

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 495

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

AN ACT

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

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

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

Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The purpose of the Tax Increment for Development
Act is to create a mechanism for providing gross receipts tax
financing and property tax financing for public infrastructure
for the purpose of supporting economic development and job
creation.

B. The legislature finds and declares that the

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

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

9 A. "base gross receipts taxes" means:

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

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

25 B. "base property taxes" means:

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

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

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

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

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

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

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

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

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1 the Tax Administration Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (10) natural gas distribution facilities;

16 (11) lighting systems;

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

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

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

25 (15) library and other public educational or

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1 cultural facilities;

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

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

8 (18) workforce housing; and

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

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

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

22 U. "sustainable development" means land development
23 that achieves sustainable economic and social goals in ways
24 that can be supported for the long term by conserving
25 resources, protecting the environment and ensuring human health

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1 and welfare using mixed-use, pedestrian-oriented, multimodal
2 land use planning;

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

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

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

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

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

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

25 (3) installation, construction or

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

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

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

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

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

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

24 AA. "workforce housing" means decent, safe and
25 sanitary dwellings, apartments, single-family dwellings or

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

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

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

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

20 A. A tax increment development plan may be approved
 21 by the governing body of the municipality or county within
 22 which tax increment development projects are proposed. Upon
 23 filing with the clerk of the governing body of an approved tax
 24 increment development plan and upon receipt of a petition
 25 bearing the signatures of the owners of at least fifty percent

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

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

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

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

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1 proposed to be included in the area;

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

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

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

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

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

17 (9) a reference to the Tax Increment for
18 Development Act.

19 D. A resolution may direct that, prior to holding a
20 hearing on formation of a district, petitioners for the
21 formation of a district prepare a study of the feasibility, the
22 financing and the estimated costs of improvements, services and
23 benefits to result from the formation of the proposed district.
24 The governing body may require those petitioners to deposit
25 with the clerk or treasurer of the governing body an amount

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1 equal to the estimated costs of conducting the study and other
2 estimated formation costs. The deposit shall be reimbursed if
3 the district is formed and if gross receipts tax increment
4 bonds or property tax increment bonds are issued by that
5 district pursuant to the Tax Increment for Development Act.

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

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

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

16 B. the estimated time necessary to complete the tax
17 increment development project;

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

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

24 E. the estimated annual gross receipts tax
25 increment to be generated by the tax increment development

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1 project and the portion of that gross receipts tax increment to
2 be allocated during the time necessary to complete the payment
3 of the tax increment development project;

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

9 G. the general proposed land uses for the tax
10 increment development project;

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

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

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

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

25 L. the amount and type of private investment in

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1 each tax increment development project.

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

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

8 B. Notice of the hearing shall be provided by the
9 governing body by:

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

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

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

21 C. The notice of the hearing shall contain:

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

23 (2) information regarding alternative methods
24 for submission of objects or comments;

25 (3) a statement that the formation of a

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1 district is proposed;

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

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

7 D. A summary of the resolution declaring the
8 governing body's intent to form a tax increment development
9 district shall be attached to a notice issued pursuant to this
10 section. The clerk of the governing body shall mail a copy of
11 the notice to each owner of real property within the proposed
12 tax increment development area and to all other persons
13 claiming an interest in the property who have filed a written
14 request for a copy of the notice within the six months
15 preceding or at any time following the adoption of the
16 resolution. The clerk of the governing body shall publish a
17 copy of the notice and resolution summary at least twice in a
18 newspaper of general circulation in the municipality or county
19 in which the proposed tax increment development district is
20 located. The clerk of the governing body shall obtain an
21 affidavit from that newspaper after each publication is made.
22 The clerk of the governing body shall cause the affidavits to
23 be placed in the official records of the municipality or
24 county. The affidavits are conclusive evidence of the mailing
25 and publishing of notice. Notice shall not be held invalid for

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1 failure of delivery to the addressee.

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

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

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

17 B. Testimony at a hearing is not required to be
18 given under oath.

19 C. At the conclusion of a hearing, the governing
20 body shall determine whether the tax increment development
21 district should be formed based upon the interests, convenience
22 or necessity of the owners, the residents of the proposed tax
23 increment development district and the residents of the
24 municipality or county in which the proposed tax increment
25 development district is to be located. The governing body

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1 shall make the following findings before adopting a resolution
2 to approve the formation of a district:

3 (1) the tax increment development plan
4 reasonably protects the interests of the governing body in
5 meeting its goals to support:

6 (a) job creation;

7 (b) workforce housing;

8 (c) public school facility creation and
9 improvement, including the creation and improvement of
10 facilities for charter schools; and

11 (d) underdeveloped area or historical
12 area redevelopment;

13 (2) the tax increment development plan
14 demonstrates elements of innovative planning techniques,
15 including mixed-use transit-oriented development, traditional
16 neighborhood design or sustainable development techniques, that
17 are deemed by the governing body to benefit community
18 development;

19 (3) the tax increment development plan
20 incorporates sustainable development considerations; and

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

24 D. If the governing body determines that the
25 district should be formed, it shall adopt a resolution ordering

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1 that the tax increment development district be formed and shall
2 set the matter for an election or declare that an election is
3 waived, as provided in the Tax Increment for Development Act.

