

1 SENATE BILL 246

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO SPECIAL DISTRICTS; AMENDING PROVISIONS PURSUANT TO  
12 THE PUBLIC IMPROVEMENT DISTRICT ACT; AMENDING PROCEDURES FOR  
13 APPOINTING MEMBERS OF A DISTRICT BOARD PURSUANT TO THAT ACT;  
14 ALLOWING FOR THE FORMATION OF A PUBLIC IMPROVEMENT DISTRICT AND  
15 OTHER ALLOWABLE ACTIONS WITHOUT AN ELECTION BUT BY  
16 DETERMINATION OF OWNERS OF LAND IN THE DISTRICT IN CERTAIN  
17 CIRCUMSTANCES UNLESS AN ELECTION IS REQUIRED BY THE  
18 CONSTITUTION OF NEW MEXICO; REMOVING THE OPTION TO IMPOSE A  
19 HIGHER RATE OF PROPERTY TAX IF APPROVED BY VOTERS IN THE  
20 DISTRICT; AMENDING PROVISIONS PURSUANT TO THE TAX INCREMENT FOR  
21 DEVELOPMENT ACT; AMENDING PROCEDURES FOR APPOINTING MEMBERS OF  
22 A DISTRICT BOARD PURSUANT TO THAT ACT; CHANGING THE TERMS OF  
23 MEMBERS OF A DISTRICT BOARD; SUBJECTING CONTRACTS ENTERED INTO  
24 BY A DISTRICT BOARD TO THE PROCUREMENT CODE; PROVIDING FOR THE  
25 CONTINUATION AND EXPIRATION OF TERMS OF DISTRICT BOARD MEMBERS

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1 APPOINTED OR ELECTED PURSUANT TO THE PUBLIC IMPROVEMENT  
2 DISTRICT ACT AND THE TAX INCREMENT FOR DEVELOPMENT ACT PRIOR TO  
3 THE EFFECTIVE DATE OF THIS ACT; GIVING DISTRICT BOARDS PURSUANT  
4 TO THOSE ACTS THE POWER OF EMINENT DOMAIN.

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. Section 5-11-2 NMSA 1978 (being Laws 2001,  
8 Chapter 305, Section 2, as amended) is amended to read:

9 "5-11-2. DEFINITIONS.--As used in the Public Improvement  
10 District Act:

11 A. "allowable base" means the sum of the appraised  
12 value, not including the value of public infrastructure  
13 improvements, of:

14 (1) taxable property in a district that is  
15 owned by persons other than the applicant or the applicant's  
16 related entities;

17 (2) commercial, industrial or retail property  
18 in a district that is owned by the applicant or the applicant's  
19 related entities for which a certificate of completion has been  
20 issued; and

21 (3) all other taxable property in a district  
22 not described in Paragraphs (1) and (2) of this subsection, to  
23 the extent that its appraised value is less than or equal to  
24 the appraised value of property described in Paragraph (1) of  
25 this subsection;

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1           B. "applicant" means a person that applies for the  
2 formation of a district pursuant to the Public Improvement  
3 District Act;

4           C. "clerk" means the clerk of the municipality or  
5 county, or any person appointed by the district board to be the  
6 district clerk pursuant to Section 5-11-6 NMSA 1978;

7           D. "county" means a county [~~that forms a public~~  
8 ~~improvement district pursuant to the Public Improvement~~  
9 ~~District Act in an unincorporated area or in an incorporated~~  
10 ~~area with the municipality's consent]~~ in this state, a combined  
11 city and county corporation, an incorporated county, an urban  
12 county or a single urban government;

13           E. "debt service" means the principal of, interest  
14 on and premium, if any, on the bonds, when due, whether at  
15 maturity or prior redemption; the fees and costs of registrars,  
16 trustees, paying agents or other agents necessary to handle the  
17 bonds; and the costs of credit enhancement or liquidity  
18 support;

19           F. "development agreement" means an agreement  
20 between a property owner or developer and the county,  
21 municipality or district, concerning the improvement of  
22 specific property within the district, which agreement may be  
23 used to establish obligations of the owner or developer, the  
24 county or municipality or the district concerning the zoning,  
25 subdivision, improvement, impact fees, financial

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1 responsibilities and other matters relating to the development,  
2 improvement and use of real property within a district;

3 G. "district" means a public improvement district  
4 formed pursuant to the Public Improvement District Act by a  
5 municipality or by a county in an unincorporated area or in an  
6 incorporated area with the municipality's consent;

7 H. "district board" means the board of directors of  
8 the district, which shall be composed of members of the  
9 governing body, ex officio, or, at the option of the governing  
10 body, five directors appointed by the governing body of the  
11 ~~[municipality or county in which the district is located, until~~  
12 ~~replaced by elected directors, which shall occur not later than~~  
13 ~~six years after the date on which the resolution establishing~~  
14 ~~the district is enacted, as provided in Section 5-11-9 NMSA~~  
15 ~~1978]~~ district;

16 I. "election" means an election held in compliance  
17 with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978 and  
18 pursuant to the provisions of the Local Election Act;

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

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1 include the basic operation and maintenance related to  
2 infrastructure improvements financed by the district pursuant  
3 to the Public Improvement District Act;

4 K. "general plan" means the general plan described  
5 in Section 5-11-3 NMSA 1978, as the plan may be amended from  
6 time to time;

7 L. "governing body" means the body or board that by  
8 law is constituted as the governing body of the municipality or  
9 county [~~in which~~] ordering formation of the [public  
10 improvement] district [is located];

11 M. "municipality" means an incorporated city, town  
12 or village, [or town] whether incorporated under general act,  
13 special act, special charter or territorial charter, but does  
14 not mean a combined city and county corporation, an  
15 incorporated county or a single urban government;

16 N. "owner" means:

17 (1) the person who is listed as the owner of  
18 real property in the district on the current property tax  
19 assessment roll in effect at the time that the action,  
20 proceeding, hearing or election has begun. For purposes of  
21 voting in elections held pursuant to the Public Improvement  
22 District Act, when the owner of record title is a married  
23 person, only one spouse in whose name title is held may vote at  
24 such election. Where record title is held in more than one  
25 name, each owner may vote the number of fractions of acres

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- 1 represented by the owner's legal interest or proportionate
- 2 share of and in the lands within the district;
- 3 (2) the administrator or executor of an estate
- 4 holding record title to land within the district;
- 5 (3) the guardian of a minor or incompetent
- 6 person holding record title to land within the district,
- 7 appointed and qualified under the laws of the state;
- 8 (4) an officer of a corporation holding record
- 9 title to land within the district, which officer has been
- 10 authorized by resolution of the corporation's board of
- 11 directors to act with respect to such land;
- 12 (5) the general partner of a partnership
- 13 holding record title to land within the district;
- 14 (6) the trustee of a trust holding record
- 15 title to land within the district; or
- 16 (7) the manager or member of a limited
- 17 liability company holding record title to land within the
- 18 district who has been authorized to represent the company;
- 19 O. "person" means any individual, estate, trust,
- 20 receiver, cooperative association, club, corporation, company,
- 21 firm, partnership, limited liability company, joint venture,
- 22 syndicate or other association;
- 23 P. "public infrastructure improvements" means all
- 24 improvements listed in this subsection and includes both on-
- 25 site improvements and off-site improvements that directly or

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1 indirectly benefit the district. Such improvements include  
2 necessary or incidental work, whether newly constructed,  
3 renovated or existing, and all necessary or desirable  
4 appurtenances. "Public infrastructure improvements" includes:

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

8 (2) drainage and flood control systems,  
9 including collection, transport, diversion, storage, detention,  
10 retention, dispersal, use and discharge;

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

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

19 (5) trails and areas for pedestrian,  
20 equestrian, bicycle or other nonmotor vehicle use for travel,  
21 ingress, egress and parking;

22 (6) pedestrian malls, parks, recreational  
23 facilities and open space areas for the use of members of the  
24 public for entertainment, assembly and recreation;

25 (7) landscaping, including earthworks,

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1 structures, lakes and other water features, plants, trees and  
2 related water delivery systems;

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

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

7 (10) natural gas distribution facilities;

8 (11) lighting systems;

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

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

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

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

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

22 (17) inspection, construction management and  
23 program management costs;

24 Q. "public infrastructure purpose" means:

25 (1) planning, design, engineering,

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1 construction, acquisition or installation of public  
2 infrastructure, including the costs of applications, impact  
3 fees and other fees, permits and approvals related to the  
4 construction, acquisition or installation of such  
5 infrastructure;

6 (2) acquiring, converting, renovating or  
7 improving existing facilities for public infrastructure,  
8 including facilities owned, leased or installed by an owner;

9 (3) acquiring interests in real property or  
10 water rights for public infrastructure, including interests of  
11 an owner;

12 (4) establishing, maintaining and replenishing  
13 reserves in order to secure payment of debt service on bonds;

14 (5) funding and paying from bond proceeds  
15 interest accruing on bonds for a period not to exceed three  
16 years from their date of issuance;

17 (6) funding and paying from bond proceeds  
18 fiscal, financial and legal consultant fees, trustee fees,  
19 discount fees, district formation and election costs and all  
20 costs of issuance of bonds issued pursuant to the Public  
21 Improvement District Act, including fees and costs for bond  
22 counsel, financial advisors, consultants and underwriters,  
23 costs of obtaining credit ratings, bond insurance premiums,  
24 fees for letters of credit and other credit enhancement costs  
25 and printing costs;

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1 (7) providing for the timely payment of debt  
2 service on bonds or other indebtedness of the district;

3 (8) refinancing any outstanding bonds with new  
4 bonds, including through the formation of a new public  
5 improvement district; and

6 (9) incurring expenses of the district  
7 incident to and reasonably necessary to carry out the purposes  
8 specified in this subsection;

9 R. "related entities" means two or more entities  
10 that are owned in an amount greater than fifty percent by the  
11 same person, either directly or through one or more persons;

12 S. "special levy" means a levy imposed against real  
13 property within a district that may be apportioned according to  
14 direct or indirect benefits conferred upon affected real  
15 property, as well as acreage, front footage, the cost of  
16 providing public infrastructure for affected real property, or  
17 other reasonable method, as determined by the governing body or  
18 district board, as applicable; and

19 T. "treasurer" means the treasurer of the governing  
20 body or the person appointed by the district board as the  
21 district treasurer pursuant to Section 5-11-6 NMSA 1978."

