

1 SENATE BILL 566

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Stuart Ingle

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10 AN ACT

11 RELATING TO TAX INCREMENT DEVELOPMENT DISTRICTS; CLARIFYING
12 THAT THE TAX INCREMENT FOR DEVELOPMENT ACT ONLY ALLOWS STATE
13 GROSS RECEIPTS TAX INCREMENTS TO BE USED TO SECURE BONDS THAT
14 ARE AUTHORIZED BY THE LEGISLATURE PURSUANT TO LAW; PROVIDING
15 FOR A FILING FEE; REQUIRING TAX INCREMENT DEVELOPMENT DISTRICTS
16 TO REPORT TO THE STATE BOARD OF FINANCE AND THE LEGISLATIVE
17 FINANCE COMMITTEE.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. Section 5-15-3 NMSA 1978 (being Laws 2006,
21 Chapter 75, Section 3) is amended to read:

22 "5-15-3. DEFINITIONS.--As used in the Tax Increment for
23 Development Act:

24 A. "base gross receipts taxes" means:

25 (1) the total amount of gross receipts taxes

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1 collected within a tax increment development district, as
2 estimated by the governing body that adopted a resolution to
3 form that district, in consultation with the taxation and
4 revenue department, in the calendar year preceding the
5 formation of the tax increment development district or, when an
6 area is added to an existing district, the amount of gross
7 receipts taxes collected in the calendar year preceding the
8 effective date of the modification of the tax increment
9 development plan and designated by the governing body to be
10 available as part of the gross receipts tax increment; and

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

15 B. "base property taxes" means:

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

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1 fixed each year by each governing body levying a property tax
2 upon the assessed value of taxable property within the tax
3 increment development area on the date of the modification of
4 the tax increment development plan and designated by the
5 governing body to be available as part of the property tax
6 increment; and

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

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

16 D. "district" means a tax increment development
17 district;

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

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

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

6 G. "governing body" means the city council or city
7 commission of a city, the board of trustees or council of a
8 town or village or the board of county commissioners of a
9 county;

10 H. "gross receipts tax increment" means the gross
11 receipts taxes collected within a tax increment development
12 district in excess of the base gross receipts taxes collected
13 ~~[for the duration of the existence of a tax increment~~
14 ~~development district and distributed to the district in the~~
15 ~~same manner as distributions are made under the provisions of~~
16 ~~the Tax Administration Act] in the district;~~

17 I. "gross receipts tax increment bonds" means bonds
18 issued by a district in accordance with the Tax Increment for
19 Development Act, the pledged revenue for which is a gross
20 receipts tax increment;

21 J. "local government" means a municipality or
22 county;

23 K. "municipal option gross receipts taxes" means
24 those gross receipts taxes imposed by municipalities pursuant
25 to the Municipal Local Option Gross Receipts Taxes Act and

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

3 L. "municipality" means an incorporated city, town
4 or village;

5 M. "new full-time economic base job" means a job:

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

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

10 (3) that is:

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

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

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

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1 wholesale or retail consumption;

2 [M-] N. "owner" means a person owning real property
3 within the boundaries of a district;

4 [N-] O. "person" means an individual, corporation,
5 association, partnership, limited liability company or other
6 legal entity;

7 [O-] P. "project" means a tax increment development
8 project;

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

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

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

25 (1) sanitary sewage systems, including

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1 collection, transport, treatment, dispersal, effluent use and
2 discharge;

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

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

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

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

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

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

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

25 (9) electrical generation, transmission and

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1 distribution facilities;

2 (10) natural gas distribution facilities;

3 (11) lighting systems;

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

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

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

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

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

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

20 (18) workforce housing; and

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

23 ~~[S-]~~ T. "resident qualified elector" means a person
24 who resides within the boundaries of a tax increment
25 development district or proposed tax increment development

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1 district and who is qualified to vote in the general elections
2 held in the state pursuant to Section 1-1-4 NMSA 1978;

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

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

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

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

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

24 ~~[Y.]~~ Z. "tax increment development project" means
25 activities undertaken within a tax increment development area