4 Section 8. [NEW MATERIAL] ELECTION.--

5 A. The election procedures set forth in this
6 section shall be used for:

7 (1) formation of a new tax increment
8 development district;

9 (2) election of a district board member;

10 (3) adoption of a property tax levy by a tax
11 increment development district;

12 (4) use of property tax increment financing by
13 a tax increment development district; or

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

16 B. An election may be waived and a tax increment
17 development district shall be formed upon the governing body's
18 adoption of a resolution to form a tax increment development
19 district if a petition is presented to a governing body in
20 accordance with the Tax Increment for Development Act and if
21 the petition contains the signatures of all owners of the real
22 property within the proposed tax increment development area and
23 states that the owners waive the right to an election.

24 C. An election pursuant to the Tax Increment for
25 Development Act shall be a nonpartisan election called by

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1 posting notices in three public places within the boundaries of
2 the district not less than twenty days before the election.
3 Notice shall also be published in a newspaper of general
4 circulation once each week for two consecutive weeks before the
5 election in the municipality or county in which the proposed
6 district is located.

7 D. The notice shall state:

8 (1) the place of holding the election and
9 provisions for voting by mail, if any;

10 (2) the hours during the day during which the
11 polls will be open;

12 (3) if the election is a formation election,
13 the boundaries of the proposed tax increment development
14 district;

15 (4) if the election is a bond election, the
16 purpose for which the bonds are to be issued and the amount of
17 the issue;

18 (5) if the election is a property tax levy
19 election, the maximum tax rate per one thousand dollars
20 (\$1,000) of assessed valuation to be imposed, the purposes for
21 which the revenues raised will be used and the existing maximum
22 tax rate, if any;

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

25 (7) the purposes for which property taxes will

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1 be imposed and for which the revenues raised will be used,
2 including a description of the public improvements to be
3 financed with tax revenues, bond proceeds or other revenues of
4 the tax increment development district; and

5 (8) that the imposition of property taxes will
6 result in a lien for the payment on property within the
7 district.

8 E. The district board, or, in the case of a
9 formation election, the governing body, shall determine the
10 date of the election and the polling places for the election
11 and may consolidate county precincts. The district board or
12 the governing body may establish provisions for voting by mail.

13 F. Voter lists shall be used to determine the
14 resident qualified electors. If a district or proposed
15 district includes land lying partly in and partly out of any
16 county election precinct, the voter lists may contain the names
17 of all registered voters in the precinct, and the precinct
18 boards at these precincts shall require that a prospective
19 elector execute an affidavit stating that the elector is also a
20 resident qualified elector.

21 G. For an election held pursuant to the Tax
22 Increment for Development Act, a prospective elector who is not
23 a resident qualified elector shall execute an affidavit stating
24 that the elector is the owner of land in the proposed or
25 existing district and stating the area of land in acres owned

1 by the prospective elector. If the prospective elector is not
2 an individual, the affidavit shall provide that the individual
3 casting the vote is the designated representative of the
4 corporation, association, partnership, limited liability
5 company or other legal entity entitled to vote in the election.
6 Precinct board members may administer oaths or accept
7 affirmations for those purposes.

8 H. Except as otherwise provided by this section,
9 the election shall comply with the general election laws of the
10 state. The ballot material provided to each voter shall
11 include:

12 (1) for a formation election, an impartial
13 description of the tax increment development plan and a brief
14 description of arguments for and against the formation of the
15 tax increment development district, if any;

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

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1 desirable within the tax increment development district, and
2 that other taxes, levies or assessments by other governmental
3 entities may be presented for approval by owners and resident
4 qualified electors;

5 (3) for an election concerning the use of
6 property tax increment financing, an impartial description of
7 the estimated increment to be generated over the life of the
8 project and the nature and extent of the public improvements to
9 be constructed and maintained using such financing;

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

12 (5) for a property tax imposition election,
13 the question to be voted upon as "property tax, yes" and
14 "property tax, no";

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

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

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

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1 J. Within thirty days after an election, the
2 governing body, or if after district formation, the district
3 board, shall meet and canvass the returns, determining the
4 number of votes properly cast by owners and resident qualified
5 electors. A majority of the votes cast at the election shall
6 be required. The canvass may be continued for an additional
7 period not to exceed thirty days at the election of the
8 governing body or district board for the purpose of completing
9 the canvass. Failure of a majority to vote in favor of the
10 matter submitted shall not prejudice the submission of the same
11 or similar matters at a later election; provided that an
12 election on the same question shall not be held within one year
13 of the failure of a majority to vote in favor of that question.

14 K. If a person transfers real property located in a
15 district and the name of the successor owner becomes known and
16 is verified by recorded deed or other similar evidence of
17 transfer of ownership, the successor owner is deemed to be the
18 owner of the real property for the purposes of the Tax
19 Increment for Development Act.