22 SECTION 2. Section 5-11-3 NMSA 1978 (being Laws 2001,  
23 Chapter 305, Section 3, as amended) is amended to read:

24 "5-11-3. RESOLUTION DECLARING INTENTION TO FORM  
25 DISTRICT.--

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1           A. If the public convenience and necessity require,  
2 and on presentation of an application required by Section [~~10~~  
3 ~~of this 2013 act~~] 5-11-2.1 NMSA 1978 that is supported by a  
4 petition signed by the owners of at least twenty-five percent  
5 of the real property by assessed valuation proposed to be  
6 included in the district, the governing body may adopt a  
7 resolution declaring its intention to form a public improvement  
8 district to include contiguous or noncontiguous property, which  
9 shall be wholly within the corporate boundaries of the  
10 municipality or county. If the governing body fails to act  
11 within ninety days following presentation of a petition to  
12 create a public improvement district, the petition shall be  
13 deemed to have been accepted by the governing body, which shall  
14 adopt a resolution and hold a public hearing pursuant to this  
15 section. The resolution shall state the following:

16                   (1) the area or areas to be included in the  
17 district;

18                   (2) the purposes for which the district is to  
19 be formed;

20                   (3) that a general plan for the district is on  
21 file with the clerk that includes a map depicting the  
22 boundaries of the district and the real property proposed to be  
23 included in the district, a general description of anticipated  
24 improvements and their locations, general cost estimates,  
25 proposed financing methods and anticipated tax levies, special

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1 levies or charges, and that may include possible alternatives,  
2 modifications or substitutions concerning locations,  
3 improvements, financing methods and other information provided  
4 in the general plan;

5 (4) the rate, method of apportionment and  
6 manner of collection of a special levy, if one is proposed, in  
7 sufficient detail to enable each owner or resident within the  
8 district to estimate the maximum amount of the proposed levy;

9 (5) a notice of public hearing in conformity  
10 with the requirements of Section 5-11-4 NMSA 1978;

11 (6) the place where written objections to the  
12 formation of the district may be filed by an owner;

13 (7) that formation of the district may result  
14 in the levy of property taxes or the imposition of special  
15 levies to pay the costs of public infrastructure constructed by  
16 the district and for their operation and maintenance and may  
17 result in the assessment of fees or charges to pay the cost of  
18 providing enhanced services;

19 (8) a reference to the Public Improvement  
20 District Act; and

21 (9) whether the district board will be  
22 [~~governed by a district board comprised~~] initially composed of  
23 the members of the governing body [~~ex officio~~] or [~~comprised~~  
24 ~~of~~] five directors [~~initially~~] appointed by the governing body.

25 B. The resolution shall direct that a hearing on

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1 formation of the district be scheduled and that notice be  
2 mailed and published as provided in Section 5-11-4 NMSA 1978.

3 C. Before adopting a resolution pursuant to this  
4 section, a general plan for the district shall be filed with  
5 the clerk."

6 SECTION 3. Section 5-11-6 NMSA 1978 (being Laws 2001,  
7 Chapter 305, Section 6, as amended) is amended to read:

8 "5-11-6. ORDER FORMING DISTRICT--~~[FORMATION~~  
9 ~~DETERMINATION]~~ ELECTION PROCEDURES--FORMATION DETERMINATION.--

10 A. After the hearing, the governing body shall  
11 determine whether the district should be formed based upon the  
12 interests, convenience or necessity of the owners, residents of  
13 the district and citizens of the municipality or county in  
14 which the proposed district would be located. If the governing  
15 body determines that the district should be formed, it shall  
16 adopt a resolution ordering that the district be formed,  
17 deleting any property determined not to be directly or  
18 indirectly benefited by the district or modifying the general  
19 plan and then ordering that a formation determination be  
20 conducted and an election be held on the question whether to  
21 form the district. A resolution ordering a formation of the  
22 district shall require the owners to authorize by determination  
23 the issuance of general obligation bonds and that an election  
24 be called to submit the question of imposing a property tax to  
25 pay debt service on the bonds pursuant to Section 5-11-19 NMSA

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1 1978 to the qualified electors or declare that a special levy  
2 may be imposed in the district in compliance with Section  
3 5-11-23 NMSA 1978 and set a maximum levy for each class of  
4 property. A resolution ordering a formation of the district  
5 shall state that the district will be governed by a district  
6 board consisting of members of the governing body [~~ex officio,~~  
7 ~~or, upon determination of the governing body]~~ or the five  
8 directors appointed [~~by the governing body]~~ pursuant to Section  
9 5-11-9 NMSA 1978, and shall contain the names or titles of the  
10 five initial directors [~~and the terms of office of each~~]. If  
11 the governing body appoints a district board, it shall appoint  
12 [a] the initial treasurer and a clerk from the appointed  
13 [~~members]~~ directors.

14 B. Before submitting the question of formation of  
15 the district to the qualified electors of the proposed  
16 district, a formation determination shall be conducted by the  
17 governing body among the owners unless a petition is presented  
18 to the governing body pursuant to Subsection F of Section  
19 5-11-7 NMSA 1978. [~~In the formation determination, each owner~~  
20 ~~shall have the number of votes or portions of votes equal to~~  
21 ~~the number of acres or portions of acres rounded upward to the~~  
22 ~~nearest one-fifth of an acre owned by that owner in the~~  
23 ~~submitted district.]~~

24 C. A formation or other determination shall not be  
25 a local election for purposes of the Local Election Act or a

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1 special election for purposes of the Special Election Act. The  
2 governing body or the district board may establish local  
3 procedures for noticing, conducting and canvassing  
4 determinations, which may include determinations made by  
5 unanimous written approval of the owners in affidavits executed  
6 by the owners and confirmed in a review by the district board.  
7 In a determination, each owner shall have one vote for each  
8 one-fifth of an acre located within the district rounded upward  
9 to the nearest one-fifth of an acre.

10 D. Should the formation determination by the owners  
11 result in a three-fourths' majority vote in favor of formation,  
12 the question shall also be submitted to a vote of the qualified  
13 electors of the proposed district. The conduct of a formation  
14 election by qualified electors shall meet the requirements of  
15 Section 5-11-7 NMSA 1978.

16 E. The right of the qualified electors to vote on  
17 the question of formation of the district shall not be assigned  
18 or delegated to the property owners, or related entities of the  
19 property owners, signing a petition submitted to the governing  
20 body for formation of a district."

21 SECTION 4. Section 5-11-7 NMSA 1978 (being Laws 2001,  
22 Chapter 305, Section 7, as amended) is amended to read:

23 "5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

24 A. ~~[Any]~~ Except as otherwise provided by this  
25 section, an election by qualified electors pursuant to the

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1 Public Improvement District Act shall be a nonpartisan election  
2 called, conducted and canvassed pursuant to the provisions of  
3 the [~~Election Code~~] Local Election Act.

4 B. In addition to those matters required for notice  
5 as provided in the Local Election Act, the notice of election  
6 shall state:

7 (1) if the election is a formation election,  
8 the boundaries of the proposed district;

9 (2) if the election is a bond election, the  
10 amount of bonds to be authorized for the district, the maximum  
11 rate of interest to be paid on the bonds and the maximum term  
12 of the bonds, not exceeding thirty years;

13 (3) if the election is a property tax levy  
14 election pursuant to Section 5-11-19 NMSA 1978, the maximum tax  
15 rate per one thousand dollars (\$1,000) of assessed valuation to  
16 be imposed, the purposes for which the revenues raised will be  
17 used and the existing maximum tax rate, if any;

18 (4) that a general plan is on file with the  
19 clerk;

20 (5) the purposes for which the property taxes  
21 or the special levies will be imposed, and the revenues raised  
22 will be used, including a description of the public  
23 improvements to be financed with tax revenues, special levies,  
24 district revenues or bond proceeds; and

25 (6) that the imposition of property taxes or

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1 special levies will result in a lien for the payment thereof on  
2 property within the district.

3 ~~[B. The district board, or in the case of a~~  
4 ~~formation election, the governing body, shall determine the~~  
5 ~~date of the election by passing a resolution to place the~~  
6 ~~ballot question on a regular local election or general election~~  
7 ~~ballot or by adopting a proclamation calling for a special~~  
8 ~~election.~~

9 ~~G. Except as otherwise provided by this section,~~  
10 ~~the election shall comply with the Local Election Act.]~~

11 C. The ballot material provided to each qualified  
12 elector shall include:

13 (1) for a formation election, an impartial  
14 description of the district improvements contemplated and a  
15 brief description of arguments for and against the formation of  
16 the district, if any;

17 (2) for an election concerning the imposition  
18 of property taxes, an impartial description of the taxes to be  
19 imposed, the method of apportionment, collection and  
20 enforcement and other details sufficient to enable each elector  
21 to determine the amount of tax it will be obligated to pay; a  
22 brief description of arguments for and against the imposition  
23 of taxes that are the subject of the election, if any; and a  
24 statement that the imposition of property taxes is for the  
25 provision of certain but not necessarily all public

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1 infrastructure improvements and services that may be needed or  
2 desirable within the district, and that other taxes, levies or  
3 assessments by other governmental entities may be presented for  
4 approval by owners and qualified electors; and

5 (3) for a formation election, the ballot,  
6 which shall pose the question to be voted upon as "district,  
7 yes" and "district, no" and for a bond election, "bonds, yes"  
8 and "bonds, no"; for a property tax election, if no tax is in  
9 place, "property tax, yes" and "property tax, no"; and for an  
10 election to change an existing maximum or eliminate an existing  
11 tax, "tax change, yes" and "tax change, no", specifying the  
12 type of tax to which the proposed change pertains.

