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HOUSE BILL 392

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Elias Barela

AN ACT

RELATING TO TAX INCREMENT DEVELOPMENT DISTRICTS; DEFINING AND ESTABLISHING PROCEDURES FOR GREENFIELD TAX INCREMENT DEVELOPMENT DISTRICTS; PROVIDING FOR EXPANDED NOTICE ABOUT AND OVERSIGHT OF TAX INCREMENT DEVELOPMENT DISTRICTS; CREATING A TASK FORCE; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

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

"5-15-1. SHORT TITLE.--~~[Sections 1 through 27 of this act]~~ Chapter 5, Article 15 NMSA 1978 may be cited as the "Tax Increment for Development Act"."

Section 2. Section 5-15-3 NMSA 1978 (being Laws 2006, Chapter 75, Section 3) is amended to read:

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

2 A. "base gross receipts taxes" means:

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

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

18 B. "base property taxes" means:

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

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1 area is added to an existing tax increment development area,  
2 "base property taxes" means that portion of property taxes  
3 produced by the total of all property tax levied at the rate  
4 fixed each year by each governing body levying a property tax  
5 upon the assessed value of taxable property within the tax  
6 increment development area on the date of the modification of  
7 the tax increment development plan and designated by the  
8 governing body to be available as part of the property tax  
9 increment; and

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

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

19 D. "district" means a tax increment development  
20 district;

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

24 F. "enhanced services" means public services  
25 provided by a municipality or county within the district at a

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1 higher level or to a greater degree than otherwise available to  
2 the land located in the district from the municipality or  
3 county, including such services as public safety, fire  
4 protection, street or sidewalk cleaning or landscape  
5 maintenance in public areas; provided that "enhanced services"  
6 does not include the basic operation and maintenance related to  
7 infrastructure improvements financed by the district pursuant  
8 to the Tax Increment for Development Act;

9 G. "governing body" means the city council or city  
10 commission of a city, the board of trustees or council of a  
11 town or village or the board of county commissioners of a  
12 county;

13 H. "greenfield tax increment development district"  
14 means a tax increment development district that is described in  
15 a tax increment development plan that involves land, the  
16 majority of which has not been previously developed and is not  
17 currently served by municipal or county public infrastructure  
18 and for which the tax increment development plan primarily  
19 relies on the development of new residential and commercial  
20 structures rather than the redevelopment of existing  
21 residential and commercial structures;

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

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1 development district and distributed to the district in the  
2 same manner as distributions are made under the provisions of  
3 the Tax Administration Act;

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

8 [~~J.~~] K. "local government" means a municipality or  
9 county;

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

15 [~~L.~~] M. "municipality" means an incorporated city,  
16 town or village;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (10) natural gas distribution facilities;

18 (11) lighting systems;

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

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

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

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1 renovated;

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

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

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

10 (18) workforce housing; and

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

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

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

24 [~~U.~~] V. "sustainable development" means land  
25 development that achieves sustainable economic and social goals

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

5 [V-] W. "tax increment development area" means the  
6 land included within the boundaries of a tax increment  
7 development district;

8 [W-] X. "tax increment development district" means  
9 a district formed for the purposes of carrying out tax  
10 increment development projects;

11 [X-] Y. "tax increment development plan" means a  
12 plan for the undertaking of a tax increment development  
13 project;

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

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

23 (2) demolition and removal of buildings and  
24 improvements and installation, construction or reconstruction  
25 of streets, utilities, parks, playgrounds and improvements

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

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

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

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

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

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

23 [Z.] AA. "taxing entity" means the governing body  
24 of a political subdivision of the state, the gross receipts tax  
25 increment or property tax increment of which may be used for a

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1 tax increment development project; and

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

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

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

21 Section 3. Section 5-15-4 NMSA 1978 (being Laws 2006,  
22 Chapter 75, Section 4) is amended to read:

23 "5-15-4. RESOLUTION FOR FORMATION OF A DISTRICT.--

24 A. A tax increment development plan may be approved  
25 by the governing body of the municipality or county within

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

18 B. A governing body may adopt a resolution on its  
19 own motion upon its finding that a need exists for the  
20 formation of a district.