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

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

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

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

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

23 (5) payments for professional services
24 contracts necessary to implement a tax increment development
25 plan or project;

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

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

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

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

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

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

6 SECTION 2. Section 5-15-15 NMSA 1978 (being Laws 2006,
7 Chapter 75, Section 15, as amended) is amended to read:

8 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX
9 INCREMENT TO SECURE BONDS.--

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

20 B. [~~As to a district formed by a municipality, a~~
21 ~~portion of any of the following gross receipts tax increments~~
22 ~~may be paid by the state directly into a special fund of the~~
23 ~~district]~~ A municipality may dedicate a gross receipts tax
24 increment from any of the following taxes to pay the principal
25 of, the interest on and any premium due in connection with [~~the~~

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1 ~~bonds of, loans or advances to, or any indebtedness incurred~~
2 ~~by, whether funded, refunded, assumed or otherwise, the~~
3 ~~authority for financing or refinancing, in whole or in part]~~
4 gross receipts tax increment bonds issued to finance a tax
5 increment development project within the tax increment
6 development area; provided that the municipality has adopted a
7 resolution dedicating the gross receipts tax increment for the
8 purpose of securing gross receipts tax increment bonds:

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

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

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

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

21 [~~(5) municipal regional transit gross receipts~~
22 ~~tax authorized pursuant to the Municipal Local Option Gross~~
23 ~~Receipts Taxes Act;~~

24 ~~(6)]~~ (5) an amount distributed to
25 municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA

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1 1978 [~~and~~

2 ~~(7) the state gross receipts tax].~~

3 C. [~~As to a district formed by a county, all or a~~
4 ~~portion of any of the following gross receipts tax increments~~
5 ~~may be paid by the state directly into a special fund of the~~
6 ~~district] A county may dedicate a gross receipts tax increment
7 from any of the following taxes to pay the principal of, the
8 interest on and any premium due in connection with [~~the bonds~~
9 ~~of, loans or advances to or any indebtedness incurred by,~~
10 ~~whether funded, refunded, assumed or otherwise, the district~~
11 ~~for financing or refinancing, in whole or in part] gross
12 receipts tax increment bonds issued to finance a tax increment
13 development project within the tax increment development area;
14 provided that the county has adopted a resolution dedicating
15 the gross receipts tax increment for the purpose of securing
16 gross receipts tax increment bonds:~~~~

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

19 (2) county environmental services gross
20 receipts tax authorized pursuant to the County Local Option
21 Gross Receipts Taxes Act;

22 (3) county infrastructure gross receipts tax
23 authorized pursuant to the County Local Option Gross Receipts
24 Taxes Act;

25 (4) county capital outlay gross receipts tax

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1 authorized pursuant to the County Local Option Gross Receipts
2 Taxes Act;

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

6 (6) the amount distributed to counties
7 pursuant to Section 7-1-6.47 NMSA 1978 [~~and~~

8 ~~(7) the state gross receipts tax~~].

9 D. Subject to the provisions of Subsection G of
10 this section, the state board of finance may dedicate a gross
11 receipts tax increment attributable to the state gross receipts
12 tax to pay the principal of, the interest on and any premium
13 due in connection with gross receipts tax increment bonds
14 issued to finance a tax increment development project within
15 the tax increment development area; provided that:

16 (1) the increment from the gross receipts tax
17 is no more than the lesser of:

18 (a) the increment from municipal option
19 gross receipts taxes dedicated by resolution by the
20 municipality, if the district is located in a municipality; or

21 (b) the increment from county option
22 gross receipts taxes dedicated by resolution by the county; and

23 (2) the state board of finance has adopted a
24 resolution dedicating an increment attributable to the state
25 gross receipts tax for the purpose of securing gross receipts

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1 tax increment bonds pursuant to Subsection G of this section.