20 L. If there are no persons registered to vote
21 within a district or proposed district within fifty days
22 immediately preceding a scheduled election date, an election
23 required to be held pursuant to the Tax Increment for
24 Development Act shall be held by vote of the owners of property
25 within the district or proposed district. Each owner shall

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

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

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

13 A. If the formation of the tax increment
14 development district is approved by a majority of the voters
15 casting votes at the election, or if an election is held by
16 vote of the owners of property within the district or proposed
17 district, the governing body shall deliver a copy of the
18 resolution ordering formation of the tax increment development
19 district to each of the following persons or entities:

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

22 (2) the school district within which any
23 portion of the property located within a tax increment
24 development area lies;

25 (3) any other taxing entities within which any

1 portion of the property located within a tax increment
2 development area lies;

3 (4) the taxation and revenue department; and

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

6 B. A notice of the formation showing the number and
7 date of the resolution and giving a description of the land
8 included in the district shall be recorded with the clerk of
9 the county in which the district is located.

10 C. A tax increment development district shall be a
11 political subdivision of the state, separate and apart from a
12 municipality or county.

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

14 A. Following formation of a tax increment
15 development district, a district board shall administer in a
16 reasonable manner the implementation of the tax increment
17 development plan as approved by the governing body.

18 B. The district shall be governed by the governing
19 body that adopted a resolution to form the district or by a
20 five-member board composed of members appointed by that
21 governing body.

22 C. Three of the appointed directors shall serve an
23 initial term of six years. Two of the appointed directors
24 shall serve an initial term of four years. The resolution
25 forming the district shall state which directors shall serve

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

8 D. A director may be a director of more than one
9 district.

10 E. In the case of an appointed board of directors
11 that is not the governing body, at the end of the appointed
12 directors' initial terms, the board shall hold an election of
13 new directors by majority vote of owners and qualified resident
14 electors in accordance with the Tax Increment for Development
15 Act. Each owner shall have the number of votes or portion of
16 votes equal to the number of acres or portion of acres rounded
17 upward to the nearest one-fifth of an acre owned in the
18 district by that owner.

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

20 A. A district shall keep the following records,
21 which shall be open to the public:

- 22 (1) minutes of all meetings of the district
23 board;
24 (2) all resolutions;
25 (3) accounts showing all money received and

1 disbursed;

2 (4) the annual budget; and

3 (5) all other records required to be
4 maintained by law.

5 B. A district board shall appoint a clerk and
6 treasurer for the district.

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

9 Section 12. [NEW MATERIAL] DISTRICT POWERS--LIMITATIONS.--

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

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

14 (2) enter into agreements with a municipality,
15 county or other local government entity in connection with real
16 property located within the district;

17 (3) enter into an intergovernmental agreement
18 in accordance with the Joint Powers Agreements Act for the
19 planning, design, inspection, ownership, control, maintenance,
20 operation or repair of public infrastructure or the provision
21 of enhanced services by the municipality or county in which the
22 district lies or for any other purpose authorized by the Tax
23 Increment for Development Act;

24 (4) sell, lease or otherwise dispose of
25 district property if the sale, lease or conveyance is not a

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1 violation of the terms of any contract or bond covenant of the
2 district;

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

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

8 (7) employ staff, counsel, advisors and
9 consultants;

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

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

15 (10) enter into an agreement with an owner
16 concerning the advance of money by an owner for a public
17 purpose or the granting of real property by the owner for a
18 public purpose;

19 (11) levy property taxes in accordance with
20 election requirements of the Tax Increment for Development Act
21 for a public purpose on real property located in the district;

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

24 (13) enter into contracts, agreements and
25 trust indentures to obtain credit enhancement or liquidity

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1 support for its bonds and process the issuance, registration,
2 transfer and payment of its bonds and the disbursement and
3 investment of proceeds of the bonds in accordance with the
4 provisions for investment of funds by municipal treasurers;

5 (14) borrow money within the limits of the Tax
6 Increment for Development Act to fund the construction,
7 operation and maintenance of public improvements until
8 dedicated to the governing body or for any other lawful public
9 purposes related to the purposes of the Tax Increment for
10 Development Act; and

11 (15) use public easements and rights of way in
12 or across public property, roadways, highways, streets or other
13 thoroughfares and other public easements and rights of way of
14 the district, municipality or county.

15 B. Notwithstanding the provisions of the
16 Procurement Code or local procurement requirements that may
17 otherwise be applicable to the municipality or county in which
18 the district is located, the district board may enter into
19 contracts to carry out any of the tax increment development
20 district's authorized powers, including the planning, design,
21 engineering, financing, construction and acquisition of public
22 improvements for the district, with a contractor, an owner or
23 other person or entity, on such terms and with such persons as
24 the district board determines to be appropriate.

25 C. A district shall not have the power of eminent

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1 domain for any purpose.

2 D. A casino shall not be located in a district, and
3 a district shall not use the proceeds of property tax increment
4 bonds or gross receipts tax increment bonds to finance public
5 improvements for a casino.