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

22 (1) the area or areas to be included within  
23 the boundaries of the district;

24 (2) the purposes for which the district is to  
25 be formed;

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1 (3) a statement that a tax increment  
2 development plan is on file with the clerk of the governing  
3 body and that the plan includes a map depicting the boundaries  
4 of the tax increment development area and the real property  
5 proposed to be included in the area;

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

8 (5) identification of gross receipts tax  
9 increment and property tax increment financing mechanisms  
10 proposed;

11 (6) identification of gross receipts tax  
12 increments and property tax increments proposed to secure  
13 proposed gross receipts tax increment bonds or property tax  
14 increment bonds;

15 (7) requirement of a public hearing for the  
16 formation of the district and notice of the hearing;

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

21 (9) a reference to the Tax Increment for  
22 Development Act.

23 D. A resolution may direct that, prior to holding a  
24 hearing on formation of a district, petitioners for the  
25 formation of a district prepare a study of the feasibility, the

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1 financing and the estimated costs of improvements, services and  
2 benefits to result from the formation of the proposed district.  
3 The governing body may require those petitioners to deposit  
4 with the clerk or treasurer of the governing body an amount  
5 equal to the estimated costs of conducting the study and other  
6 estimated formation costs. The deposit shall be reimbursed  
7 from the proceeds from the sale of bonds issued by the tax  
8 increment development district if the district is formed and if  
9 gross receipts tax increment bonds or property tax increment  
10 bonds are issued by that district pursuant to the Tax Increment  
11 for Development Act.

12 E. A resolution adopted pursuant to this section  
13 shall direct that a public hearing on formation of the district  
14 be scheduled and that notice of the hearing be mailed and  
15 published.

16 F. A governing body of the municipality or county  
17 within which tax increment development projects are proposed  
18 that adopts a resolution to form a district shall notify the  
19 secretary of taxation and revenue, the secretary of finance and  
20 administration and the director of the legislative finance  
21 committee of the governing body's action within ten days  
22 following the date on which the resolution was adopted. A copy  
23 of the adopted resolution shall be included in the notice sent  
24 pursuant to this subsection."

25 Section 4. Section 5-15-6 NMSA 1978 (being Laws 2006,

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1 Chapter 75, Section 6) is amended to read:

2 "5-15-6. 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, no later than ten days  
19 prior to the hearing to:

20 (a) all owners of real property within  
21 the proposed tax increment development area [~~no later than ten~~  
22 ~~days prior to the hearing~~]; and

23 (b) the secretary of taxation and  
24 revenue, the secretary of finance and administration and the  
25 director of the legislative finance committee.

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C. The notice of the hearing shall contain:

- (1) the date, time and place of the hearing;
- (2) information regarding alternative methods for submission of objects or comments;
- (3) a statement that the formation of a district is proposed;
- (4) a map showing the boundaries of the proposed district; ~~and~~
- (5) a statement that a tax increment development plan is on file with the clerk of the governing body and may be reviewed upon request; and
- (6) a summary of the resolution as set forth in Subsection D of this section.

D. A summary of the resolution declaring the governing body's intent to form a tax increment development district shall be attached to a notice issued pursuant to this section. The clerk of the governing body shall mail a copy of the notice to each owner of real property within the proposed tax increment development area and to all other persons claiming an interest in the property who have filed a written request for a copy of the notice within the six months preceding or at any time following the adoption of the resolution. The clerk of the governing body shall publish a copy of the notice and resolution summary at least twice in a newspaper of general circulation in the municipality or county

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1 in which the proposed tax increment development district is  
2 located. The clerk of the governing body shall obtain an  
3 affidavit from that newspaper after each publication is made.  
4 The clerk of the governing body shall cause the affidavits to  
5 be placed in the official records of the municipality or  
6 county. The affidavits are conclusive evidence of the mailing  
7 and publishing of notice. Notice shall not be held invalid for  
8 failure of delivery to the addressee.

9 E. A clerk of a governing body who is informed of a  
10 transfer of ownership of real property within a proposed  
11 district and who obtains the name and address of the current  
12 property owner shall mail a copy of the notice and resolution  
13 as soon as practicable after learning of the transfer."

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

16 "5-15-9. FORMATION OF A DISTRICT.--

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

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

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

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

7 (4) the taxation and revenue department; ~~and~~

8 (5) the local government division of the  
9 department of finance and administration; and

10 (6) the director of the legislative finance  
11 committee.

