

1 SENATE BILL 293

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO DEVELOPMENT DISTRICTS; AMENDING THE TAX INCREMENT  
12 FOR DEVELOPMENT ACT; AMENDING DEFINITIONS; REQUIRING  
13 PETITIONERS TO CONDUCT A HOUSING STUDY PRIOR TO SUBMITTING AN  
14 APPLICATION FOR TAX INCREMENT DEVELOPMENT PROJECTS.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

21 "5-15-3. DEFINITIONS.--As used in the Tax Increment for  
22 Development Act:

23 A. "affordable housing" means decent, safe and  
24 sanitary dwellings, apartments, single-family dwellings or  
25 other living accommodations that are affordable for persons or

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

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

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

17 [A.] B. "base gross receipts taxes" means:

18 (1) the total amount of gross receipts taxes  
19 collected within a tax increment development district, as  
20 estimated by the governing body that adopted a resolution to  
21 form that district, in consultation with the taxation and  
22 revenue department, in the calendar year preceding the  
23 formation of the tax increment development district or, when an  
24 area is added to an existing district, the amount of gross  
25 receipts taxes collected in the calendar year preceding the

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1 effective date of the modification of the tax increment  
2 development plan and designated by the governing body to be  
3 available as part of the gross receipts tax increment; and

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

8 ~~[B.]~~ C. "base property taxes" means:

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

25 (2) any amount of property taxes that would

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1 have been collected in such year if any applicable additional  
2 property taxes imposed after that year had been imposed in that  
3 year;

4 ~~[G.]~~ D. "county option gross receipts taxes" means  
5 gross receipts taxes imposed by counties pursuant to the County  
6 Local Option Gross Receipts and Compensating Taxes Act and  
7 designated by the governing body of the county to be available  
8 as part of the gross receipts tax increment;

9 ~~[D.]~~ E. "district" means a tax increment  
10 development district;

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

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

24 ~~[G.]~~ H. "governing body" means the city council or  
25 city commission of a city, the board of trustees or council of

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1 a town or village or the board of county commissioners of a  
2 county;

3 [~~H.~~] I. "gross receipts tax increment" means the  
4 gross receipts taxes collected within a tax increment  
5 development district in excess of the base gross receipts taxes  
6 collected in the district;

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

11 K. "housing study" means a multivariable estimate  
12 of housing demand created by new employment, including new  
13 full-time economic base jobs, expected to occur as a result of  
14 implementation of a tax increment development project;

15 [~~J.~~] L. "local government" means a municipality or  
16 county;

17 [~~K.~~] M. "municipal option gross receipts taxes"  
18 means those gross receipts taxes imposed by municipalities  
19 pursuant to the Municipal Local Option Gross Receipts and  
20 Compensating Taxes Act and designated by the governing body of  
21 the municipality to be available as part of the gross receipts  
22 tax increment;

23 [~~E.~~] N. "municipality" means an incorporated city,  
24 town or village;

25 [~~M.~~] O. "new full-time economic base job" means a  
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1 job:

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

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

6 (3) that is:

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

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

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

23 [N.] P. "owner" means a person owning real property  
24 within the boundaries of a district;

25 [Ø.] Q. "person" means an individual, corporation,

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1 association, partnership, limited liability company or other  
2 legal entity;

3 ~~[P-]~~ R. "project" means a tax increment development  
4 project;

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

11 ~~[R-]~~ T. "property tax increment bonds" means bonds  
12 issued by a district in accordance with the Tax Increment for  
13 Development Act, the pledged revenue for which is a property  
14 tax increment;

15 ~~[S-]~~ U. "public improvements" means on-site  
16 improvements and off-site improvements that directly or  
17 indirectly benefit a tax increment development district or  
18 facilitate development within a tax increment development area  
19 and that are dedicated to the governing body in which the  
20 district lies. "Public improvements" includes:

21 (1) sanitary sewage systems, including  
22 collection, transport, treatment, dispersal, effluent use and  
23 discharge;

24 (2) drainage and flood control systems,  
25 including collection, transport, storage, treatment, dispersal,

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1 effluent use and discharge;

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

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

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

13 (6) pedestrian and transit facilities, parks,  
14 recreational facilities and open space areas for the use of  
15 members of the public for entertainment, assembly and  
16 recreation;

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

19 (8) public buildings, public safety facilities  
20 and fire protection and police facilities;

21 (9) electrical generation, transmission and  
22 distribution facilities;

23 (10) natural gas distribution facilities;

24 (11) lighting systems;

25 (12) cable or other telecommunications lines



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1 and related equipment;

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

4 (14) school sites and facilities with the  
5 consent of the governing board of the public school district  
6 for which the facility is to be acquired, constructed or  
7 renovated;

8 (15) library and other public educational or  
9 cultural facilities;

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

13 (17) inspection, construction management,  
14 planning and program management and other professional services  
15 costs incidental to the project;