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

10 A. the maximum property tax levy a district may
11 impose is five dollars (\$5.00) on each one thousand dollars
12 (\$1,000) of net taxable value, as that term is defined in the
13 Property Tax Code, which may be used for operation, maintenance
14 and capital improvements, in furtherance of the purposes of the
15 Tax Increment for Development Act;

16 B. a district may impose a property tax levy only
17 after authorization by a majority of votes cast by the owners
18 of real property and qualified resident electors of a district
19 in an election held in accordance with the Tax Increment for
20 Development Act; and

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

23 Section 14. [NEW MATERIAL] PROPERTY TAX LEVY RESCISSION
24 ELECTION.--

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

3 (1) thirty-three and one-third percent of the
4 number of persons who voted in the election for the imposition
5 of that property tax levy sign a petition to rescind the
6 property tax levy; and

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

10 B. The petition shall be filed with the district
11 board for verification of the signatures, as to both number and
12 qualifications of the persons signing. If the district board
13 verifies that the petition contains the requisite number of
14 signatures by persons qualified to sign the petition pursuant
15 to Subsection A of this section, the question of rescission of
16 the property tax levy imposed by the district shall be placed
17 on the ballot for:

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

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

23 C. A petition for rescission of a property tax levy
24 imposed by a district may be submitted only once each year
25 during the four-year period during which a property tax levy by

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1 a district is effective.

2 Section 15. [NEW MATERIAL] TAX INCREMENT FINANCING--GROSS
3 RECEIPTS TAX INCREMENT.--

4 A. Notwithstanding any law to the contrary, but in
5 accordance with the provisions of the Tax Increment for
6 Development Act, a tax increment development plan, as
7 originally approved or as later modified, may contain a
8 provision that a portion of certain gross receipts tax
9 increments collected within the tax increment development area
10 after the effective date of approval of the tax increment
11 development plan may be dedicated for the purpose of securing
12 gross receipts tax increment bonds pursuant to the Tax
13 Increment for Development Act.

14 B. As to a district formed by a municipality, a
15 portion of any of the following gross receipts tax increments
16 may be paid by the state directly into a special fund of the
17 district to pay the principal of, the interest on and any
18 premium due in connection with the bonds of, loans or advances
19 to, or any indebtedness incurred by, whether funded, refunded,
20 assumed or otherwise, the authority for financing or
21 refinancing, in whole or in part, a tax increment development
22 project within the tax increment development area:

23 (1) municipal gross receipts tax authorized
24 pursuant to the Municipal Local Option Gross Receipts Taxes
25 Act;

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

4 (3) municipal infrastructure gross receipts
5 tax authorized pursuant to the Municipal Local Option Gross
6 Receipts Taxes Act;

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

10 (5) municipal regional transit gross receipts
11 tax authorized pursuant to the Municipal Local Option Gross
12 Receipts Taxes Act;

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

15 (7) the state gross receipts tax.

16 C. As to a district formed by a county, all or a
17 portion of any of the following gross receipts tax increments
18 may be paid by the state directly into a special fund of the
19 district to pay the principal of, the interest on and any
20 premium due in connection with the bonds of, loans or advances
21 to or any indebtedness incurred by, whether funded, refunded,
22 assumed or otherwise, the district for financing or
23 refinancing, in whole or in part, a tax increment development
24 project within the tax increment development area:

25 (1) county gross receipts tax authorized

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

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

5 (3) county infrastructure gross receipts tax
6 authorized pursuant to the County Local Option Gross Receipts
7 Taxes Act;

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

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

14 (6) the state gross receipts tax.

15 D. The gross receipts tax increment generated by
16 the imposition of municipal or county local option gross
17 receipts taxes specified by statute for particular purposes may
18 nonetheless be dedicated for the purposes of the Tax Increment
19 for Development Act if intent to do so is set forth in the tax
20 increment development plan approved by the governing body, if
21 the purpose for which the increment is intended to be used is
22 consistent with the purposes set forth in the statute
23 authorizing the municipal or county local option gross receipts
24 tax.

25 E. An imposition of a gross receipts tax increment

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1 attributable to the imposition of a gross receipts tax by a
2 taxing entity may be dedicated for the purpose of securing
3 gross receipts tax increment bonds with the agreement of the
4 taxing entity, evidenced by a resolution adopted by a majority
5 vote of that taxing entity. A taxing entity shall not agree to
6 dedicate for the purposes of securing gross receipts tax
7 increment bonds more than seventy-five percent of its gross
8 receipts tax increment attributable to the imposition of gross
9 receipts taxes by the taxing entity. A resolution of the
10 taxing entity to dedicate a gross receipts tax increment or to
11 increase the dedication of a gross receipts tax increment shall
12 become effective only on January 1 or July 1 of the calendar
13 year.

