

SENATE BILL 566

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

INTRODUCED BY

Stuart Ingle

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO TAX INCREMENT DEVELOPMENT DISTRICTS; CLARIFYING THAT THE TAX INCREMENT FOR DEVELOPMENT ACT ONLY ALLOWS STATE GROSS RECEIPTS TAX INCREMENTS TO BE USED TO SECURE BONDS THAT ARE AUTHORIZED BY THE LEGISLATURE PURSUANT TO LAW; SFC→**LIMITING THE AMOUNT OF REVENUE FROM THE STATE GROSS RECEIPTS TAX THAT MAY BE DEDICATED; REQUIRING THE STATE BOARD OF FINANCE TO PRIORITIZE IN ITS CONSIDERATION NEW FULL-TIME ECONOMIC BASE JOB CREATION WHEN REVIEWING A TAX INCREMENT DEVELOPMENT PLAN FOR APPROVAL;**←SFC PROVIDING FOR A FILING FEE; REQUIRING TAX INCREMENT DEVELOPMENT DISTRICTS TO REPORT TO THE STATE BOARD OF .211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

FINANCE AND THE LEGISLATIVE FINANCE COMMITTEE.

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

SECTION 1. 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 Development Act:

A. "base gross receipts taxes" means:

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

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

B. "base property taxes" means:

(1) the portion of property taxes produced by

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

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

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

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

D. "district" means a tax increment development

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

district;

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

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

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

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

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

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

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

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

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

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

(1) that is primarily performed in New Mexico;

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

(3) that is:

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

(b) held by an employee that is employed

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight  
delete = → bold, red, highlight, strikethrough

at a regional, national or international headquarters operation or at an operation that primarily provides services for other operations of the qualifying entity that are located outside the state; and

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

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

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

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

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

[Q.] R. "property tax increment bonds" means bonds issued by a district in accordance with the Tax Increment for

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

Development Act, the pledged revenue for which is a property tax increment;

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

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

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

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

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

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

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight↔  
delete = →bold, red, highlight, strikethrough↔

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

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

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

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

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

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

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

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

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

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

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

(18) workforce housing; and

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

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

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

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

[V.] W. "tax increment development area" means the land included within the boundaries of a tax increment

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

development district;

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

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

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

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

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

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

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

Act;

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

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

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

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

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

~~[AA.]~~ BB. "workforce housing" means decent, safe and sanitary dwellings, apartments, single-family dwellings or other living accommodations that are affordable for persons or families earning less than eighty percent of the median income within the county in which the tax increment development

.211383.5

underscoring material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight  
delete = → bold, red, highlight, strikethrough

project is located; provided that an owner-occupied housing unit is affordable to a household if the expected sales price is reasonably anticipated to result in monthly housing costs that do not exceed thirty-three percent of the household's gross monthly income; provided that:

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

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

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

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

A. [~~Notwithstanding any law to the contrary, but in accordance with the provisions of the Tax Increment for Development Act~~] A tax increment development plan, as originally approved or as later modified, may contain a provision that [~~a portion of certain~~] gross receipts tax increments collected within the tax increment development area after the effective date of approval of the tax increment

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

development plan may be dedicated for the purpose of securing gross receipts tax increment bonds pursuant to the Tax Increment for Development Act.

B. ~~[As to a district formed by a municipality, a portion of any of the following gross receipts tax increments may be paid by the state directly into a special fund of the district]~~ A municipality may dedicate SFC→a portion of←SFC a gross receipts tax increment from any of the following taxes to pay the principal of, the interest on and any premium due in connection with ~~[the bonds of, loans or advances to, or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the authority for financing or refinancing, in whole or in part]~~ SFC→the bonds of, loans or advances to, or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the authority for financing or refinancing, in whole or in part,←SFC SFC→~~gross receipts tax increment bonds issued to finance~~←SFC a tax increment development project within the tax increment development area SFC→~~;~~ provided that the ~~municipality has adopted a resolution dedicating the gross receipts tax increment for the purpose of securing gross receipts tax increment bonds~~←SFC:

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

(2) municipal environmental services gross

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act;

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

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

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

~~(6)]~~ (5) an amount distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978 [~~and~~

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

C. ~~[As to a district formed by a county, all or a portion of any of the following gross receipts tax increments may be paid by the state directly into a special fund of the district]~~ A county may dedicate SFC → a portion of ← SFC a gross receipts tax increment from any of the following taxes to pay the principal of, the interest on and any premium due in connection with [the bonds of, loans or advances to or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the district for financing or refinancing, in whole or in part] SFC → the bonds of, loans or advances to or any