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

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

19 Section 6. Section 5-15-10 NMSA 1978 (being Laws 2006,  
20 Chapter 75, Section 10) is amended to read:

21 "5-15-10. GOVERNANCE OF THE DISTRICT.--

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

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1           B. The district shall be governed by the governing  
2 body that adopted a resolution to form the district or by a  
3 five-member board composed of four members appointed by that  
4 governing body; provided, however, that the fifth member of the  
5 five-member board is the secretary of finance and  
6 administration or the secretary's designee with full voting  
7 privileges.

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

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

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

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

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

7 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX  
8 INCREMENT.--

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

19 B. As to a district formed by a municipality, a  
20 portion of any of the following gross receipts tax increments  
21 may be paid by the state directly into a special fund of the  
22 district to pay the principal of, the interest on and any  
23 premium due in connection with the bonds of, loans or advances  
24 to, or any indebtedness incurred by, whether funded, refunded,  
25 assumed or otherwise, the authority for financing or

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1 refinancing, in whole or in part, a tax increment development  
2 project within the tax increment development area:

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

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

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

12 (4) municipal capital outlay gross receipts  
13 tax authorized pursuant to the Municipal Local Option Gross  
14 Receipts Taxes Act;

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

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

20 (7) the state gross receipts tax.

21 C. As to a district formed by a county, all or a  
22 portion of any of the following gross receipts tax increments  
23 may be paid by the state directly into a special fund of the  
24 district to pay the principal of, the interest on and any  
25 premium due in connection with the bonds of, loans or advances

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1 to or any indebtedness incurred by, whether funded, refunded,  
2 assumed or otherwise, the district for financing or  
3 refinancing, in whole or in part, a tax increment development  
4 project within the tax increment development area:

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

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

10 (3) county infrastructure gross receipts tax  
11 authorized pursuant to the County Local Option Gross Receipts  
12 Taxes Act;

13 (4) county capital outlay gross receipts tax  
14 authorized pursuant to the County Local Option Gross Receipts  
15 Taxes Act;

16 (5) county regional transit gross receipts tax  
17 authorized pursuant to the County Local Option Gross Receipts  
18 Taxes Act; ~~and~~

19 (6) the amount distributed to counties  
20 pursuant to Section 7-1-6.47 NMSA 1978; and

21 (7) the state gross receipts tax.

22 D. The gross receipts tax increment generated by  
23 the imposition of municipal or county local option gross  
24 receipts taxes specified by statute for particular purposes may  
25 nonetheless be dedicated for the purposes of the Tax Increment

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1 for Development Act if intent to do so is set forth in the tax  
2 increment development plan approved by the governing body, if  
3 the purpose for which the increment is intended to be used is  
4 consistent with the purposes set forth in the statute  
5 authorizing the municipal or county local option gross receipts  
6 tax.

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

21 F. An imposition of a gross receipts tax increment  
22 attributable to the imposition of the state gross receipts tax  
23 within a district less the distributions made pursuant to  
24 Section 7-1-6.4 NMSA 1978 may be dedicated for the purpose of  
25 securing gross receipts tax increment bonds with the agreement

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1 of the state board of finance, evidenced by a resolution  
2 adopted by a majority vote of the state board of finance. The  
3 state board of finance shall ~~[not agree to dedicate more than~~  
4 ~~seventy-five percent of the gross receipts tax increment~~  
5 ~~attributable to the imposition of the state gross receipts tax~~  
6 ~~within the district; the resolution of the state board of~~  
7 ~~finance shall become]~~:

8 (1) approve dedication of no more than fifty  
9 percent of the gross receipts tax increment attributable to the  
10 imposition of the state gross receipts tax within the district  
11 or, if the proposal is for a greenfield tax increment  
12 development district, approve no more than twenty percent of  
13 the gross receipts tax increment attributable to the imposition  
14 of the state gross receipts tax within the district unless the  
15 tax increment development plan has committed to implementing  
16 the actions set forth in Section 5-15-15.1 NMSA 1978; provided  
17 that the state board of finance:

18 (a) shall approve a tax increment for  
19 the state gross receipts tax for any tax increment development  
20 district that allows the state to retain adequate gross  
21 receipts revenue to provide fully for the estimated costs of  
22 state services and programs that the state is required to  
23 provide to the tax increment development district; and

24 (b) may require the petitioners who  
25 submit a petition to the governing body requesting that a tax

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1 increment development district be created to fund an  
2 independent review of the application and that the petitioners  
3 may claim reimbursement for the actual costs of the independent  
4 review from the proceeds from the sale of bonds issued by the  
5 tax increment development district if the district is formed  
6 and if gross receipts tax increment bonds or property tax  
7 increment bonds are issued pursuant to the Tax Increment for  
8 Development Act; and