14 F. An imposition of a gross receipts tax increment
15 attributable to the imposition of the state gross receipts tax
16 within a district may be dedicated for the purpose of securing
17 gross receipts tax increment bonds with the agreement of the
18 state board of finance, evidenced by a resolution adopted by a
19 majority vote of the state board of finance. The state board
20 of finance shall not agree to dedicate more than seventy-five
21 percent of the gross receipts tax increment attributable to the
22 imposition of the state gross receipts tax within the district.
23 The resolution of the state board of finance shall become
24 effective only on January 1 or July 1 of the calendar year and
25 shall find that:

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

3 (2) based upon review by the state board of
4 finance of the applicable tax increment development plan, the
5 dedication by the state board of finance of a portion of the
6 gross receipts tax increment attributable to the imposition of
7 the state gross receipts tax within the district for use in
8 meeting the required goals of the tax increment plan is
9 reasonable and in the best interest of the state; and

10 (3) the use of the state gross receipts tax is
11 likely to stimulate the creation of jobs, economic
12 opportunities and general revenue for the state through the
13 addition of new businesses to the state and the expansion of
14 existing businesses within the state.

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

21 (1) a tax increment development plan has been
22 approved that contains a provision for the allocation of a
23 gross receipts tax increment;

24 (2) any outstanding bonds of the district have
25 been paid off; and

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1 (3) the purposes of the district have
2 otherwise been achieved.

3 Section 16. [NEW MATERIAL] BONDING AUTHORITY--GROSS
4 RECEIPTS TAX INCREMENT.--

5 A. A district may issue gross receipts tax
6 increment revenue bonds, the pledged revenue for which is a
7 gross receipts tax increment, for any one or more of the
8 purposes authorized by the Tax Increment for Development Act.

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

23 C. Revenues in excess of the annual principal and
24 interest due on gross receipts tax increment bonds secured by a
25 pledge of gross receipts tax increment revenue may be

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1 accumulated in a debt service reserve account. The district
2 may appoint a commercial bank trust department to act as paying
3 agent or trustee of the gross receipts tax increment revenue
4 and to administer the payment of principal of and interest on
5 the bonds.

6 D. Except as otherwise provided in the Tax
7 Increment for Development Act, gross receipts tax increment
8 bonds:

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

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

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

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

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

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

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

3 (1) declares the necessity for issuing gross
4 receipts tax increment bonds;

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

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

11 Section 17. [NEW MATERIAL] PROPERTY TAX INCREMENT
12 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 taxing
14 entity shall not be dedicated for the purpose of securing
15 property tax increment bonds without the agreement of the
16 taxing entity. The agreement shall be evidenced by a
17 resolution adopted by a majority vote of that taxing entity. A
18 taxing entity shall not agree to dedicate for the purpose of
19 securing property tax increment bonds more than seventy-five
20 percent of the property tax increment attributable to a
21 property tax levy by that taxing entity.

22 Section 18. [NEW MATERIAL] BONDING AUTHORITY--PROPERTY
23 TAX INCREMENT.--

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

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

12 C. The district board shall give notice of the time
13 and place of holding the election and the purpose for which the
14 property tax increment bonds are to be issued. Notice of a
15 property tax increment bond election shall be given as required
16 by the Tax Increment for Development Act.

17 D. The question shall state the purpose for which
18 the property tax increment bonds are to be issued and the
19 amount of the issue. If property tax increment bonds are to be
20 issued for more than one purpose, a separate question shall be
21 submitted to the voters for each purpose to be voted upon. The
22 ballots shall contain words indicating the purpose of the bond
23 issued and a place for a vote in favor of or in opposition to
24 each property tax increment bond issue. The ballots shall be
25 deposited in a separate ballot box, unless voting machines are

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1 used.

2 E. Except as otherwise provided in the Tax
3 Increment for Development Act, property tax increment bonds:

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

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

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

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

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

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

21 F. Except as otherwise provided by law, the
22 district board shall determine the denominations, places of
23 payment, terms and conditions and the form of property tax
24 increment bonds.

25 G. The secretary and treasurer of the district

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1 board shall sign property tax increment bonds.

2 H. The property tax increment bonds may be executed
3 in the manner provided by the Uniform Facsimile Signature of
4 Public Officials Act.

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

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

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

16 (2) purpose of reducing interest costs or
17 effecting other economies; or

18 (3) purpose of modifying or eliminating
19 restrictive contractual limitations:

20 (a) pertaining to the issuance of
21 additional bonds; or

22 (b) concerning the outstanding bonds or
23 facilities relating to the outstanding bonds.

24 B. A district board may pledge irrevocably for the
25 payment of interest, principal and premium, if any, on

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1 refunding bonds the appropriate pledged revenues, which may be
2 pledged to an original issue of bonds.