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight ←  
delete = → bold, red, highlight, strikethrough ←

indebtedness incurred by, whether funded, refunded, assumed or otherwise, the district for financing or refinancing, in whole or in part, ←SFC SFC→ ~~gross receipts tax increment bonds issued to finance~~ ←SFC a tax increment development project within the tax increment development area SFC→; ~~provided that the county has adopted a resolution dedicating the gross receipts tax increment for the purpose of securing gross receipts tax increment bonds~~ ←SFC:

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

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

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

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

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

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

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

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = bold, blue, highlight  
delete = bold, red, highlight, strikethrough

D. Subject to the provisions of Subsection G of this section, the state board of finance may dedicate a gross receipts tax increment attributable to the state gross receipts tax to pay SFC→the financing and refinancing costs,←SFC the principal of, the interest on and any premium due in connection with gross receipts tax increment bonds issued to finance a tax increment development project within the tax increment development area; provided that:

(1) Sfl→beginning July 1, 2029←Sfl the increment from the SFC→state←SFC gross receipts tax is no more than the Sfl→lesser average←Sfl of:

(a) the increment from municipal option gross receipts taxes dedicated by resolution by the municipality, if the district is located in a municipality; Sfl→er and←SFC

(b) the increment from county option gross receipts taxes dedicated by resolution by the county; SFC→and←SFC

(2) the state board of finance has adopted a resolution dedicating an increment attributable to the state gross receipts tax for the purpose of securing gross receipts tax increment bonds pursuant to Subsection G of this section SFC→. ; and←SFC

SFC→(3) the dedication shall be conditioned on the gross receipts tax increment bonds being issued no later

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = bold, blue, highlight  
delete = bold, red, highlight, strikethrough

than four years after the state board of finance has adopted  
the resolution dedicating the increment. ←SFC

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

[E.] F. An imposition of a gross receipts tax increment attributable to [the imposition of] a gross receipts tax by a taxing entity may be dedicated for the purpose of securing gross receipts tax increment bonds with the agreement of the taxing entity, evidenced by a resolution adopted by a majority vote of that taxing entity. A taxing entity shall not agree to dedicate for the purposes of securing gross receipts tax increment bonds more than seventy-five percent of its gross receipts tax increment attributable to [the imposition of] gross receipts taxes by the taxing entity. A resolution of the taxing entity to dedicate a gross receipts tax increment or to increase the dedication of a gross receipts tax increment shall become effective only on January 1 or July 1 of the calendar

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

year.

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

G. The state board of finance shall condition a dedication of a gross receipts tax increment attributable to the state gross receipts tax on the approval required pursuant to Section 5-15-21 NMSA 1978 Hf1→SFC→~~and that the gross receipts tax increment bonds secured by a portion of the state gross receipts tax shall be issued no later than four years after the state board of finance has adopted the resolution making the dedication~~←SFC←Hf1 Hf1→and that the initial gross receipts tax increment bonds issuance secured by a portion of the gross receipts tax increment attributable to the state gross receipts tax shall be issued no later than four years after the state board of finance has adopted the resolution making the dedication←Hf1. Subject to the limitations provided in Subsection D of this section, the state board of finance shall not agree to dedicate more than seventy-five percent of the gross receipts tax increment attributable to ~~the imposition of~~ the state gross receipts tax within the

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = bold, blue, highlight  
delete = bold, red, highlight, strikethrough

district. The resolution of the state board of finance shall become effective [~~only~~] on January 1 or July 1 of the calendar year following the notification period pursuant to Section 5-15-27 NMSA 1978 and shall find that:

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

(2) based upon review by the state board of finance of the applicable tax increment development plan, the dedication by the state board of finance of [~~a portion of~~] SFC→**a portion of**←SFC the gross receipts tax increment [~~attributable to the imposition of the state gross receipts tax~~] within the district for use in meeting the required goals of the tax increment plan is reasonable and in the best interest of the state; and

(3) based upon the review by the state board of finance, the use of the state gross receipts tax is likely to stimulate the creation of jobs, economic opportunities and general revenue for the state through the addition of new businesses to the state and the expansion of existing businesses within the state; provided that, when reviewing the applicable tax increment development plan to create jobs and economic opportunities, the state board of finance shall Hf1→**only**←Hf1\_SFC→**consider** **prioritize in its consideration**←SFC net, new full-time economic base jobs that would not have occurred on a similar scale and time line but for the use of

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

the state gross receipts tax increment. The benefit to be evaluated is the marginal benefit of the speed-up in time or the incremental change in job creation above expected normal growth and shall exclude retail jobs, call center jobs and service jobs where the customer is typically on site.