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

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

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1 ~~[F. An imposition of a gross receipts tax increment~~
2 ~~attributable to the imposition of the state gross receipts tax~~
3 ~~within a district less the distributions made pursuant to~~
4 ~~Section 7-1-6.4 NMSA 1978 may be dedicated for the purpose of~~
5 ~~securing gross receipts tax increment bonds with the agreement~~
6 ~~of the state board of finance, evidenced by a resolution~~
7 ~~adopted by a majority vote of the state board of finance.]~~

8 G. The state board of finance shall condition a
9 dedication of a gross receipts tax increment attributable to
10 the state gross receipts tax on the approval required pursuant
11 to Section 5-15-21 NMSA 1978. Subject to the limitations
12 provided in Subsection D of this section, the state board of
13 finance shall not agree to dedicate more than seventy-five
14 percent of the gross receipts tax increment attributable to
15 ~~[the imposition of]~~ the state gross receipts tax within the
16 district. The resolution of the state board of finance shall
17 become effective ~~[only]~~ on January 1 or July 1 of the calendar
18 year following the notification period pursuant to Section
19 5-15-27 NMSA 1978 and shall find that:

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

22 (2) based upon review by the state board of
23 finance of the applicable tax increment development plan, the
24 dedication by the state board of finance of ~~[a portion of]~~ the
25 gross receipts tax increment ~~[attributable to the imposition of]~~

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1 ~~the state gross receipts tax~~] within the district for use in
2 meeting the required goals of the tax increment plan is
3 reasonable and in the best interest of the state; and

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

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

25 (1) a tax increment development plan has been

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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 3. A new Section 5-15-15.1 NMSA 1978 is enacted
8 to read:

9 "5-15-15.1. [NEW MATERIAL] FILING FEE FOR EVALUATING USE
10 OF STATE GROSS RECEIPTS TAX INCREMENT.--Prior to approval of a
11 dedication of a gross receipts tax increment attributable to
12 the state gross receipts tax by the state board of finance
13 pursuant to Section 5-15-15 NMSA 1978, a tax increment
14 development district shall submit a filing fee to the state
15 board of finance to pay the reasonable costs, as determined by
16 the department of finance and administration, of evaluating the
17 tax increment development plan and the district's requested use
18 of a state gross receipts tax increment."

19 SECTION 4. Section 5-15-16 NMSA 1978 (being Laws 2006,
20 Chapter 75, Section 16) is amended to read:

21 "5-15-16. BONDING AUTHORITY--GROSS RECEIPTS TAX
22 INCREMENT.--

23 A. A district may issue gross receipts tax
24 increment revenue bonds, the pledged revenue for which is a
25 gross receipts tax increment dedicated in accordance with the

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1 provisions of the Tax Increment for Development Act, for any
2 one or more of the purposes authorized by [~~the Tax Increment~~
3 ~~for Development~~] that act.

4 B. A district may pledge irrevocably [~~any or all~~
5 ~~of~~] the revenue from a gross receipts tax increment received by
6 the district to the payment of the interest on and principal of
7 the gross receipts tax increment bonds for any of the purposes
8 authorized in the Tax Increment for Development Act. A law
9 that imposes or authorizes the imposition of a municipal or
10 county gross receipts tax or that affects the municipal or
11 county gross receipts tax shall not be repealed, amended or
12 otherwise directly or indirectly modified in any manner to
13 adversely impair any outstanding gross receipts tax increment
14 bonds that may be secured by a pledge of any municipal or
15 county option gross receipts tax increment, unless those
16 outstanding bonds have been discharged in full or provision has
17 been fully made for those bonds.

18 C. Revenues in excess of the annual principal and
19 interest due on gross receipts tax increment bonds secured by a
20 pledge of gross receipts tax increment revenue may be
21 accumulated in a debt service reserve account. The district
22 may appoint a commercial bank trust department to act as paying
23 agent or trustee of the gross receipts tax increment revenue
24 and to administer the payment of principal of and interest on
25 the bonds.