9 (2) adopt a resolution that becomes effective  
10 only on January 1 or July 1 of the calendar year and that shall  
11 [find that] state the following findings:

12 [~~1~~] (a) the state board of finance has  
13 reviewed the request for the use of the state gross receipts  
14 tax;

15 [~~2~~] (b) based upon review by the state  
16 board of finance of the applicable tax increment development  
17 plan, the dedication by the state board of finance of a portion  
18 of the gross receipts tax increment attributable to the  
19 imposition of the state gross receipts tax within the district  
20 for use in meeting the required goals of the tax increment plan  
21 is reasonable and in the best interest of the state; and

22 [~~3~~] (c) the use of the state gross  
23 receipts tax is likely to stimulate the creation of jobs,  
24 economic opportunities and general revenue for the state  
25 through the addition of new businesses to the state and the

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1 expansion of existing businesses within the state.

2 G. The governing body of the jurisdiction in which  
3 a tax increment development district has been established shall  
4 timely notify the assessor of the county in which the district  
5 has been established, the director of the legislative finance  
6 committee, the taxation and revenue department and the local  
7 government division of the department of finance and  
8 administration when:

9 (1) a tax increment development plan has been  
10 approved that contains a provision for the allocation of a  
11 gross receipts tax increment;

12 (2) any outstanding bonds of the district have  
13 been paid off; and

14 (3) the purposes of the district have  
15 otherwise been achieved."

16 Section 8. A new section of the Tax Increment for  
17 Development Act, Section 5-15-15.1 NMSA 1978, is enacted to  
18 read:

19 "5-15-15.1. [NEW MATERIAL] GREENFIELD TAX INCREMENT  
20 DEVELOPMENT DISTRICTS--POTENTIAL TO INCREASE INCREMENT ABOVE  
21 TWENTY PERCENT.--

22 A. A tax increment development plan for a  
23 greenfield tax increment development district may include the  
24 specific actions set forth in this section to increase the  
25 increment of state gross receipts tax above twenty percent that

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1 the district may dedicate to payment for securing gross  
2 receipts tax increment bonds with the agreement of the state  
3 board of finance. The maximum tax increment that may be  
4 approved by the state board of finance with inclusion of all of  
5 the actions set forth in this subsection is fifty percent of  
6 the state gross receipts tax generated from within the tax  
7 increment development district. Each of the following actions  
8 specified to be implemented in the tax increment development  
9 plan for a greenfield tax increment development district may  
10 provide for an additional ten percent increment of state gross  
11 receipts tax generated from within the tax increment  
12 development district, subject to approval of the state board of  
13 finance. The actions that may be specified are the following:

14 (1) dedicating land improved with  
15 infrastructure for public school facilities and contributing a  
16 one-time payment per dwelling unit for capital improvements to  
17 the public school facilities. The amount of the one-time  
18 payment shall be negotiated by the affected school district and  
19 the tax increment development district board;

20 (2) building a transit-oriented development  
21 that includes a park-ounce strategy, integrates all modes of  
22 transit and, if appropriate to the region within which the tax  
23 increment development district is located, provides a framework  
24 for a future mass transit system; and

25 (3) building a minimum of twenty percent of

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1 all dwelling units within the tax increment development  
2 district to be workforce housing that is either sold to or  
3 rented by the occupant in which:

4 (a) at least fifteen percent of all  
5 dwelling units shall be affordable workforce housing; and

6 (b) at least five percent of all  
7 dwelling units shall be mid-range workforce housing.

8 B. As used in this section:

9 (1) "affordable workforce housing" means  
10 dwelling units that are offered for sale or lease at a price  
11 that is affordable by and that are, in fact, sold or leased to  
12 households, the annualized income of which is eighty percent of  
13 the area median income;

14 (2) "area median income" means the most  
15 current area median income as adjusted for household size and  
16 determined by the United States department of housing and urban  
17 development for the municipality, county or other measurement  
18 area used by that agency that includes the proposed tax  
19 increment development area;

20 (3) "dwelling unit" means a single unit or a  
21 portion of a building designated as a residence providing  
22 complete, independent living facilities for one or more  
23 persons, including permanent provisions for living, sleeping,  
24 eating, cooking and sanitation;

25 (4) "mid-range workforce housing" means

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1 dwelling units that are offered for sale or lease, and that  
2 are, in fact, sold or leased to households, the annualized  
3 income of which is between eighty and one hundred thirty  
4 percent of the area median income; and

5 (5) "park-once strategy" means a land use  
6 strategy involving locating retail uses, higher-density  
7 housing, transit and public facilities in walkable, mixed-use  
8 centers that are easy to reach by car, transit and bicycle and  
9 are easy to walk around in once there."