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

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

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

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

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

"5-15-15.1. [NEW MATERIAL] FILING FEE FOR EVALUATING USE OF STATE GROSS RECEIPTS TAX INCREMENT.--Prior to approval of a dedication of a gross receipts tax increment attributable to the state gross receipts tax by the state board of finance pursuant to Section 5-15-15 NMSA 1978, a tax increment

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight↔  
delete = →bold, red, highlight, strikethrough↔

development district shall submit a filing fee to the state board of finance to pay the reasonable costs, as determined by the department of finance and administration, of evaluating the tax increment development plan and the district's requested use of a state gross receipts tax increment."

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

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

A. A district may issue gross receipts tax increment revenue bonds, the pledged revenue for which is a gross receipts tax increment dedicated in accordance with the provisions of the Tax Increment for Development Act, for any one or more of the purposes authorized by [~~the Tax Increment for Development~~] that act.

B. A district may pledge irrevocably [~~any or all of~~] the revenue from a gross receipts tax increment received by the district to the payment of the interest on and principal of the gross receipts tax increment bonds for any of the purposes authorized in the Tax Increment for Development Act. A law that imposes or authorizes the imposition of a municipal or county gross receipts tax or that affects the municipal or county gross receipts tax shall not be repealed, amended or otherwise directly or indirectly modified in any manner to adversely impair any outstanding gross receipts tax increment

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

bonds that may be secured by a pledge of any municipal or county option gross receipts tax increment, unless those outstanding bonds have been discharged in full or provision has been fully made for those bonds.

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

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

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

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

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

(4) may be serial in form and maturity, may

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

consist of one bond payable at one time or in installments or may be in another form determined by the district board;

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

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

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

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

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

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

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

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

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

(1) the state gross receipts tax without:

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

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

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

(2) a gross receipts tax imposed by a taxing entity without the agreement of the taxing entity as evidenced by a resolution adopted pursuant to Subsection B Hf1→or C←Hf1 of Section 5-15-15 NMSA 1978.

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

~~[B-]~~ C. Prior to the issuance of indebtedness

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

evidenced by the gross receipts tax increment bonds or property tax increment bonds issued by a district pursuant to the Tax Increment for Development Act, the property owners within the district shall contribute a minimum of twenty percent of the initial public infrastructure costs, which may be reimbursed with proceeds of gross receipts tax increment or property tax increment bonds; unless the project to be financed with gross receipts tax increment bonds or property tax increment bonds is a metropolitan redevelopment project pursuant to the Metropolitan Redevelopment Code.

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

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

[E-] F. The indebtedness evidenced by the gross receipts tax increment bonds or property tax increment bonds

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = bold, blue, highlight  
delete = bold, red, highlight, strikethrough

shall be payable only from the special funds into which are deposited the gross receipts tax increments and property tax increments as set forth in the Tax Increment for Development Act.

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

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

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

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

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

proposed issuance of the bonds to the legislature for approval  
[and].

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

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

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

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

~~{(2)} A. update the district tax increment  
development plan to reflect the revision; and~~

~~{(3)} B. file with the clerk of the governing body  
that formed the district the revised tax increment development  
plan.~~

~~{B. Upon receipt of the revenue identified in  
Paragraph (1) of Subsection A of this section, the taxation and  
revenue department shall remit to the taxing entities that have  
dedicated a gross receipts tax increment to the district an~~

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = bold, blue, highlight  
delete = bold, red, highlight, strikethrough

~~amount of that revenue in proportion to the amount of gross receipts tax increment attributable to their dedication.]"~~←SFC

SECTION SFC→8 7←SFC. Section 5-15-27 NMSA 1978 (being Laws 2006, Chapter 75, Section 27) is amended to read:

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

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

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

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = bold, blue, highlight  
delete = bold, red, highlight, strikethrough

of finance shall notify the department of the approval."

SECTION SFC→9 8←SFC. A new section of the Tax Increment for Development Act is enacted to read:

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

SECTION SFC→10 9←SFC. Section 7-1-6.54 NMSA 1978 (being Laws 2006, Chapter 75, Section 29) is amended to read:

"7-1-6.54. DISTRIBUTIONS--TAX INCREMENT DEVELOPMENT DISTRICTS.--A distribution [~~to~~] for a tax increment development district shall be made by the department to a special fund of the district, in accordance with a notice that is filed pursuant to [~~the Tax Increment for Development Act~~] Section 5-15-27 NMSA 1978 with respect to a [~~taxing entity's~~] dedication of a [~~portion of a~~] gross receipts tax increment, to a special fund of the tax increment development district."

Hf1→SECTION 10. APPLICABILITY.--The provisions of this act shall not apply to dedications of gross receipts tax increments by the state board of finance made prior to the

.211383.5

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

effective date of this act.

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.←Hf1

- 30 -

.211383.5