3 C. Refunding bonds may be issued separately or in
4 combination in one series or more.

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

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

19 F. The proceeds of refunding bonds, including
20 accrued interest and premiums appertaining to the sale of
21 refunding bonds, shall be immediately applied to the retirement
22 of the bonds being refunded or placed in escrow in a commercial
23 bank or trust company that possesses and exercises trust powers
24 and that is a member of the federal deposit insurance
25 corporation. The proceeds shall be applied to the principal

1 of, interest on and any prior redemption premium due in
2 connection with the bonds being refunded; provided that the
3 refunding bond proceeds, including accrued interest and
4 premiums appertaining to a sale of refunding bonds, may be
5 applied to the establishment and maintenance of a reserve fund
6 and to the payment of expenses incidental to the refunding and
7 the issuance of the refunding bonds, the interest on those
8 bonds and the principal of those bonds, or both interest and
9 principal as the district board determines. This section does
10 not require the establishment of an escrow if the refunded
11 bonds and the amounts necessary to retire the refunded bonds
12 within that time are deposited with the paying agent for the
13 refunded bonds. Any such escrow shall not necessarily be
14 limited to proceeds of refunding bonds but may include other
15 money available for its purpose. Proceeds in escrow pending
16 such use may be invested or reinvested in bills, certificates
17 of indebtedness, notes or bonds that are direct obligations of,
18 or the principal and interest of which obligations are
19 unconditionally guaranteed by, the United States or in
20 certificates of deposit of banks that are members of the
21 federal deposit insurance corporation; provided that the par
22 value of the certificates of deposit is collateralized by a
23 pledge of obligations or by a pledge of payment that is
24 unconditionally guaranteed by the United States; and further
25 provided that the par value of those obligations is at least
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1 seventy-five percent of the par value of the certificates of
2 deposit. Such proceeds and investments in escrow, together
3 with any interest or other income to be derived from any such
4 investment, shall be in an amount at all times sufficient as to
5 principal, interest, any prior redemption premium due and any
6 charges of the escrow agent payable therefrom to pay the bonds
7 being refunded as they become due at their respective
8 maturities or at any designated prior redemption date or dates
9 in connection with which the municipality shall exercise a
10 prior redemption option. A purchaser of a refunding bond
11 issued is not responsible for the application of the proceeds
12 by the district or any of its officers, agents or employees.

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

18 H. District refunding bonds:

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

22 (2) may be subject to prior redemption at the
23 district's option at a time or times and upon terms and
24 conditions with or without payment of premium or premiums, as
25 determined by the district board;

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

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

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

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

15 A. 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 B. 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 or property tax
10 increment bonds; unless the project to be financed with gross
11 receipts tax increment bonds or property tax increment bonds is
12 a metropolitan redevelopment project pursuant to the
13 Metropolitan Redevelopment Code.

14 C. 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 D. 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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underscored material = new
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1 district is located.

2 E. 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 F. 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. [NEW MATERIAL] APPROVAL REQUIRED FOR ISSUANCE
14 OF BONDS AGAINST STATE GROSS RECEIPTS TAX INCREMENTS.--In
15 addition to all other requirements of the Tax Increment for
16 Development Act, prior to a district board issuing bonds against
17 a gross receipts tax increment attributable to the imposition of
18 the state gross receipts tax within a district:

19 A. the New Mexico finance authority shall review the
20 proposed issuance of the bonds and determine that the proceeds
21 of the bonds will be used for a tax increment development
22 project in accordance with the district's tax increment
23 development plan and present the proposed issuance of the bonds
24 to the legislature for approval; and

25 B. the issuance of the bonds shall be specifically

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1 authorized by law.

2 Section 22. [NEW MATERIAL] EXEMPTION FROM TAXATION.--The
3 bonds authorized by the Tax Increment for Development Act and
4 the income from the bonds or any other instrument executed as
5 security for the bonds shall be exempt from all taxation by the
6 state or any political subdivision of the state.

7 Section 23. [NEW MATERIAL] PROTECTION FROM IMPAIRMENT.--
8 If the provisions set forth in the Tax Increment for
9 Development Act impair the ability of a municipality, county or
10 other public body to meet its principal or interest payment
11 obligations for revenue bonds or general obligation bonds
12 outstanding prior to the effective date of the Tax Increment
13 for Development Act that are secured by the pledge of all or
14 part of the municipality, county or other public body's revenue
15 gross receipts tax or property tax, then the amount otherwise
16 payable to the district pursuant to the Tax Increment for
17 Development Act shall be paid instead to the municipality,
18 county or public body in an amount sufficient to meet any
19 required payment.

20 Section 24. [NEW MATERIAL] TAX INCREMENT ACCOUNTING
21 PROCEDURES.--A district board shall separately account for all
22 revenues and indebtedness based on gross receipts tax
23 increments and property tax increments. The district board
24 shall individually account for all gross receipts tax
25 increments.

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1 Section 25. [NEW MATERIAL] MODIFICATION OF TAX INCREMENT
2 DEVELOPMENT AREA BOUNDARIES OR TAX INCREMENT DEVELOPMENT
3 PLAN.--

4 A. After an election to form a district, an area
5 may be eliminated from the tax increment development area only
6 following a hearing conducted upon notice given to the owners
7 of land in the tax increment development area in the manner
8 prescribed for the formation hearing, adoption of a resolution
9 of intention to do so by the district board and voter approval
10 by the owners and resident qualified electors as provided in
11 the Tax Increment for Development Act. Real property within
12 the tax increment development area that is subject to the lien
13 of property taxes, special levies or other charges imposed
14 pursuant to the Tax Increment for Development Act shall not be
15 eliminated from the district while there are bonds outstanding
16 that are payable by those taxes, special levies or charges.