13 D. At least a three-fourths' majority of the votes  
14 cast by qualified electors at the election shall be required  
15 for formation, issuing the bonds or imposing ~~[the]~~ a property  
16 ~~tax [or special levy or changing the tax or special levy]~~.  
17 Failure of a required majority to vote in favor of the matter  
18 submitted shall not prejudice the submission of the same or  
19 similar matters at a later election.

20 E. If a person listed on the assessment roll is no  
21 longer the owner of land in the district and the name of the  
22 successor owner becomes known to the governing body or the  
23 district board, as applicable, and is verified by recorded deed  
24 or other similar evidence of transfer of ownership, the  
25 successor owner is deemed to be the owner for the purposes of

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1 the Public Improvement District Act.

2 F. Notwithstanding any other provision of the  
3 Public Improvement District Act, if a petition for formation is  
4 signed by owners of all of the land in the district described  
5 in the petition and is approved by the municipality or county,  
6 the municipality or county may waive any or all requirements of  
7 posting, publication, mailing, notice, hearing and owner  
8 determination. On receipt of such a petition, and after  
9 approval by an election of qualified electors, if any, the  
10 municipality or county shall declare the district formed  
11 without being required to comply with the provisions of the  
12 Public Improvement District Act for posting, publication,  
13 mailing, notice, hearing or owner determination.

14 G. If no person is registered to vote within the  
15 district or proposed district areas within [~~seventy~~] sixty-  
16 three days immediately preceding any scheduled election date,  
17 the election required to be held pursuant to the Public  
18 Improvement District Act shall be canceled and the  
19 determination made by the owners of land in the district or  
20 proposed district areas shall prevail. Under such  
21 circumstances, when the question is on the formation of the  
22 district, the results of the formation determination of the  
23 owners shall prevail, unless the formation determination was  
24 waived by the governing body pursuant to Subsection F of this  
25 section. To the extent allowable by the constitution of New

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1 Mexico, when the question is on any other allowable action  
2 otherwise requiring a vote of the qualified electors, the  
3 owners or the owners of the proposed district areas shall make  
4 a determination, the result of which shall prevail."

5 SECTION 5. Section 5-11-7.1 NMSA 1978 (being Laws 2019,  
6 Chapter 212, Section 274) is amended to read:

7 "5-11-7.1. POSTING OF NOTICES.--For any election  
8 conducted pursuant to the Public Improvement District Act, in  
9 addition to the notice requirements set forth in Section 5-11-7  
10 NMSA 1978, the ~~[owners]~~ district board shall ensure that  
11 notices shall be posted in three conspicuous public places  
12 within the boundaries of the district not less than twenty days  
13 before the first day for voting in the election."

14 SECTION 6. Section 5-11-8 NMSA 1978 (being Laws 2001,  
15 Chapter 305, Section 8, as amended) is amended to read:

16 "5-11-8. FORMATION--DEBT LIMITATION.--

17 A. If the formation of the district is approved by  
18 at least a three-fourths' majority of the votes cast at the  
19 election, the governing body shall cause a copy of the  
20 resolution ordering formation of the district to be delivered  
21 to the county assessor and the county treasurer and shall be  
22 recorded by the county clerk for the county in which the  
23 district is located and to the taxation and revenue department  
24 and the local government division of the department of finance  
25 and administration. A notice of the formation showing the

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1 number and date of the resolution and giving a description of  
2 the land included in the district shall be recorded with the  
3 county clerk.

4 B. Except as otherwise provided in this section, a  
5 district shall be a political subdivision of the state,  
6 separate and apart from the municipality or county. The amount  
7 of indebtedness evidenced by general obligation bonds issued  
8 pursuant to Section 5-11-19 NMSA 1978, special levy bonds  
9 issued pursuant to Section 5-11-20 NMSA 1978 and revenue bonds  
10 issued pursuant to Section 5-11-21 NMSA 1978 shall not exceed  
11 the estimated cost of the public infrastructure improvements  
12 plus all costs connected with the public infrastructure  
13 purposes and issuance and sale of bonds, including, without  
14 limitation, formation costs, credit enhancement and liquidity  
15 support fees and costs. The total aggregate outstanding amount  
16 of bonds and any other indebtedness for which the full faith  
17 and credit of the district are pledged shall not exceed sixty  
18 percent of the market value of the real property and  
19 improvements in the district after the public infrastructure  
20 improvements of the district are completed plus the value of  
21 the public infrastructure owned or to be acquired by the  
22 district with the proceeds of the bonds and shall not affect  
23 the general obligation bonding capacity of the municipality or  
24 county in which the district is located.

25 C. Bonds issued by a district shall not be a

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1 general obligation of the state, the county or the municipality  
2 in which the district is located and shall not pledge the full  
3 faith and credit of the state, the county or the municipality  
4 in which the district is located [~~irrespective of whether the~~  
5 ~~district board is governed by the governing body of the county~~  
6 ~~or municipality in which the district is located~~].

7 D. Following formation of the district, the  
8 district board shall administer in a reasonable manner the  
9 implementation of the general plan for the public  
10 infrastructure improvements of the district."

11 SECTION 7. Section 5-11-9 NMSA 1978 (being Laws 2001,  
12 Chapter 305, Section 9, as amended) is amended to read:

13 "5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--  
14 TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

15 A. The governing body, at its option, may  
16 [~~authorize the appointment of a separate district board. In~~  
17 ~~the case of an appointed district board, three of the appointed~~  
18 ~~directors shall serve an initial term to expire following a~~  
19 ~~regular local election and not to exceed six years. Two of the~~  
20 ~~appointed directors shall serve an initial term to expire~~  
21 ~~following a regular local election and not to exceed four~~  
22 ~~years. The resolution forming the district shall state which~~  
23 ~~directors shall serve the longer terms and which shall serve~~  
24 ~~the shorter terms] serve as the district board or appoint a  
25 district board consisting of five directors. The members of~~

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1 the district board shall serve five-year terms. If a vacancy  
2 occurs on the district board because of death, resignation or  
3 inability of ~~[the]~~ an appointed director to discharge the  
4 duties of director, the governing body shall appoint a director  
5 to fill the vacancy, who shall hold office for the remainder of  
6 the unexpired term ~~[until a successor is appointed or elected].~~

7 B. At the end of ~~[the appointed directors' terms]~~  
8 each five-year term, the governing body shall resume governance  
9 of the district by serving as ~~[its board either directly or~~  
10 ~~through the governing body's designees or, at the governing~~  
11 ~~body's option, shall hold an election of new directors by~~  
12 ~~majority vote of the qualified electors or if the election is~~  
13 ~~canceled pursuant to Subsection G of Section 5-11-7 NMSA 1978,~~  
14 ~~an owner's determination conducted by ballot shall decide the~~  
15 ~~new]~~ the district board or shall appoint directors pursuant to  
16 Subsection A of this section."

17 SECTION 8. Section 5-11-10 NMSA 1978 (being Laws 2001,  
18 Chapter 305, Section 10) is amended to read:

19 "5-11-10. POWERS OF A PUBLIC IMPROVEMENT DISTRICT.--

20 A. In addition to the powers otherwise granted to a  
21 district pursuant to the Public Improvement District Act, the  
22 district board, in implementing the general plan, may:

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

25 (2) enter into development agreements with

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1 municipalities, counties or other local government entities in  
2 connection with property located within the boundaries of the  
3 district;

4 (3) enter into intergovernmental agreements as  
5 provided in the Joint Powers Agreements Act for the planning,  
6 design, inspection, ownership, control, maintenance, operation  
7 or repair of public infrastructure or the provision of enhanced  
8 services by the municipality or the county in the district and  
9 any other purpose authorized by the Public Improvement District  
10 Act;

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

15 (5) reimburse the municipality or county in  
16 which the district is located for providing enhanced services  
17 in the district;

18 (6) operate, maintain and repair public  
19 infrastructure;

20 (7) establish, impose and collect special  
21 levies [~~for the purposes of funding public infrastructure~~  
22 ~~improvements or enhanced services~~] pursuant to Section 5-11-23  
23 NMSA 1978;

24 (8) employ staff, counsel and consultants;

25 (9) reimburse the municipality or county in

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1 which the district is located for staff and consultant services  
2 and support facilities supplied by the municipality or county;

3 (10) accept gifts or grants and incur and  
4 repay loans for any public infrastructure purpose;

5 (11) enter into agreements with owners  
6 concerning the advance of money by owners for public  
7 infrastructure purposes or the granting of real property by the  
8 owner for public infrastructure purposes;

9 (12) [~~levy property taxes~~] impose special  
10 levies or fees and charges for any public infrastructure  
11 purpose on any real property located in the district and, in  
12 conjunction with the [~~levy~~] imposition of such [~~taxes~~] levies,  
13 fees and charges, set and collect administrative fees;

14 (13) pay the financial, legal and  
15 administrative costs of the district;

16 (14) enter into contracts, agreements and  
17 trust indentures to obtain credit enhancement or liquidity  
18 support for its bonds and process the issuance, registration,  
19 transfer and payment of its bonds and the disbursement and  
20 investment of proceeds of the bonds;

21 (15) with the consent of the governing body of  
22 the municipality or county that formed the district, enter into  
23 agreements with persons outside of the district to provide  
24 enhanced services to persons and property outside of the  
25 district; [~~and~~]

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

6 (17) within sixty days of delivering written  
7 notice to the governing body that formed the district, exercise  
8 the power of eminent domain as provided by law and to carry out  
9 the purposes of the Public Improvement District Act.