10 Section 9. Section 5-15-16 NMSA 1978 (being Laws 2006,  
11 Chapter 75, Section 16) is amended to read:

12 "5-15-16. BONDING AUTHORITY--GROSS RECEIPTS TAX  
13 INCREMENT.--

14 A. A district may issue gross receipts tax  
15 increment revenue bonds, the pledged revenue for which is a  
16 gross receipts tax increment, for any one or more of the  
17 purposes authorized by the Tax Increment for Development Act.

18 B. A district may pledge irrevocably any or all of  
19 a gross receipts tax increment received by the district to the  
20 payment of the interest on and principal of the gross receipts  
21 tax increment bonds for any of the purposes authorized in the  
22 Tax Increment for Development Act. A law that imposes or  
23 authorizes the imposition of a municipal or county gross  
24 receipts tax or that affects the municipal or county gross  
25 receipts tax shall not be repealed, amended or otherwise

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1 directly or indirectly modified in any manner to adversely  
2 impair any outstanding gross receipts increment bonds that may  
3 be secured by a pledge of any municipal or county gross  
4 receipts tax increment, unless those outstanding bonds have  
5 been discharged in full or provision has been fully made for  
6 those bonds.

7 C. Revenues in excess of the annual principal and  
8 interest due on gross receipts tax increment bonds secured by a  
9 pledge of gross receipts tax increment revenue may be  
10 accumulated in a debt service reserve account; provided that  
11 revenue in excess of that needed to service bonds issued  
12 pursuant to the tax increment development plan and to provide a  
13 sufficient level of reserves, as determined by the district  
14 board of the district in consultation with the New Mexico  
15 finance authority, shall be returned to the taxing authority  
16 pursuant to procedures established by the taxing authority.

17 The district may appoint a commercial bank trust department to  
18 act as paying agent or trustee of the gross receipts tax  
19 increment revenue and to administer the payment of principal of  
20 and interest on the bonds.

21 D. Except as otherwise provided in the Tax  
22 Increment for Development Act, gross receipts tax increment  
23 bonds:

24 (1) may have interest, principal value or any  
25 part thereof payable at intervals or at maturity as may be

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1 determined by the governing body;

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

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

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

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

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

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

19 (1) declares the necessity for issuing gross  
20 receipts tax increment bonds;

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

24 (3) designates the sources of gross receipts  
25 taxes or portions thereof to be pledged to the repayment of the

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1 gross receipts tax increment bonds."

2 Section 10. Section 5-15-21 NMSA 1978 (being Laws 2006,  
3 Chapter 75, Section 21) is amended to read:

4 "5-15-21. APPROVAL REQUIRED FOR ISSUANCE OF BONDS AGAINST  
5 STATE GROSS RECEIPTS TAX INCREMENTS.--In addition to all other  
6 requirements of the Tax Increment for Development Act, prior to  
7 a district board issuing bonds against a gross receipts tax  
8 increment attributable to the imposition of the state gross  
9 receipts tax within a district:

10 A. the New Mexico finance authority shall review  
11 the proposed issuance of the bonds and determine that the  
12 proceeds of the bonds will be used for a tax increment  
13 development project in accordance with the district's tax  
14 increment development plan and present the proposed issuance of  
15 the bonds to the legislature for approval; and

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

18 Section 11. Section 5-15-24 NMSA 1978 (being Laws 2006,  
19 Chapter 75, Section 24) is amended to read:

20 "5-15-24. TAX INCREMENT ACCOUNTING PROCEDURES.--

21 A. A district board shall separately account for  
22 all 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           B. A district board shall account separately for  
2 all expenditures made from revenue from gross receipts tax  
3 increments or from the proceeds of the gross receipts tax  
4 increment bonds and property tax increment bonds issued for the  
5 tax increment development district.