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1 D. Except as otherwise provided in the Tax
2 Increment for Development Act, gross receipts tax increment
3 bonds:

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

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

11 (3) may mature at any time not exceeding
12 twenty-five years after the date of issuance;

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

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

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

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

24 (1) declares the necessity for issuing gross
25 receipts tax increment bonds;

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

4 (3) designates the sources of gross receipts
5 [~~taxes or portions~~] increments thereof to be pledged to the
6 repayment of the gross receipts tax increment bonds."

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

9 "5-15-20. GENERAL BONDING AUTHORITY OF A TAX INCREMENT
10 DEVELOPMENT DISTRICT--OTHER LIMITATIONS.--

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

13 (1) the state gross receipts tax without:

14 (a) the state board of finance adopting
15 a resolution dedicating a gross receipts tax increment
16 attributable to the state gross receipts tax for the purpose of
17 securing the gross receipts tax increment bonds pursuant to
18 Subsection G of Section 5-15-15 NMSA 1978; and

19 (b) the approval required by Section
20 5-15-21 NMSA 1978; and

21 (2) a gross receipts tax imposed by a taxing
22 entity without the agreement of the taxing entity as evidenced
23 by a resolution adopted pursuant to Subsection B of Section
24 5-15-15 NMSA 1978.

25 B. Except as otherwise provided in this section, a

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1 district board shall not issue bonds against either gross
2 receipts tax increments or property tax increments without the
3 express written authorization of the department of finance and
4 administration, as evidenced by a letter signed by the
5 secretary of finance and administration. A district formed and
6 approved by a class A county or by a municipality within a
7 class A county if the municipality has a population of more
8 than sixty-five thousand persons, according to the most recent
9 federal decennial census, is not required to obtain express
10 written authorization of the department of finance and
11 administration for the issuance of gross receipts tax increment
12 bonds or property tax increment bonds.

13 ~~[B-]~~ C. Prior to the issuance of indebtedness
14 evidenced by the gross receipts tax increment bonds or property
15 tax increment bonds issued by a district pursuant to the Tax
16 Increment for Development Act, the property owners within the
17 district shall contribute a minimum of twenty percent of the
18 initial public infrastructure costs, which may be reimbursed
19 with proceeds of gross receipts tax increment or property tax
20 increment bonds; unless the project to be financed with gross
21 receipts tax increment bonds or property tax increment bonds is
22 a metropolitan redevelopment project pursuant to the
23 Metropolitan Redevelopment Code.

24 ~~[G-]~~ D. The amount of indebtedness evidenced by the
25 gross receipts tax increment bonds or property tax increment

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1 bonds issued pursuant to the Tax Increment for Development Act
2 shall not exceed the estimated cost of the public improvements
3 plus all costs connected with the public infrastructure
4 purposes and the issuance and sale of bonds, including, without
5 limitation, formation costs, credit enhancement and liquidity
6 support fees and costs.

7 ~~[D-]~~ E. The indebtedness evidenced by the gross
8 receipts tax increment bonds or property tax increment bonds
9 shall not affect the general obligation bonding capacity of the
10 municipality or county in which the tax increment development
11 district is located.

12 ~~[E-]~~ F. The indebtedness evidenced by the gross
13 receipts tax increment bonds or property tax increment bonds
14 shall be payable only from the special funds into which are
15 deposited the gross receipts tax increments and property tax
16 increments as set forth in the Tax Increment for Development
17 Act.

18 ~~[F-]~~ G. Bonds issued by a tax increment development
19 district shall not be a general obligation of the state, the
20 county or the municipality in which the tax increment
21 development district is located and shall not pledge the full
22 faith and credit of the state, the county or the municipality
23 in which the tax increment development district is located."

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

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1 "5-15-21. APPROVAL REQUIRED FOR ISSUANCE OF BONDS AGAINST
2 STATE GROSS RECEIPTS TAX INCREMENTS.--

3 A. In addition to all other requirements of the Tax
4 Increment for Development Act, prior to a district board
5 issuing bonds that are issued in whole or in part against a
6 gross receipts tax increment attributable to the ~~[imposition of~~
7 ~~the]~~ state gross receipts tax within a district and before a
8 distribution attributable to the state gross receipts tax is
9 made pursuant to Section 7-1-6.54 NMSA 1978, ~~[A.]~~ the New
10 Mexico finance authority shall review the proposed issuance of
11 the bonds and determine that the proceeds of the bonds will be
12 used for a tax increment development project in accordance with
13 the district's tax increment development plan and present the
14 proposed issuance of the bonds to the legislature for approval
15 ~~[and]~~.