10 B. Public infrastructure improvements other than  
11 personalty may be located only in or on lands, easements or  
12 rights of way owned by the state, a county, a municipality or  
13 the district, whether in or out of the district, the  
14 municipality or the county.

15 C. An agreement pursuant to Paragraph (11) of  
16 Subsection A of this section may include agreements to repay  
17 all or part of such advances, fees and charges from the  
18 proceeds of bonds if issued or from advances, fees and charges  
19 collected from other owners or users or those having a right to  
20 use any public infrastructure. A person does not have  
21 authority to compel the issuance or sale of the bonds of the  
22 district or the exercise of any taxing power of the district to  
23 make repayment under any agreement.

24 ~~[D. Notwithstanding the provisions of the~~  
25 ~~Procurement Code, or local procurement requirements that may~~

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1 otherwise be applicable to the municipality or county in which  
2 the district is located, the district board, whether appointed  
3 or composed of members of the governing body, ex officio, may  
4 enter into contracts to carry out any of the district's  
5 authorized powers, including the planning, design, engineering,  
6 financing, construction and acquisition of public improvements  
7 for the district, with a contractor, an owner or other person  
8 or entity, on such terms and with such persons as the district  
9 board determines to be appropriate.]"

10 SECTION 9. Section 5-11-19 NMSA 1978 (being Laws 2001,  
11 Chapter 305, Section 19, as amended) is amended to read:

12 "5-11-19. GENERAL OBLIGATION BONDS--PROPERTY TAX LEVY--  
13 EXCEPTION.--

14 A. At any time after the hearing on formation of  
15 the district, the district board [~~or, if before formation, the~~  
16 ~~governing body~~] may from time to time order that the question  
17 of authorizing the issuance of general obligation bonds to  
18 provide money for public infrastructure purposes consistent  
19 with the general plan be presented to the owners for a  
20 determination and that a general obligation bond election be  
21 called to submit the question to the qualified electors. The  
22 question shall include authorization for a levy, including a  
23 limitation on the levy, of a property tax to pay debt service  
24 on the bonds. The election shall be held pursuant to the  
25 provisions of the Local Election Act and may be held in

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1 conjunction with the formation election.

2 B. If general obligation bonds are approved by a  
3 determination of the owners and approved at an election held  
4 pursuant to Section 5-11-7 NMSA 1978, the district board may  
5 issue and sell general obligation bonds of the district;  
6 provided that the district board shall have determined by  
7 resolution that the principal amount of all district general  
8 obligation bonds currently outstanding and the district general  
9 obligation bonds proposed for issuance and sale shall not  
10 result in a total annual debt service that exceeds five-tenths  
11 percent of the allowable base.

12 C. Bonds may be sold in a public offering or in a  
13 negotiated sale.

14 D. After the bonds are issued, the district board  
15 shall enter in its minutes a record of the bonds sold and their  
16 numbers and dates [~~and shall annually levy and cause a property~~  
17 ~~tax to be collected, at the same time and in the same manner as~~  
18 ~~other property taxes are levied and collected on all taxable~~  
19 ~~property in the district, sufficient, together with any money~~  
20 ~~from the sources described in Section 5-11-17 NMSA 1978 to pay~~  
21 ~~debt service on the bonds when due~~]. Money derived from the  
22 levy of property taxes that are pledged to pay the debt service  
23 on the bonds shall be kept separately from other funds of the  
24 district. Property tax revenues not pledged to pay debt  
25 service on bonds may be used to pay other costs of the

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1 district, including costs of formation, administration,  
2 operation and maintenance, services or enhanced services. A  
3 ~~[district's]~~ levy of property taxes shall constitute a lien on  
4 all taxable property within the district, including, without  
5 limitation, all leased property or improvements to leased land,  
6 which shall be subject to foreclosure in the same manner as  
7 other property tax liens under the laws of this state. The  
8 lien shall include delinquencies and interest thereon at a rate  
9 not to exceed ten percent per year, the actual costs of  
10 foreclosure and any other costs of the district resulting from  
11 the delinquency. The proceeds of any foreclosure sale shall be  
12 deposited in the special bond fund for payment of any  
13 obligations secured thereby.

14 E. Subject to the determination and election  
15 provisions of this section, a district may issue general  
16 obligation bonds at such times and in such amounts as the  
17 district deems appropriate to carry out a project or projects  
18 in phases.

19 F. Pursuant to this section, the district may issue  
20 and sell refunding bonds to refund general obligation bonds of  
21 the district authorized by the Public Improvement District Act.  
22 No determination or election is required in connection with the  
23 issuance and sale of refunding bonds. Refunding bonds issued  
24 pursuant to this section shall have a final maturity date no  
25 later than the final maturity date of the bonds being

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1 refunded."

2 SECTION 10. Section 5-11-20 NMSA 1978 (being Laws 2001,  
3 Chapter 305, Section 20, as amended) is amended to read:

4 "5-11-20. SPECIAL LEVY--BONDS--IMPOSITION.--

5 A. ~~[At any time after the hearing on formation of~~  
6 ~~the district]~~ The district board may from time to time order  
7 that a hearing be held to determine whether a special levy  
8 should be imposed and special levy bonds issued to provide  
9 money for any public infrastructure purpose consistent with the  
10 general plan. ~~[The question of imposing a special levy may be~~  
11 ~~considered at the hearing on district formation upon notice~~  
12 ~~that both issues will be heard at that time, which notice shall~~  
13 ~~include the information required in Subsection B of this~~  
14 ~~section.~~

15 B. ~~Notice of hearing shall be provided at least two~~  
16 ~~weeks in advance of the hearing itself in a newspaper of~~  
17 ~~general circulation in the municipality or county in which the~~  
18 ~~district is located. The notice shall include the following:~~

19 (1) ~~a description of the method by which the~~  
20 ~~amount of the proposed special levy will be determined for each~~  
21 ~~class of property to which the levy is proposed to apply, in~~  
22 ~~sufficient detail to enable the owner of the affected parcel to~~  
23 ~~determine the amount of the special levy;~~

24 (2) ~~a description of the project to be~~  
25 ~~financed with special levy bonds or revenues; and~~

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1 district that may be subject to the levy, including, without  
2 limitation, all leased property or improvements to leased land,  
3 sufficient, together with any other money lawfully available to  
4 pay debt service on the bonds when due [~~except to the extent~~  
5 ~~that the district board has provided for other imposition,~~  
6 ~~collection and foreclosure procedures in connection with~~  
7 ~~special levies~~]. Money derived from the imposition of the  
8 special levy when collected that is pledged to pay the debt  
9 service on the bonds shall be kept separately from other funds  
10 of the district. Special levy revenues not pledged to pay debt  
11 service on bonds may be used to pay other costs of the  
12 district, including costs of formation, administration,  
13 operation and maintenance, service or enhanced services.

14 [G.] F. The district board shall specify conditions  
15 under which the obligation to pay special levies may be prepaid  
16 and permanently satisfied.

17 [H.] G. Special levies against privately owned  
18 residential property shall be subject to the following  
19 provisions:

20 (1) the amount of special levy that may be  
21 imposed shall not be increased over time by an amount exceeding  
22 two percent per year, except that the amount of special levy  
23 actually imposed may be increased by up to ten percent as a  
24 result of the delinquency or default by the owner of any other  
25 parcel within the district, but in no case shall the amount of

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1 the special levy imposed exceed the maximum special levy  
2 provided in the rate and method of apportionment;

3 (2) the special levy shall be imposed for a  
4 specified time period, after which no further special levy  
5 shall be imposed and collected, except that special levies  
6 imposed solely to finance the cost of ongoing district  
7 services, maintenance or operations or enhanced services may be  
8 levied while such services, maintenance or operations or  
9 enhanced services are continuing; and

10 (3) nothing in this subsection shall preclude  
11 the establishment of different categories of residential  
12 property or changing the amount of the special levies for a  
13 parcel whose size or use is changed. A change in the amount of  
14 a special levy imposed upon a parcel due to a change in its  
15 size or use shall not require voter approval if the method for  
16 changing the amount of special levy was approved in the  
17 election approving the special levy in sufficient detail to  
18 enable the owner of the affected parcel to determine how the  
19 change in size or use of the parcel would affect the amount of  
20 the special levy.

21 [~~I. A district's~~] H. The imposition of a special  
22 levy shall constitute a lien on the property within the  
23 district subject to the special levy, including property  
24 acquired by the state or its political subdivisions after  
25 imposition of the special levy, which shall be effective during

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1 the period in which the special levy is imposed and shall have  
2 priority co-equal to the lien of property taxes. A special  
3 levy shall be subject to foreclosure by the district at any  
4 time after six months following written notice of delinquency  
5 to the owner of the real property to which the delinquency  
6 applies. The lien shall include delinquencies, penalties and  
7 interest thereon at a rate not to exceed the maximum legal rate  
8 of interest per year and penalties otherwise applicable for  
9 delinquent property taxes, the district's actual costs of  
10 foreclosure and any other costs of the district resulting from  
11 the delinquency. All rights of redemption applicable to  
12 property sold in connection with property tax foreclosures  
13 pursuant to the laws of this state shall apply to property sold  
14 following foreclosure of a special levy lien. The portion of  
15 proceeds of any foreclosure sale necessary to discharge the  
16 lien for the special levy shall be deposited in the special  
17 bond fund for payment of any obligations secured thereby.