6           C. A district board shall work with the department  
7 of finance and administration, the legislative finance  
8 committee and the appropriate taxing authority financial  
9 officer to establish annually the total value of the state and  
10 local economic incentives provided to entities within the tax  
11 increment development district, including industrial revenue  
12 bonds, all relevant tax exemptions, credits or deductions, job  
13 training incentives and capital outlay appropriations.

14           D. By October 1 of each year, annual reports of the  
15 accounting by the district board made pursuant to this section  
16 shall be submitted by the district board to the legislative  
17 finance committee, the department of finance and administration  
18 and the chief financial officer of each county and municipality  
19 in which the district is located."

20           Section 12. [NEW MATERIAL] TAX INCREMENT FINANCING TASK  
21 FORCE CREATED--MEMBERSHIP--DUTIES.--

22           A. The "tax increment financing task force" is  
23 created. The task force shall function from the date of its  
24 appointment until June 30, 2010.

25           B. The task force is composed of the following

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1 members:

2 (1) the secretary of finance and  
3 administration or the secretary's designee;

4 (2) the secretary of taxation and revenue or  
5 the secretary's designee;

6 (3) the chief executive officer of the New  
7 Mexico finance authority or the chief executive officer's  
8 designee;

9 (4) the executive director of the New Mexico  
10 association of counties or the director's designee;

11 (5) the executive director of the New Mexico  
12 municipal league or the director's designee;

13 (6) a member to be appointed by the executive  
14 director of the American federation of state, county and  
15 municipal employees New Mexico council 18;

16 (7) a member to be appointed by the New Mexico  
17 chapter of the American planning association;

18 (8) a member to be appointed by the chair of  
19 the legislative finance committee;

20 (9) one member, to be appointed by the  
21 governor, to represent a neighborhood association within or  
22 adjacent to an existing or proposed tax increment development  
23 district;

24 (10) one member, to be appointed by the New  
25 Mexico legislative council, to represent a neighborhood

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1 association within or adjacent to an existing or proposed tax  
2 increment development district;

3 (11) one at-large public member to be  
4 appointed by the governor; and

5 (12) one at-large public member to be  
6 appointed by the New Mexico legislative council.

7 C. Vacancies on the task force shall be filled by  
8 appointment by the original appointing authority.

9 D. Members of the task force are entitled to per  
10 diem and mileage as provided in the Per Diem and Mileage Act  
11 and shall receive no other compensation, perquisite or  
12 allowance.

13 E. Staff for the task force shall be provided by  
14 the legislative council service, the legislative finance  
15 committee, the department of finance and administration and the  
16 taxation and revenue department.

17 F. The task force shall evaluate the implementation  
18 and effect of the Tax Increment for Development Act to date and  
19 the consequences of the creation of additional greenfield tax  
20 increment development districts, including at a minimum,  
21 examination of the following issues:

22 (1) the long-term fiscal impact on the general  
23 fund;

24 (2) the long-term fiscal impact on municipal  
25 and county funding for recurring programs;

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1 (3) the amount of state and local gross  
2 receipts taxes and property taxes committed to existing tax  
3 increment development districts;

4 (4) the experience of other states with tax  
5 increment financing, especially the inclusion of state-level  
6 taxes in tax increment financing;

7 (5) what the consequences have been of  
8 permitting tax increment development districts to enter into  
9 contracts for public improvements without regard to the  
10 provisions of the Procurement Code or local procurement  
11 regulations;

12 (6) the availability of other economic  
13 development incentives in existing tax increment development  
14 districts;

15 (7) what the consequences would be if tax  
16 increment revenues prove insufficient to cover debt service on  
17 tax increment development district bonds;

18 (8) whether approval by the local governing  
19 body that approved the district's tax increment development  
20 plan should be added as an explicit requirement for changes to  
21 tax increment development district boundaries and tax increment  
22 development district board membership; and

23 (9) other possible alternatives for providing  
24 financing for public infrastructure for new developments.

25 G. The task force shall report its findings and

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1 recommendations for legislation to the governor and the  
2 legislature by June 1, 2010.

3 Section 13. APPROPRIATION.--One hundred thousand dollars  
4 (\$100,000) is appropriated from the general fund to the  
5 legislative council service for expenditure in fiscal years  
6 2009 and 2010 to pay costs associated with the tax increment  
7 financing task force. Any unexpended or unencumbered balance  
8 remaining at the end of fiscal year 2010 shall revert to the  
9 general fund.

10 Section 14. EMERGENCY.--It is necessary for the public  
11 peace, health and safety that this act take effect immediately.