the month that are imposed
7 throughout the county;

8 (2) the total deductions claimed pursuant to
9 Section 7-9-92 NMSA 1978 for the month by taxpayers from
10 business locations in the county but not within a municipality
11 multiplied by the combined rate of all county local option
12 gross receipts taxes in effect for the month that are imposed
13 in the county area not within a municipality;

14 (3) the total deductions claimed pursuant to
15 Section 7-9-93 NMSA 1978 for the month by taxpayers from
16 business locations within a municipality in the county
17 multiplied by the combined rate of all county local option
18 gross receipts taxes in effect for the month that are imposed
19 throughout the county; and

20 (4) the total deductions claimed pursuant to
21 Section 7-9-93 NMSA 1978 for the month by taxpayers from
22 business locations in the county but not within a municipality
23 multiplied by the combined rate of all county local option
24 gross receipts taxes in effect for the month that are imposed
25 in the county area not within a municipality.

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1 B. The distribution pursuant to Subsection A of
2 this section is in lieu of revenue that would have been
3 received by the county but for the deductions provided by
4 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall
5 be considered gross receipts tax revenue and shall be used by
6 the county in the same manner as gross receipts tax revenue,
7 including payment of gross receipts tax revenue bonds.

8 C. A distribution pursuant to this section may be
9 adjusted for a distribution made to a tax increment development
10 district with respect a portion of a gross receipts tax
11 increment dedicated by a county pursuant to the Tax Increment
12 for Development Act."

13 Section 34. EFFECTIVE DATE.--The effective date of the
14 provisions of Sections 15 and 16 of this act is January 1,
15 2007.

16 Section 35. EMERGENCY.--It is necessary for the public
17 peace, health and safety that this act take effect immediately.

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