17 B. At any time after adoption of a resolution
18 creating a district, an area may be added to the district upon
19 the approval of the owners of real property in the proposed
20 additional area and the resident qualified electors residing
21 therein, as well as the owners of real property in the district
22 and resident qualified electors, in the same manner as required
23 for the formation of a district.

24 C. The district board, following a hearing
25 conducted upon notice given to the owners of real property

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1 located in the district in the manner prescribed for the
2 formation hearing, may, subject to the approval of the
3 governing body that approved the district's tax increment
4 development plan, amend the tax increment development plan in
5 any manner that it determines will not substantially reduce the
6 benefits to be received by any land in the district from the
7 public infrastructure on completion of the work to be performed
8 under the general plan. An election shall not be required
9 solely for the purposes of this subsection.

10 Section 26. [NEW MATERIAL] TERMINATION OF TAX INCREMENT
11 DEVELOPMENT DISTRICT.--

12 A. A district shall be terminated by a resolution
13 of the district board that all of the following conditions
14 exist:

15 (1) all improvements owned by the district
16 have been, or provision has been made for all improvements to
17 be, conveyed to the municipality or county in which the
18 district is located;

19 (2) either the district does not have any
20 outstanding bond obligations or the municipality or county has
21 assumed all of the outstanding bond obligations of the
22 district; and

23 (3) all obligations of the district pursuant
24 to any agreement with the municipality or county have been
25 satisfied.

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1 B. Property in the district that is subject to the
 2 lien of district taxes shall remain subject to the lien for the
 3 payment of bonds, notwithstanding termination of the district.
 4 The district shall not be terminated if any bonds of the
 5 district remain outstanding unless an amount of money
 6 sufficient, together with investment income thereon, to make
 7 all payments due on the bonds either at maturity or prior
 8 redemption has been deposited with a trustee or escrow agent
 9 and pledged to the payment and redemption of the bonds. The
 10 district may continue to operate after termination only as
 11 needed to collect money and make payments on any outstanding
 12 bonds.

13 Section 27. [NEW MATERIAL] DEDICATION OF GROSS RECEIPTS
 14 TAX INCREMENT--NOTICE TO TAXATION AND REVENUE DEPARTMENT.--If
 15 the state board of finance or a taxing entity approves a
 16 dedication or increase in the dedication of a portion of a
 17 gross receipts tax increment to a district, the state board of
 18 finance or the taxing entity shall notify the taxation and
 19 revenue department of that approval at least one hundred twenty
 20 days before the effective date of the dedication or increase in
 21 the dedication.

22 Section 28. [NEW MATERIAL] BOND TERM EXPIRATION.--The
 23 terms of bonds issued pursuant to the Tax Increment for
 24 Development Act for a district, including refunding bonds,
 25 shall expire not more than twenty-five years after the date

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1 that the first bonds are issued for the district.

2 Section 29. A new section of the Tax Administration Act
3 is enacted to read:

4 "[NEW MATERIAL] DISTRIBUTIONS--TAX INCREMENT DEVELOPMENT
5 DISTRICTS.--A distribution to a tax increment development
6 district shall be made by the department, in accordance with a
7 notice that is filed pursuant to the Tax Increment for
8 Development Act with respect to a taxing entity's dedication of
9 a portion of a gross receipts tax increment to the tax
10 increment development district."

11 Section 30. Section 7-1-6.4 NMSA 1978 (being Laws 1983,
12 Chapter 211, Section 9, as amended) is amended to read:

13 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS
14 TAX.--

15 A. Except as provided in Subsection B of this
16 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
17 shall be made to each municipality in an amount, subject to any
18 increase or decrease made pursuant to Section 7-1-6.15 NMSA
19 1978, equal to the product of the quotient of one and two
20 hundred twenty-five thousandths percent divided by the tax rate
21 imposed by Section 7-9-4 NMSA 1978 [~~times~~] multiplied by the
22 net receipts for the month attributable to the gross receipts
23 tax from business locations:

- 24 (1) within that municipality;
25 (2) on land owned by the state, commonly known

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1 as the "state [~~fair grounds~~] fairgrounds", within the exterior
2 boundaries of that municipality;

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

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

10 (a) the contract describes an area in
11 which the municipality is required to perform services and
12 requires the municipality to perform services that are
13 substantially the same as the services the municipality
14 performs for itself; and

15 (b) the governing body of the
16 municipality has submitted a copy of the contract to the
17 secretary.

18 B. If the reduction made by Laws 1991, Chapter 9,
19 Section 9 to the distribution under this section impairs the
20 ability of a municipality to meet its principal or interest
21 payment obligations for revenue bonds outstanding prior to July
22 1, 1991 that are secured by the pledge of all or part of the
23 municipality's revenue from the distribution made under this
24 section, then the amount distributed pursuant to this section
25 to that municipality shall be increased by an amount sufficient
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1 to meet any required payment, provided that the distribution
2 amount does not exceed the amount that would have been due that
3 municipality under this section as it was in effect on June 30,
4 1992.