18 [J.] I. No holder of special levy bonds issued  
19 pursuant to the Public Improvement District Act may compel any  
20 exercise of the taxing power of the [~~district, municipality or~~  
21 ~~county~~] governing body to pay the bonds or the interest on the  
22 bonds. Special levy bonds issued pursuant to that act are not  
23 a debt of the district, municipality or county, nor is the  
24 payment of special levy bonds enforceable out of any money  
25 other than the revenue pledged to the payment of the bonds.

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1           ~~[K.]~~ J. Subject to the requirements of this  
2 section, a district may issue special levy bonds at such times  
3 and in such amounts as the district deems appropriate to carry  
4 out a project or projects in phases.

5           ~~[L.]~~ K. Pursuant to this section, the district may  
6 issue and sell refunding bonds to refund any special levy bonds  
7 of the district authorized by the Public Improvement District  
8 Act. Refunding bonds issued pursuant to this section shall  
9 have a final maturity date no later than the final maturity  
10 date of the bonds being refunded."

11           **SECTION 11.** Section 5-11-23 NMSA 1978 (being Laws 2001,  
12 Chapter 305, Section 23, as amended) is amended to read:

13           "5-11-23. DISTRICT PROPERTY TAXES AND SPECIAL  
14 LEVIES--ANNUAL [~~FINANCIAL ESTIMATE~~-- ANNUAL ~~FINANCIAL ESTIMATE~~  
15 ~~AND~~] BUDGET--CERTIFICATION TO LOCAL GOVERNMENT DIVISION.--

16           A. All property taxes for the operation and  
17 maintenance expenses of the district shall not exceed an amount  
18 equal to three dollars (\$3.00) per one thousand dollars  
19 (\$1,000) of net taxable value for all real and personal  
20 property in the district. [~~unless a higher rate is approved by~~  
21 ~~a vote of the qualified electors voting at an election~~  
22 ~~conducted pursuant to the provisions of the Local Election Act~~  
23 ~~not less than three years after the date of the formation of~~  
24 ~~the district.~~

25           ~~B. Once approved at an election or, in the case of~~

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1 ~~a special levy, by resolution of the district board, the~~  
2 ~~maximum rate of a property tax shall remain in effect until~~  
3 ~~increased or decreased at a subsequent election, and the~~  
4 ~~maximum rate of a special levy shall remain in effect until~~  
5 ~~increased or decreased by resolution of the district board at a~~  
6 ~~subsequent hearing.~~

7 ~~G. If a maximum property tax rate is in effect, the~~  
8 ~~district board, on petition of twenty-five percent of the~~  
9 ~~qualified electors, or by the owners of twenty-five percent of~~  
10 ~~the land area of the district, shall call an election pursuant~~  
11 ~~to the provisions of the Local Election Act to reduce the~~  
12 ~~maximum tax rate but not below the lesser of that rate~~  
13 ~~determined by the district board to be necessary to maintain~~  
14 ~~the district's facilities and improvements where the tax was~~  
15 ~~authorized for operation and maintenance, or the actual rate~~  
16 ~~then in effect, but in no event shall the rate be reduced below~~  
17 ~~the rate necessary to satisfy the district's obligations in~~  
18 ~~connection with any outstanding bonds issued pursuant to the~~  
19 ~~Public Improvement District Act.~~

20 ~~D. If a maximum special levy is in effect, the~~  
21 ~~district board, on petition of twenty-five percent of the~~  
22 ~~qualified electors, or by the owners of twenty-five percent of~~  
23 ~~the land area of the district, shall hold a hearing to~~  
24 ~~determine whether to reduce the maximum special levy but not~~  
25 ~~below the lesser of that rate determined by the district board~~

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1 ~~to be necessary to maintain the district's facilities and~~  
2 ~~improvements, where the special levy was authorized for~~  
3 ~~operation and maintenance, or the actual rate then in effect,~~  
4 ~~but in no event shall the rate be reduced below the rate~~  
5 ~~necessary to satisfy the district's obligations in connection~~  
6 ~~with any outstanding bonds issued pursuant to the Public~~  
7 ~~Improvement District Act.~~

8           ~~E.]~~ B. Upon presentation [~~to the district board~~] of  
9 a petition signed by the owners of a majority of the property  
10 in the district, the [~~district board~~] governing body in the  
11 case of a property tax or the district board in the case of a  
12 special levy shall adopt a resolution to reduce or eliminate  
13 the portion of the tax or special levy, beginning the next  
14 fiscal year, required for one or more services or enhanced  
15 services specified in the petition. Signatures on a petition  
16 to reduce or eliminate a tax or special levy shall be valid for  
17 a period of sixty days.

18           ~~[F. When levying property tax or imposing a special~~  
19 ~~levy]~~ C. Prior to the levy of a property tax or imposition of  
20 a special levy, the district board shall [make annual  
21 statements and estimates of] adopt a proposed budget  
22 identifying each parcel in the district that will be subject to  
23 the property tax or special levy. The proposed budget shall  
24 also project:

25                   (1) the revenue required for the following

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1 fiscal year to meet the operation and maintenance expenses of  
2 the district;

3 (2) the costs of public infrastructure  
4 improvements [~~to be financed by the taxes or special levy and~~]  
5 in the district;

6 (3) the amount of all other expenditures for  
7 public infrastructure [~~improvements~~] and enhanced services  
8 [~~proposed to be paid from the taxes or special levy and of~~];

9 (4) the amount to be raised to pay general  
10 obligation bonds of the district or special levy bonds; [~~all of~~  
11 ~~which shall be provided for by the levy and collection of~~  
12 ~~property taxes on the net taxable value of the real property in~~  
13 ~~the district or by the imposition and collection of special~~  
14 ~~levies. The district board shall file the annual statements~~  
15 ~~and estimates with the clerk. The district board shall publish~~  
16 ~~a notice of the filing of the estimate, shall hold hearings on~~  
17 ~~the portions of the estimate not relating to debt service on~~  
18 ~~general obligation bonds or special levy bonds and shall adopt~~  
19 ~~a budget. The district board, on or before the date set by law~~  
20 ~~for certifying the annual budget of the municipality or county,~~  
21 ~~shall fix, levy and assess the amounts to be raised by property~~  
22 ~~taxes or special levies of the district and shall cause~~  
23 ~~certified copies of the order to be delivered to the local~~  
24 ~~government division of the department of finance and~~  
25 ~~administration]~~ and

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1                   (5) such additional sums necessary to meet  
2 current operating expenses of the district.

3                   D. The district board shall publish notice of and  
4 hold a hearing on the portions of the proposed budget not  
5 relating to debt service on general obligation bonds or special  
6 levy bonds. After the hearing, the district board shall:

7                           (1) submit the proposed budget to the  
8 governing body;

9                           (2) with the submission, request the governing  
10 body to hold an election on the question of imposing a property  
11 tax levy on property in the district, if such tax is proposed;  
12 and

13                           (3) impose any fee, charge or special levy  
14 proposed in the proposed budget.

15                   E. After receipt of the proposed budget, the  
16 governing body shall promptly hold a hearing on the proposed  
17 budget and, following the hearing, determine whether a property  
18 tax, if proposed, should be imposed. If the governing body  
19 determines a property tax should be imposed, the governing body  
20 shall call an election on the question of imposing a property  
21 tax levy on property in the district pursuant to Section 5-11-7  
22 NMSA 1978, if such levy is proposed in a proposed budget.

23                   F. If an election on the question of imposing a  
24 property tax on property in the district is held and the  
25 required majority votes in favor of the matter, the governing

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1 body shall:

2 (1) levy the property tax on property in the  
3 district;

4 (2) issue an order determining the revenue  
5 required to meet debt service and operating expenses of the  
6 district for the ensuing fiscal year; and

7 (3) cause certified copies of the order to be  
8 delivered to the district no later than July 1 of each year.

9 G. The district shall adopt the final budget  
10 ordered by the governing body, file the order with the clerk of  
11 the county in which the district is located and cause the final  
12 budget to be delivered to the local government division of the  
13 department of finance and administration.

14 H. The county treasurer of the county in which the  
15 district is located, or the county assessor, if a party to an  
16 agreement described in Subsection C of Section 7-38-36 NMSA  
17 1978, shall collect all levy and assessment amounts imposed  
18 pursuant to this section.

19 I. All statutes relating to the levy and collection  
20 of property taxes, including the collection of delinquent taxes  
21 and sale of property for nonpayment of taxes, apply to district  
22 property taxes and to special levies [~~except to the extent that~~  
23 ~~the district board has provided for other imposition,~~  
24 ~~collection and foreclosure procedures in connection with~~  
25 ~~special levies]."~~

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1           SECTION 12. Section 5-15-3 NMSA 1978 (being Laws 2006,  
2 Chapter 75, Section 3, as amended by Laws 2019, Chapter 212,  
3 Section 199 and also by Laws 2019, Chapter 275, Section 1) is  
4 amended to read:

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

7           A. "base gross receipts taxes" means:

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

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

23           B. "base property taxes" means:

24                   (1) the portion of property taxes produced by  
25 the total of all property tax levied at the rate fixed each

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

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

19 C. "county" means a county in this state, a  
20 combined city and county corporation, an incorporated county,  
21 an urban county or a single urban government;

22 [~~C.~~] D. "county option gross receipts taxes" means  
23 gross receipts taxes imposed by counties pursuant to the County  
24 Local Option Gross Receipts and Compensating Taxes Act and  
25 designated by the governing body of the county to be available

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1 as part of the gross receipts tax increment;

2 [D.] E. "district" means a tax increment  
3 development district formed for the purposes of carrying out  
4 tax increment development projects;

5 [E.] F. "district board" means a board formed in  
6 accordance with the provisions of the Tax Increment for  
7 Development Act to govern a [~~tax increment development~~]  
8 district;