16 B. The issuance of the bonds and the maximum amount
17 of bonds to be issued shall be specifically authorized by law."

18 SECTION 7. Section 5-15-25.3 NMSA 1978 (being Laws 2014,
19 Chapter 11, Section 3) is amended to read:

20 "5-15-25.3. BASE YEAR REVISION--EFFECT.--~~[A.]~~ Upon notice
21 of the approval of a revision of the base year used to
22 determine a district's gross receipts tax increment, the
23 district shall:

24 ~~[(1) return to the taxation and revenue~~
25 ~~department any gross receipts tax increment credited to the~~

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1 ~~period between the time that the revenue collection began and~~
2 ~~the end of the revised base year and distributed to the~~
3 ~~district;~~

4 ~~(2)~~] A. update the district tax increment
5 development plan to reflect the revision; and

6 ~~(3)~~] B. file with the clerk of the governing body
7 that formed the district the revised tax increment development
8 plan.

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

15 SECTION 8. Section 5-15-27 NMSA 1978 (being Laws 2006,
16 Chapter 75, Section 27) is amended to read:

17 "5-15-27. DEDICATION OF GROSS RECEIPTS TAX INCREMENT--
18 NOTICE TO TAXATION AND REVENUE DEPARTMENT.--

19 A. If the state board of finance or a taxing entity
20 approves a dedication or increase in the dedication of a
21 ~~[portion of a]~~ gross receipts tax increment to a district, the
22 state board of finance or the taxing entity shall notify the
23 taxation and revenue department of that approval at least one
24 hundred twenty days before the effective date of the dedication
25 or increase in the dedication; provided that the effective date

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1 of the dedication is on or after the date the bonds are
2 approved by the legislature pursuant to Section 5-15-21 NMSA
3 1978.

4 B. In regard to a dedication of a gross receipts
5 tax increment attributable to the state gross receipts tax, if
6 the approval required pursuant to Section 5-15-21 NMSA 1978 has
7 not occurred when the notice pursuant to Subsection A of this
8 section is made, the state board of finance shall include in
9 the notice that legislative approval is needed prior to a
10 distribution pursuant to Section 7-1-6.54 NMSA 1978
11 attributable to the state gross receipts tax can be made. Upon
12 approval pursuant to Section 5-15-21 NMSA 1978, the state board
13 of finance shall notify the department of the approval."

14 SECTION 9. A new section of the Tax Increment for
15 Development Act is enacted to read:

16 "[NEW MATERIAL] REPORT REQUIRED.--On September 1 of each
17 year, the district board of a district that receives a
18 distribution of a gross receipts tax increment attributable to
19 the state gross receipts tax shall submit a report to the state
20 board of finance and the legislative finance committee that
21 includes the estimated capital investment in the district, the
22 estimated total net new jobs and new full-time economic base
23 jobs created in the district and the total revenues distributed
24 to the district in each previous fiscal year."

25 SECTION 10. Section 7-1-6.54 NMSA 1978 (being Laws 2006,
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1 Chapter 75, Section 29) is amended to read:
2 "7-1-6.54. DISTRIBUTIONS--TAX INCREMENT DEVELOPMENT
3 DISTRICTS.--A distribution [~~to~~] for a tax increment development
4 district shall be made by the department to a special fund of
5 the district, in accordance with a notice that is filed
6 pursuant to [~~the Tax Increment for Development Act~~] Section
7 5-15-27 NMSA 1978 with respect to a [~~taxing entity's~~]
8 dedication of a [~~portion of a~~] gross receipts tax increment, to
9 a special fund of the tax increment development district."