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

10 Section 31. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
11 Chapter 211, Section 17, as amended) is amended to read:

12 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION
13 GROSS RECEIPTS TAXES.--

14 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
15 shall be made to each municipality for which the department is
16 collecting a local option gross receipts tax imposed by that
17 municipality in an amount, subject to any increase or decrease
18 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
19 receipts attributable to the local option gross receipts tax
20 imposed by that municipality, less any deduction for
21 administrative cost determined and made by the department
22 pursuant to the provisions of the act authorizing imposition by
23 that municipality of the local option gross receipts tax and
24 any additional administrative fee withheld pursuant to
25 Subsection C of Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA

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1 1978.

2 B. A transfer pursuant to this section may be
 3 adjusted for a distribution made to a tax increment development
 4 district with respect to a portion of a gross receipts tax
 5 increment dedicated by a municipality pursuant to the Tax
 6 Increment for Development Act."

7 Section 32. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
 8 Chapter 211, Section 18, as amended) is amended to read:

9 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
 10 GROSS RECEIPTS TAXES.--

11 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
 12 shall be made to each county for which the department is
 13 collecting a local option gross receipts tax imposed by that
 14 county in an amount, subject to any increase or decrease made
 15 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
 16 receipts attributable to the local option gross receipts tax
 17 imposed by that county, less any deduction for administrative
 18 cost determined and made by the department pursuant to the
 19 provisions of the act authorizing imposition by that county of
 20 the local option gross receipts tax and any additional
 21 administrative fee withheld pursuant to Subsection C of Section
 22 7-1-6.41 NMSA 1978.

23 B. A transfer pursuant to this section may be
 24 adjusted for a distribution made to a tax increment development
 25 district with respect a portion of a gross receipts tax

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1 increment dedicated by a county pursuant to the Tax Increment
2 for Development Act."

3 Section 33. Section 7-1-6.46 NMSA 1978 (being Laws 2004,
4 Chapter 116, Section 1) is amended to read:

5 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
6 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES
7 DEDUCTION.--

8 A. A distribution pursuant to Section 7-1-6.1 NMSA
9 1978 shall be made to a municipality in an amount, subject to
10 any increase or decrease made pursuant to Section 7-1-6.15 NMSA
11 1978, equal to the sum of:

12 (1) the total deductions claimed pursuant to
13 Section 7-9-92 NMSA 1978 for the month by taxpayers from
14 business locations attributable to the municipality multiplied
15 by the sum of the combined rate of all municipal local option
16 gross receipts taxes in effect in the municipality for the
17 month plus one and two hundred twenty-five thousandths percent;
18 and

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

25 B. The distribution pursuant to Subsection A of

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

7 C. For the purposes of this section, "business
8 locations attributable to the municipality" means business
9 locations:

10 (1) within the municipality;

11 (2) on land owned by the state, commonly known
12 as the "state fairgrounds", within the exterior boundaries of
13 the municipality;

14 (3) outside the boundaries of the municipality
15 on land owned by the municipality; and

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

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

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1 (b) the governing body of the
2 municipality has submitted a copy of the contract to the
3 secretary.

4 D. A distribution pursuant to this section may be
5 adjusted for a distribution made to a tax increment development
6 district with respect to a portion of a gross receipts tax
7 increment dedicated by a municipality pursuant to the Tax
8 Increment for Development Act."

9 Section 34. Section 7-1-6.47 NMSA 1978 (being Laws 2004,
10 Chapter 116, Section 2) is amended to read:

11 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD
12 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

13 A. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made to a county in an amount, subject to any
15 increase or decrease made pursuant to Section 7-1-6.15 NMSA
16 1978, equal to the sum of:

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

23 (2) the total deductions claimed pursuant to
24 Section 7-9-92 NMSA 1978 for the month by taxpayers from
25 business locations in the county but not within a municipality

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1 multiplied by the combined rate of all county local option
2 gross receipts taxes in effect for the month that are imposed
3 in the county area not within a municipality;

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

10 (4) the total deductions claimed pursuant to
11 Section 7-9-93 NMSA 1978 for the month by taxpayers from
12 business locations in the county but not within a municipality
13 multiplied by the combined rate of all county local option
14 gross receipts taxes in effect for the month that are imposed
15 in the county area not within a municipality.

16 B. The distribution pursuant to Subsection A of
17 this section is in lieu of revenue that would have been
18 received by the county but for the deductions provided by
19 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall
20 be considered gross receipts tax revenue and shall be used by
21 the county in the same manner as gross receipts tax revenue,
22 including payment of gross receipts tax revenue bonds.

23 C. A distribution pursuant to this section may be
24 adjusted for a distribution made to a tax increment development
25 district with respect a portion of a gross receipts tax

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1 increment dedicated by a county pursuant to the Tax Increment
2 for Development Act."

3 Section 35. EFFECTIVE DATE.--The effective date of the
4 provisions of Sections 15 and 16 of this act is January 1,
5 2007.

6 Section 36. EMERGENCY.--It is necessary for the public
7 peace, health and safety that this act take effect immediately.