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

19 [G.] H. "governing body" means the city council or  
20 city commission of a [~~city, the board of trustees or council of~~  
21 ~~a town or village~~] municipality or the board of county  
22 commissioners of a county;

23 [H.] I. "gross receipts tax increment" means the  
24 gross receipts taxes collected within a [~~tax increment~~  
25 ~~development~~] district in excess of the base gross receipts

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1 taxes collected in the district;

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

6 [~~J.~~] K. "local government" means a municipality or  
7 county;

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

14 [~~L.~~] M. "municipality" means an incorporated city,  
15 town or village, whether incorporated under general act,  
16 special act, special charter or territorial charter, but does  
17 not mean a combined city and county corporation, an  
18 incorporated county or a single urban government;

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

21 (1) that is primarily performed in New Mexico;  
22 (2) that is held by an employee who is hired  
23 to work an average of at least thirty-two hours per week for at  
24 least forty-eight weeks per year;

25 (3) that is:

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

6 (b) held by an employee that is employed  
7 at a regional, national or international headquarters operation  
8 or at an operation that primarily provides services for other  
9 operations of the qualifying entity that are located outside  
10 the state; and

11 (4) that is not directly involved with natural  
12 resources extraction or processing, on-site services where the  
13 customer is present for the delivery of the service, retail,  
14 construction or agriculture except for value-added processing  
15 performed on agricultural products that would then be sold for  
16 wholesale or retail consumption;

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

19 [~~Θ.~~] P. "person" means an individual, corporation,  
20 association, partnership, limited liability company or other  
21 legal entity;

22 [~~P.~~] Q. "project" means a tax increment development  
23 project;

24 [~~Q.~~] R. "property tax increment" means all property  
25 tax collected on real property within the designated tax

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1 increment development area that is in excess of the base  
2 property tax until termination of the district and distributed  
3 to the district in the same manner as distributions are made  
4 under the provisions of the Tax Administration Act;

5 [R.] S. "property tax increment bonds" means bonds  
6 issued by a district in accordance with the Tax Increment for  
7 Development Act, the pledged revenue for which is a property  
8 tax increment;

9 [S.] T. "public improvements" means on-site  
10 improvements and off-site improvements that directly or  
11 indirectly benefit a [~~tax increment development~~] district or  
12 facilitate development within a tax increment development area  
13 and that are dedicated to the [~~governing body in which the~~  
14 ~~district lies~~] state or a local government or other political  
15 subdivision. "Public improvements" includes:

16 (1) sanitary sewage systems, including  
17 collection, transport, treatment, dispersal, effluent use and  
18 discharge;

19 (2) drainage and flood control systems,  
20 including collection, transport, storage, treatment, dispersal,  
21 effluent use and discharge;

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

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1 dispersal;

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

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

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

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

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

16 (9) electrical generation, transmission and  
17 distribution facilities;

18 (10) natural gas distribution facilities;

19 (11) lighting systems;

20 (12) cable or other telecommunications lines  
21 and related equipment;

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

24 (14) school sites and facilities with the  
25 consent of the governing board of the public school district

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1 for which the facility is to be acquired, constructed or  
2 renovated;

3 (15) library and other public educational or  
4 cultural facilities;

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

8 (17) inspection, construction management,  
9 planning and program management and other professional services  
10 costs incidental to the project;

11 (18) workforce housing; and

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

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

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

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1           [V-] W. "tax increment development area" means the  
2 land included within the boundaries of a [~~tax increment~~  
3 ~~development~~] district;

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

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

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

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

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

23                   (3) installation, construction or  
24 reconstruction of streets, water utilities, sewer utilities,  
25 parks, playgrounds and other public improvements necessary to

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1 carry out the objectives of the Tax Increment for Development  
2 Act;

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

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

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

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

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

22 AA.] Z. "workforce housing" means decent, safe and  
23 sanitary dwellings, apartments, single-family dwellings or  
24 other living accommodations that are affordable for persons or  
25 families earning less than eighty percent of the median income

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

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

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

16 SECTION 13. Section 5-15-8 NMSA 1978 (being Laws 2006,  
17 Chapter 75, Section 8, as amended) is amended to read:

18 "5-15-8. FORMATION DETERMINATION--ELECTION.--

19 A. The formation determination and election  
20 procedures set forth in this section shall be used for:

21 (1) formation of a new [~~tax increment~~  
22 ~~development~~] district;

23 (2) [~~selection of a district board member~~]  
24 modification of the boundaries of a tax increment development  
25 area;

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1 (3) [~~adoption~~] the levy of a property tax  
2 [~~levy by a tax increment development district~~] on property in  
3 the district;

4 (4) use of property tax increment financing by  
5 a [~~tax increment development~~] district; or

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

8 B. A formation determination may be waived and a  
9 [~~tax increment development~~] district shall be formed upon the  
10 governing body's adoption of a resolution to form a [~~tax~~  
11 ~~increment development~~] district if a petition is presented to a  
12 governing body in accordance with the Tax Increment for  
13 Development Act and if the petition contains the signatures of  
14 all owners of the real property within the proposed tax  
15 increment development area and states that the owners waive the  
16 right to a formation determination.

17 C. A formation or other determination shall not be  
18 a local election for purposes of the Local Election Act or a  
19 special election for purposes of the Special Election Act. The  
20 governing body or district board may establish local procedures  
21 for noticing, conducting and canvassing determinations, which  
22 may include determinations by unanimous written approval of the  
23 owners in affidavits executed by the owners and confirmed in a  
24 review by the district board.

25 D. Except as otherwise provided by this section, an

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1 election by the qualified electors pursuant to the Tax  
2 Increment for Development Act shall be a nonpartisan election  
3 called, conducted and canvassed pursuant to the provisions of  
4 the [~~Election Code~~] Local Election Act.

5 E. In addition to the notice requirements in the  
6 Local Election Act, the notice of election shall state:

7 (1) if the election is a formation election,  
8 the boundaries of the proposed [~~tax increment development~~]  
9 district;

10 (2) if the election is a bond election, the  
11 purpose for which the bonds are to be issued and the amount of  
12 the issue;

13 (3) if the election is a property tax levy  
14 election, the maximum tax rate per one thousand dollars  
15 (\$1,000) of assessed valuation to be imposed, the purposes for  
16 which the revenues raised will be used and the existing maximum  
17 tax rate, if any;

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

20 (5) the purposes for which property taxes will  
21 be imposed and for which the revenues raised will be used,  
22 including a description of the public improvements to be  
23 financed with tax revenues, bond proceeds or other revenues of  
24 the [~~tax increment development~~] district; and

25 (6) that the imposition of property taxes will

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1 result in a lien for the payment on property within the  
2 district.

3 F. ~~[The district board, or, in the case of a~~  
4 ~~formation election, the governing body, shall determine the~~  
5 ~~date of the election, which shall comply with the provisions of~~  
6 ~~the Local Election Act.]~~ The ballot material provided to each  
7 qualified ~~[electors]~~ elector shall include:

8 (1) for a formation election, an impartial  
9 description of the tax increment development plan and a brief  
10 description of arguments for and against the formation of the  
11 ~~[tax increment development]~~ district, if any;

12 (2) for an election concerning the imposition  
13 of property taxes, an impartial description of the taxes to be  
14 imposed, the method of apportionment, collection and  
15 enforcement and other details sufficient to enable each  
16 qualified elector to determine the amount of tax it will be  
17 obligated to pay; a brief description of arguments for and  
18 against the imposition of taxes that are the subject of the  
19 election, if any; and a statement that the imposition of  
20 property taxes is for the provision of certain, but not  
21 necessarily all, public improvements that may be needed or  
22 desirable within the ~~[tax increment development]~~ district, and  
23 that other taxes, levies or assessments by other governmental  
24 entities may be presented for approval by owners and qualified  
25 electors;

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1 (3) for an election concerning the use of  
2 property tax increment [~~financing~~] bonds, an impartial  
3 description of the estimated increment to be generated over the  
4 life of the project and the nature and extent of the public  
5 improvements to be constructed [~~and maintained~~] using such  
6 financing;

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

9 (5) for a property tax imposition election,  
10 the question to be voted upon as "property tax, yes" and  
11 "property tax, no";

12 (6) for an election to change an existing  
13 maximum tax or eliminate an existing tax, the question to be  
14 voted upon as "tax change, yes" and "tax change, no" and shall  
15 specify the type of tax to which the proposed change pertains;  
16 and

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

20 G. Failure of a majority to vote in favor of the  
21 matter submitted shall not prejudice the submission of the same  
22 or similar matters at a later election; provided that an  
23 election on the same question shall not be held within one year  
24 of the failure of a majority to vote in favor of that question.

25 H. If a person transfers real property located in a

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1 district and the name of the successor owner becomes known to  
2 the ~~[governing body or the]~~ district board ~~[as applicable]~~ and  
3 is verified by recorded deed or other similar evidence of  
4 transfer of ownership, the successor owner is deemed to be the  
5 owner of the real property for the purposes of the Tax  
6 Increment for Development Act.