16 (18) [~~workforce~~] affordable housing; and

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

19 [~~F.~~] V. "state gross receipts tax" means the gross  
20 receipts tax imposed pursuant to the Gross Receipts and  
21 Compensating Tax Act, but does not include that portion  
22 distributed to municipalities pursuant to Sections 7-1-6.4 and  
23 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47  
24 NMSA 1978;

25 [~~U.~~] W. "sustainable development" means land

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1 development that achieves sustainable economic and social goals  
2 in ways that can be supported for the long term by conserving  
3 resources, protecting the environment and ensuring human health  
4 and welfare using mixed-use, pedestrian-oriented, multimodal  
5 land use planning;

6 ~~[V.]~~ X. "tax increment development area" means the  
7 land included within the boundaries of a tax increment  
8 development district;

9 ~~[W.]~~ Y. "tax increment development district" means  
10 a district formed for the purposes of carrying out tax  
11 increment development projects;

12 ~~[X.]~~ Z. "tax increment development plan" means a  
13 plan for the undertaking of a tax increment development  
14 project;

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

21 (1) acquisition of land within a designated  
22 tax increment development area or a portion of that tax  
23 increment development area;

24 (2) demolition and removal of buildings and  
25 improvements and installation, construction or reconstruction

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1 of streets, utilities, parks, playgrounds and improvements  
2 necessary to carry out the objectives of the Tax Increment for  
3 Development Act;

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

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

14 (5) payments for professional services  
15 contracts necessary to implement a tax increment development  
16 plan or project;

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

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

24 [Z.] BB. "taxing entity" means the governing body  
25 of a political subdivision of the state, the gross receipts tax

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1 increment or property tax increment of which may be used for a  
2 tax increment development project. [~~and~~

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

13 ~~(1) determination of mortgage amounts and~~  
14 ~~payments is to be based on down payment rates and interest~~  
15 ~~rates generally available to lower- and moderate-income~~  
16 ~~households; and~~

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

22 SECTION 2. Section 5-15-4 NMSA 1978 (being Laws 2006,  
23 Chapter 75, Section 4, as amended) is amended to read:

24 "5-15-4. RESOLUTION FOR FORMATION OF A DISTRICT.--

25 A. A tax increment development plan may be approved

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1 by the governing body of the municipality or county within  
2 which tax increment development projects are proposed. Upon  
3 filing with the clerk of the governing body of an approved tax  
4 increment development plan and upon receipt of a petition  
5 bearing the signatures of the owners of at least fifty percent  
6 of the real property located within a proposed tax increment  
7 development area, the governing body [~~may~~] shall adopt a  
8 resolution declaring its intent to form a tax increment  
9 development district. Petitioners shall conduct a housing  
10 study and include the findings in the petition; provided that  
11 the entity conducting the housing study shall not solely rely  
12 on a cost-burden analysis. Prior to the formation of a  
13 district, the owner or developer of the real property located  
14 within an area proposed to be designated as a tax increment  
15 development area may enter into an agreement with the governing  
16 body concerning the improvement of specific property within the  
17 district, and that agreement may be used to establish  
18 obligations of the owner or developer and the governing body  
19 concerning the zoning, subdivision, improvement, impact fees,  
20 financial responsibilities and other matters relating to the  
21 development, improvement and use of real property within the  
22 district.

23 B. A governing body may adopt a resolution on its  
24 own motion upon its finding that a need exists for the  
25 formation of a district.

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

2 (1) the area or areas to be included within  
3 the boundaries of the district;

4 (2) the purposes for which the district is to  
5 be formed;

6 (3) a statement that a tax increment  
7 development plan is on file with the clerk of the governing  
8 body and that the plan includes a map depicting the boundaries  
9 of the tax increment development area and the real property  
10 proposed to be included in the area;

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

13 (5) identification of gross receipts tax  
14 increment and property tax increment financing mechanisms  
15 proposed;

16 (6) identification of gross receipts tax  
17 increments and property tax increments proposed to secure  
18 proposed gross receipts tax increment bonds or property tax  
19 increment bonds;

20 (7) requirement of a public hearing for the  
21 formation of the district and notice of the hearing;

22 (8) a statement that formation of a district  
23 may result in the use of gross receipts tax increments or  
24 property tax increments to pay the costs of construction of  
25 public improvements made by the district; and

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1 (9) a reference to the Tax Increment for  
2 Development Act.

3 D. A resolution may direct that, prior to holding a  
4 hearing on formation of a district, petitioners for the  
5 formation of a district prepare a study of the feasibility, the  
6 financing and the estimated costs of improvements, services and  
7 benefits to result from the formation of the proposed district.  
8 The governing body may require those petitioners to deposit  
9 with the clerk or treasurer of the governing body an amount  
10 equal to the estimated costs of conducting the study and other  
11 estimated formation costs. The deposit shall be reimbursed  
12 from the proceeds from the sale of bonds issued by the tax  
13 increment development district if the district is formed and if  
14 gross receipts tax increment bonds or property tax increment  
15 bonds are issued by that district pursuant to the Tax Increment  
16 for Development Act.