7 I. If there are no persons registered to vote  
8 within a district or proposed district areas within ~~[seventy]~~  
9 sixty-three days immediately preceding a scheduled election  
10 date, an election required to be held pursuant to the Tax  
11 Increment for Development Act shall be canceled and the  
12 determination made by the owners of property within the  
13 district or proposed district areas shall prevail, unless an  
14 election is otherwise required by the constitution of New  
15 Mexico or the determination was waived by the governing body  
16 pursuant to Subsection B of this section. In a determination,  
17 each owner shall have ~~[the number of votes or portion of votes~~  
18 ~~equal to the number of acres or portion of acres]~~ one vote for  
19 each one-fifth of an acre located in the district, rounded  
20 upward to the nearest one-fifth of an acre ~~[owned in the~~  
21 ~~district by that owner]."~~

22 SECTION 14. Section 5-15-9 NMSA 1978 (being Laws 2006,  
23 Chapter 75, Section 9, as amended) is amended to read:

24 "5-15-9. FORMATION OF A DISTRICT.--

25 A. If the formation of the ~~[tax increment~~

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1 ~~development~~] district is approved in accordance with the  
2 provisions of Section 5-15-8 NMSA 1978, the governing body  
3 shall deliver a copy of the resolution ordering formation of  
4 the [~~tax increment development~~] district to each of the  
5 following persons or entities:

6 (1) the county assessor, the county treasurer  
7 and the clerk of the county in which the district is located;

8 (2) the school district within which any  
9 portion of the property located within a tax increment  
10 development area lies;

11 [~~(3) any other taxing entities within which~~  
12 ~~any portion of the property located within a tax increment~~  
13 ~~development area lies;~~

14 ~~(4)]~~ (3) the taxation and revenue department;

15 [~~(5)]~~ (4) the local government division of the  
16 department of finance and administration; and

17 [~~(6)]~~ (5) the director of the legislative  
18 finance committee.

19 B. A notice of the formation showing the number and  
20 date of the resolution and giving a description of the land  
21 included in the district shall be recorded with the clerk of  
22 the county in which the district is located.

23 C. A [~~tax increment development~~] district shall be  
24 a political subdivision of the state, separate and apart from a  
25 municipality or county."

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1           SECTION 15. Section 5-15-10 NMSA 1978 (being Laws 2006,  
2 Chapter 75, Section 10, as amended) is amended to read:

3           "5-15-10. GOVERNANCE OF THE DISTRICT.--

4           A. Following formation of a [~~tax increment~~  
5 ~~development~~] district, a district board shall administer in a  
6 reasonable manner the implementation of the tax increment  
7 development plan as approved by the governing body.

8           B. The district shall be governed by the governing  
9 body that adopted a resolution to form the district or by a  
10 five-member board composed of four members appointed by that  
11 governing body; provided, however, that the fifth member of the  
12 five-member board is the secretary of finance and  
13 administration or the secretary's designee with full voting  
14 privileges.

15           C. [~~Two of the appointed directors shall serve an~~  
16 ~~initial term to expire following a regular local election and~~  
17 ~~not to exceed six years. Two of the appointed directors shall~~  
18 ~~serve an initial term to expire following a regular local~~  
19 ~~election and not to exceed four years. The resolution forming~~  
20 ~~the district shall state which directors shall serve the longer~~  
21 ~~terms and which shall serve the shorter terms] The members of  
22 the district board shall serve five-year terms. At the end of  
23 each five-year term, the governing body shall either resume  
24 governance of the district by serving as the district board or  
25 appoint five directors as provided in Subsection B of this~~

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1 section.

2           D. If a vacancy occurs on the district board  
3 because of the death, resignation or inability of the director  
4 to discharge the duties of the director, the governing body  
5 shall appoint a director to fill the vacancy, and the director  
6 shall hold office for the remainder of the unexpired term until  
7 a successor is appointed or elected.

8           ~~[D. In the case of an appointed board of directors  
9 that is not the governing body, at the end of the appointed  
10 directors' initial terms, the board shall hold an election of  
11 new directors by majority vote of qualified electors in  
12 accordance with the Local Election Act and the Tax Increment  
13 for Development Act. If the election is canceled pursuant to  
14 Subsection I of Section 5-15-8 NMSA 1978, a determination by  
15 the owners conducted by ballot shall select the new  
16 directors.]"~~

17           SECTION 16. Section 5-15-12 NMSA 1978 (being Laws 2006,  
18 Chapter 75, Section 12) is amended to read:

19           "5-15-12. DISTRICT POWERS--LIMITATIONS.--

20           A. In addition to other express or implied  
21 authority granted by law, a district board shall have the power  
22 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 ~~for a public purpose on real property located in the district;~~

8 ~~(12)]~~ (11) pay the financial, legal and  
9 administrative costs of the district;

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

16 [~~(14)]~~ (13) borrow money within the limits of  
17 the Tax Increment for Development Act to fund the construction,  
18 operation and maintenance of public improvements; [~~until~~  
19 ~~dedicated to the governing body or for any other lawful public~~  
20 ~~purposes related to the purposes of the Tax Increment for~~  
21 ~~Development Act; and~~

22 ~~(15)]~~ (14) use public easements and rights of  
23 way in or across public property, roadways, highways, streets  
24 or other thoroughfares and other public easements and rights of  
25 way of the district, municipality or county; and

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1                   (15) within sixty days of delivering written  
2 notice to the governing body ordering formation of the  
3 district, exercise the power of eminent domain as provided by  
4 law and to carry out the purposes of the Tax Increment for  
5 Development Act.

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

16                   ~~G. A district shall not have the power of eminent~~  
17 ~~domain for any purpose.~~

18                   ~~D.]~~ B. A casino shall not be located in a district,  
19 and a district shall not use the proceeds of property tax  
20 increment bonds or gross receipts tax increment bonds to  
21 finance public improvements for a casino."

22                   SECTION 17. Section 5-15-13 NMSA 1978 (being Laws 2006,  
23 Chapter 75, Section 13, as amended) is amended to read:

24                   "5-15-13. ~~[AUTHORITY TO IMPOSE]~~ PROPERTY TAX LEVY--  
25 LIMITATIONS.--A ~~[district has the power to establish a]~~

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1 property tax levy upon real property located within the tax  
2 increment development area may be imposed by a governing body  
3 with the following limitations:

4 A. the maximum property tax levy [~~a district may~~  
5 ~~impose is~~] shall not exceed five dollars (\$5.00) on each one  
6 thousand dollars (\$1,000) of net taxable value, as that term is  
7 defined in the Property Tax Code, which may be used for  
8 operation and maintenance [~~and capital improvements~~], in  
9 furtherance of the purposes of the Tax Increment for  
10 Development Act;

11 B. [~~a district may impose~~] a property tax levy may  
12 be imposed only after authorization through a determination  
13 made by the owners of real property in the district and by a  
14 majority of votes cast by the qualified resident electors of a  
15 district in an election held [~~in accordance with the Local~~  
16 ~~Election Act and the Tax Increment for Development Act~~]  
17 pursuant to Section 5-15-8 NMSA 1978; and

18 C. a property tax levy [~~imposed by a district~~]  
19 shall not be effective for more than four years."

20 SECTION 18. Section 5-15-15 NMSA 1978 (being Laws 2006,  
21 Chapter 75, Section 15, as amended by Laws 2019, Chapter 274,  
22 Section 8 and by Laws 2019, Chapter 275, Section 2) is amended  
23 to read:

24 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX  
25 INCREMENT TO SECURE BONDS.--

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1           A. A tax increment development plan, as originally  
2 approved or as later modified, may contain a provision that  
3 gross receipts tax increments collected within the tax  
4 increment development area after the effective date of approval  
5 of the tax increment development plan may be dedicated for the  
6 purpose of securing gross receipts tax increment bonds pursuant  
7 to the Tax Increment for Development Act.

8           B. A municipality may dedicate a portion of [~~a~~  
9 ~~gross receipts tax increment from~~] any of the following [~~taxes~~]  
10 to pay the principal of, the interest on and any premium due in  
11 connection with the bonds of, loans or advances to, or any  
12 indebtedness incurred by, whether funded, refunded, assumed or  
13 otherwise, the authority for financing or refinancing, in whole  
14 or in part, a tax increment development project within the tax  
15 increment development area:

16                   (1) an increment of a municipal option gross  
17 receipts tax [~~that is dedicated by the ordinance imposing the~~  
18 ~~increment to the tax increment development project~~]; and

19                   (2) an amount distributed to municipalities  
20 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978.

21           C. A county may dedicate a portion of [~~a gross~~  
22 ~~receipts tax increment from~~] any of the following [~~taxes~~] to  
23 pay the principal of, the interest on and any premium due in  
24 connection with the bonds of, loans or advances to or any  
25 indebtedness incurred by, whether funded, refunded, assumed or

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1 otherwise, the district for financing or refinancing, in whole  
2 or in part, a tax increment development project within the tax  
3 increment development area:

4 (1) an increment of a county option gross  
5 receipts tax [~~that is dedicated by the ordinance imposing the~~  
6 ~~increment to the tax increment development project~~]; and

7 (2) the amount distributed to counties  
8 pursuant to Section 7-1-6.47 NMSA 1978.

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 financing and refinancing costs, the principal  
13 of, the interest on and any premium due in connection with  
14 gross receipts tax increment bonds issued to finance a tax  
15 increment development project within the tax increment  
16 development area; provided that:

17 (1) beginning July 1, 2029, the increment from  
18 the state gross receipts tax is no more than the average of:

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

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

24 (2) the state board of finance has adopted a  
25 resolution dedicating an increment attributable to the state

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1 gross receipts tax for the purpose of securing gross receipts  
2 tax increment bonds pursuant to Subsection G of this section;  
3 and

4 (3) the dedication shall be conditioned on the  
5 gross receipts tax increment bonds being issued no later than  
6 four years after the state board of finance has adopted the  
7 resolution dedicating the increment.

8 E. The gross receipts tax increment generated by  
9 the imposition of municipal or county option gross receipts  
10 taxes specified by statute for particular purposes may  
11 nonetheless be dedicated for the purposes of the Tax Increment  
12 for Development Act if intent to do so is set forth in the tax  
13 increment development plan approved by the governing body, if  
14 the purpose for which the increment is intended to be used is  
15 consistent with the purposes set forth in the statute  
16 authorizing the municipal or county option gross receipts tax.

17 F. An imposition of a gross receipts tax increment  
18 attributable to a gross receipts tax by a [~~taxing entity~~]  
19 governing body may be dedicated for the purpose of securing  
20 gross receipts tax increment bonds with the agreement of the  
21 [~~taxing entity~~] governing body, evidenced by a resolution  
22 adopted by a majority vote of that [~~taxing entity~~] governing  
23 body. A [~~taxing entity~~] governing body shall not agree to  
24 dedicate for the purposes of securing gross receipts tax  
25 increment bonds more than seventy-five percent of its gross

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1 receipts tax increment attributable to gross receipts taxes by  
2 the [~~taxing entity~~] governing body. A resolution of the  
3 [~~taxing entity~~] governing body to dedicate a gross receipts tax  
4 increment or to increase the dedication of a gross receipts tax  
5 increment shall become effective only on January 1 or July 1 of  
6 the calendar year.

7 G. The state board of finance shall condition a  
8 dedication of a gross receipts tax increment attributable to  
9 the state gross receipts tax on the approval required pursuant  
10 to Section 5-15-21 NMSA 1978 and that the initial gross  
11 receipts tax increment bonds issuance secured by a portion of  
12 the gross receipts tax increment attributable to the state  
13 gross receipts tax shall be issued no later than four years  
14 after the state board of finance has adopted the resolution  
15 making the dedication. Subject to the limitations provided in  
16 Subsection D of this section, the state board of finance shall  
17 not agree to dedicate more than seventy-five percent of the  
18 gross receipts tax increment attributable to the state gross  
19 receipts tax within the district. The resolution of the state  
20 board of finance shall become effective on January 1 or July 1  
21 of the calendar year following the notification period pursuant  
22 to Section 5-15-27 NMSA 1978 and shall find that:

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

25 (2) based upon review by the state board of

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1 finance of the applicable tax increment development plan, the  
2 dedication by the state board of finance of a portion of the  
3 gross receipts tax increment within the district for use in  
4 meeting the required goals of the tax increment plan is  
5 reasonable and in the best interest of the state; and

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

22 H. The governing body of the jurisdiction in which  
23 a [~~tax increment development~~] district has been established  
24 shall timely notify the assessor of the county in which the  
25 district has been established, the taxation and revenue

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1 department and the local government division of the department  
2 of finance and administration when:

3 (1) a tax increment development plan has been  
4 approved that contains a provision for the allocation of a  
5 gross receipts tax increment;

6 (2) any outstanding bonds of the district have  
7 been paid off; and

8 (3) the purposes of the district have  
9 otherwise been achieved."

10 SECTION 19. Section 5-15-17 NMSA 1978 (being Laws 2006,  
11 Chapter 75, Section 17) is amended to read:

12 "5-15-17. PROPERTY TAX INCREMENT BONDS.--

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

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

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

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

22 B. The portion of property taxes in excess of the  
23 amount of base property taxes may be irrevocably pledged by the  
24 district for the payment of the principal of, the interest on  
25 and any premiums due in connection with the bonds, loans,

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1 advances and indebtedness.

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

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

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

25 F. The municipality in which a ~~[tax increment~~

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1 ~~development~~] district has been established shall timely notify  
2 the assessor of the county in which the district has been  
3 established when:

4 (1) a tax increment development plan has been  
5 approved;

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

8 (3) the purposes of the district have  
9 otherwise been achieved.

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

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

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

24 "5-15-20. GENERAL BONDING AUTHORITY OF A [~~TAX INCREMENT~~  
25 ~~DEVELOPMENT~~] DISTRICT--OTHER LIMITATIONS.--

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

3                   (1) the state gross receipts tax without:

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

9                           (b) the approval required by Section  
10 5-15-21 NMSA 1978; and

11                   (2) a gross receipts tax imposed by a [~~taxing~~  
12 ~~entity~~] governing body without the agreement of the [~~taxing~~  
13 ~~entity~~] governing body as evidenced by a resolution adopted  
14 pursuant to Subsection B or C of Section 5-15-15 NMSA 1978.

15           B. Except as otherwise provided in this section, a  
16 district board shall not issue bonds against either gross  
17 receipts tax increments or property tax increments without the  
18 express written authorization of the department of finance and  
19 administration, as evidenced by a letter signed by the  
20 secretary of finance and administration. A district formed and  
21 approved by a class A county or by a municipality within a  
22 class A county if the municipality has a population of more  
23 than sixty-five thousand persons, according to the most recent  
24 federal decennial census, is not required to obtain express  
25 written authorization of the department of finance and

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1 administration for the issuance of gross receipts tax increment  
2 bonds or property tax increment bonds.

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

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

22 E. The indebtedness evidenced by the gross receipts  
23 tax increment bonds or property tax increment bonds shall not  
24 affect the general obligation bonding capacity of the  
25 municipality or county in which the [~~tax increment development~~]

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1 district is located.

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

7 G. Bonds issued by a [~~tax increment development~~]  
8 district shall not be a general obligation of the state, the  
9 county or the municipality in which the [~~tax increment~~  
10 ~~development~~] district is located and shall not pledge the full  
11 faith and credit of the state, the county or the municipality  
12 in which the [~~tax increment development~~] district is located."

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

15 "5-15-25. MODIFICATION OF TAX INCREMENT DEVELOPMENT AREA  
16 BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--

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

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1 Development Act. Real property within the tax increment  
2 development area that is subject to the lien of property taxes  
3 [~~special levies~~] or other charges or taxes imposed and  
4 dedicated to the district pursuant to the Tax Increment for  
5 Development Act shall not be eliminated from the district while  
6 there are bonds or other obligations outstanding that are  
7 payable by [~~those~~] the revenues generated from the dedicated  
8 amounts of taxes [~~special levies~~] or charges, except in  
9 circumstances where such revenues continue to be impressed with  
10 the obligation to repay the outstanding bonds or obligations.

11 B. Following formation of a district, an area may  
12 be added to the district upon a determination by the owners of  
13 real property in the proposed additional area and the approval  
14 of the qualified electors residing therein, as well as a  
15 determination by the owners of real property in the district  
16 and approval of the qualified electors, as provided in the  
17 Local Election Act and the Tax Increment for Development Act.

18 C. The district board, following a hearing  
19 conducted upon notice given to the owners of real property  
20 located in the district in the manner prescribed for the  
21 formation hearing, may, subject to the approval of the  
22 governing body that approved the district's tax increment  
23 development plan, amend the tax increment development plan in  
24 any manner that it determines will not substantially reduce the  
25 benefits to be received by any land in the district from the

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1 public infrastructure on completion of the work to be performed  
2 under the general plan. A determination by the owners and an  
3 election shall not be required solely for the purposes of this  
4 subsection."

5 SECTION 22. Section 5-15-25.3 NMSA 1978 (being Laws 2014,  
6 Chapter 11, Section 3) is amended to read:

7 "5-15-25.3. BASE YEAR REVISION--EFFECT.--

8 A. Upon notice of the approval of a revision of the  
9 base year used to determine a district's gross receipts tax  
10 increment, the district shall:

11 (1) return to the taxation and revenue  
12 department any gross receipts tax increment credited to the  
13 period between the time that the revenue collection began and  
14 the end of the revised base year and distributed to the  
15 district;

16 (2) update the district tax increment  
17 development plan to reflect the revision; and

18 (3) file with the clerk of the governing body  
19 that formed the district the revised tax increment development  
20 plan.

21 B. Upon receipt of the revenue identified in  
22 Paragraph (1) of Subsection A of this section, the taxation and  
23 revenue department shall remit to the ~~[taxing entities that~~  
24 ~~have dedicated a gross receipts tax increment to the district~~  
25 ~~an] appropriate governing body the amount of ~~[that]~~ revenue~~

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1 dedicated from a gross receipts tax increment in proportion to  
2 the amount of gross receipts tax increment attributable to  
3 ~~[their]~~ the dedication."

4 SECTION 23. Section 5-15-27 NMSA 1978 (being Laws 2006,  
5 Chapter 75, Section 27, as amended) is amended to read:

6 "5-15-27. DEDICATION OF GROSS RECEIPTS TAX INCREMENT--  
7 NOTICE TO TAXATION AND REVENUE DEPARTMENT.--

8 A. If the state board of finance or a ~~[taxing~~  
9 ~~entity]~~ governing body approves a dedication or increase in the  
10 dedication of a gross receipts tax increment to a district, the  
11 state board of finance or the ~~[taxing entity]~~ governing body  
12 shall notify the taxation and revenue department of that  
13 approval at least one hundred twenty days before the effective  
14 date of the dedication or increase in the dedication; provided  
15 that the effective date of the dedication by the state board of  
16 finance is on or after the date the bonds are approved by the  
17 legislature pursuant to Section 5-15-21 NMSA 1978.

18 B. In regard to a dedication of a gross receipts  
19 tax increment attributable to the state gross receipts tax, if  
20 the approval required pursuant to Section 5-15-21 NMSA 1978 has  
21 not occurred when the notice pursuant to Subsection A of this  
22 section is made, the state board of finance shall include in  
23 the notice that legislative approval is needed prior to a  
24 distribution pursuant to Section 7-1-6.54 NMSA 1978  
25 attributable to the state gross receipts tax can be made. Upon

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1 approval pursuant to Section 5-15-21 NMSA 1978, the state board  
2 of finance shall notify the department of the approval."

3 SECTION 24. TEMPORARY PROVISION--TERMS OF MEMBERS PRIOR  
4 TO EFFECTIVE DATE OF THIS ACT.--The term of a district board  
5 member appointed or elected prior to the effective date of this  
6 act pursuant to the Public Improvement District Act or the Tax  
7 Increment for Development Act shall continue and expire on  
8 December 31, 2020, and the term of that member's successor  
9 shall begin on January 1, 2021.

10 SECTION 25. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2020.