17 E. A resolution adopted pursuant to this section  
18 shall direct that a public hearing on formation of the district  
19 be scheduled and that notice of the hearing be mailed and  
20 published.

21 F. A governing body of the municipality or county  
22 within which tax increment development projects are proposed  
23 that adopts a resolution to form a district shall notify the  
24 secretary of taxation and revenue, the secretary of finance and  
25 administration and the director of the legislative finance

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1 committee of the governing body's action within ten days  
2 following the date on which the resolution was adopted. A copy  
3 of the adopted resolution shall be included in the notice sent  
4 pursuant to this subsection. All resolution materials,  
5 including fiscal and economic studies, shall also be available  
6 electronically to the public."

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

9 "5-15-5. CONTENTS OF TAX INCREMENT DEVELOPMENT PLAN.--A  
10 tax increment development plan shall include:

11 A. a map depicting the geographical boundaries of  
12 the area proposed for inclusion within the tax increment  
13 development area;

14 B. the estimated time necessary to complete the tax  
15 increment development project;

16 C. a description and the estimated cost of all  
17 public improvements proposed for the tax increment development  
18 project;

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

22 E. the estimated annual gross receipts tax  
23 increment to be generated by the tax increment development  
24 project and the portion of that gross receipts tax increment to  
25 be allocated during the time necessary to complete the payment

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1 of the tax increment development project;

2 F. the estimated annual property tax increment to  
3 be generated by the tax increment development project and the  
4 portion of that property tax increment to be allocated during  
5 the time necessary to complete the payment of the tax increment  
6 development project;

7 G. the general proposed land uses for the tax  
8 increment development project;

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

11 I. the amount and characteristics of [~~workforce~~]  
12 affordable housing expected to be created by the tax increment  
13 development project;

14 J. the location and characteristics of public  
15 school facilities expected to be created, improved,  
16 rehabilitated or constructed by the tax increment development  
17 project;

18 K. a description of innovative planning techniques,  
19 including mixed-use transit-oriented development, traditional  
20 neighborhood design or sustainable development techniques, that  
21 are deemed by the governing body to be beneficial and that will  
22 be incorporated into the tax increment development project; and

23 L. the amount and type of private investment in  
24 each tax increment development project."

25 SECTION 4. Section 5-15-7 NMSA 1978 (being Laws 2006,

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1 Chapter 75, Section 7, as amended) is amended to read:

2 "5-15-7. PUBLIC HEARING.--

3 A. At a public hearing conducted pursuant to the  
4 Tax Increment for Development Act, the governing body shall  
5 hear all relevant evidence and testimony and make findings. A  
6 record of the hearing shall be kept and may consist of a  
7 transcription by a court reporter, an electronic recording or  
8 minutes taken by a designated person. The record shall be  
9 preserved in the official records of the governing body and  
10 shall be open to public inspection pursuant to the Inspection  
11 of Public Records Act.

12 B. Testimony at a hearing is not required to be  
13 given under oath.

14 C. At the conclusion of a hearing, the governing  
15 body shall determine whether the tax increment development  
16 district should be formed based upon the interests, convenience  
17 or necessity of the owners, the residents of the proposed tax  
18 increment development district and the residents of the  
19 municipality or county in which the proposed tax increment  
20 development district is to be located. The governing body  
21 shall make the following findings before adopting a resolution  
22 to approve the formation of a district:

23 (1) the tax increment development plan  
24 reasonably protects the interests of the governing body in  
25 meeting its goals to support:

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- 1 (a) job creation;
- 2 (b) ~~[workforce]~~ affordable housing;
- 3 (c) public school facility creation and
- 4 improvement, including the creation and improvement of
- 5 facilities for charter schools; and

6 (d) underdeveloped area or historical

7 area redevelopment;

8 (2) the tax increment development plan

9 demonstrates elements of innovative planning techniques,

10 including mixed-use transit-oriented development, traditional

11 neighborhood design or sustainable development techniques, that

12 are deemed by the governing body to benefit community

13 development;

14 (3) the tax increment development plan

15 incorporates sustainable development considerations; and

16 (4) the tax increment development plan

17 conforms to general or long-term planning of the governing

18 body.

19 D. If the governing body determines that the

20 district should be formed, it shall:

21 (1) adopt a resolution ordering that the tax

22 increment development district be formed;

23 (2) order that a formation determination among

24 the owners of real property within the proposed district be

25 conducted or declare that the formation determination is waived

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1 pursuant to Subsection B of Section 5-15-8 NMSA 1978; and  
2 (3) set the matter for an election or declare  
3 that an election is canceled pursuant to Subsection I of  
4 Section 5-15-8 NMSA 1978."

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