

SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 246

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

AN ACT

RELATING TO SPECIAL DISTRICTS; AMENDING PROVISIONS PURSUANT TO
THE PUBLIC IMPROVEMENT DISTRICT ACT; ALLOWING ONLY A GOVERNING
BODY OF A MUNICIPALITY OR COUNTY TO IMPOSE A PROPERTY TAX,
SUBJECT TO AN ELECTION, OR A SPECIAL LEVY FOR PURPOSES OF THAT
ACT; AMENDING PROCEDURES FOR APPOINTING MEMBERS OF A DISTRICT
BOARD PURSUANT TO THE ACT; ALLOWING FOR THE FORMATION OF A
PUBLIC IMPROVEMENT DISTRICT AND OTHER ALLOWABLE ACTIONS WITHOUT
AN ELECTION BUT BY DETERMINATION OF OWNERS OF LAND IN THE
DISTRICT IN CERTAIN CIRCUMSTANCES UNLESS AN ELECTION IS
REQUIRED BY THE CONSTITUTION OF NEW MEXICO; REMOVING THE OPTION
TO IMPOSE A HIGHER RATE OF PROPERTY TAX IF APPROVED BY VOTERS
IN THE DISTRICT; AMENDING PROVISIONS PURSUANT TO THE TAX
INCREMENT FOR DEVELOPMENT ACT; ALLOWING ONLY A GOVERNING BODY
TO IMPOSE A PROPERTY TAX FOR PURPOSES OF THAT ACT; AMENDING
PROCEDURES FOR APPOINTING MEMBERS OF A DISTRICT BOARD PURSUANT

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1 TO THE ACT; CHANGING THE TERMS OF MEMBERS OF A DISTRICT BOARD;
2 SUBJECTING CONTRACTS ENTERED INTO BY A DISTRICT BOARD TO THE
3 PROCUREMENT CODE; PROVIDING FOR THE CONTINUATION AND EXPIRATION
4 OF TERMS OF DISTRICT BOARD MEMBERS APPOINTED OR ELECTED
5 PURSUANT TO THE PUBLIC IMPROVEMENT DISTRICT ACT AND THE TAX
6 INCREMENT FOR DEVELOPMENT ACT PRIOR TO THE EFFECTIVE DATE OF
7 THIS ACT; GIVING DISTRICT BOARDS PURSUANT TO THOSE ACTS THE
8 POWER OF EMINENT DOMAIN; AMENDING A SECTION OF THE AUDIT ACT TO
9 ALLOW A GOVERNMENT COMPONENT UNIT TO BE AUDITED SEPARATELY FROM
10 ITS PRIMARY GOVERNMENT ENTITY AND TO REQUIRE THAT THE COMPONENT
11 UNIT'S AUDIT BE INCLUDED IN THE PRIMARY GOVERNMENT ENTITY'S
12 AUDIT.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

17 "5-11-2. DEFINITIONS.--As used in the Public Improvement
18 District Act:

19 A. "allowable base" means the sum of the appraised
20 value, not including the value of public infrastructure
21 improvements, of:

22 (1) taxable property in a district that is
23 owned by persons other than the applicant or the applicant's
24 related entities;

25 (2) commercial, industrial or retail property

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1 in a district that is owned by the applicant or the applicant's
 2 related entities for which a certificate of completion has been
 3 issued; and

4 (3) all other taxable property in a district
 5 not described in Paragraphs (1) and (2) of this subsection, to
 6 the extent that its appraised value is less than or equal to
 7 the appraised value of property described in Paragraph (1) of
 8 this subsection;

9 B. "applicant" means a person that applies for the
 10 formation of a district pursuant to the Public Improvement
 11 District Act;

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

15 D. "county" means a county [~~that forms a public~~
 16 ~~improvement district pursuant to the Public Improvement~~
 17 ~~District Act in an unincorporated area or in an incorporated~~
 18 ~~area with the municipality's consent]~~ in this state, a combined
 19 city and county corporation, an incorporated county, an urban
 20 county or a single urban government;

21 E. "debt service" means the principal of, interest
 22 on and premium, if any, on the bonds, when due, whether at
 23 maturity or prior redemption; the fees and costs of registrars,
 24 trustees, paying agents or other agents necessary to handle the
 25 bonds; and the costs of credit enhancement or liquidity

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1 support;

2 F. "development agreement" means an agreement
3 between a property owner or developer and the county,
4 municipality or district, concerning the improvement of
5 specific property within the district, which agreement may be
6 used to establish obligations of the owner or developer, the
7 county or municipality or the district concerning the zoning,
8 subdivision, improvement, impact fees, financial
9 responsibilities and other matters relating to the development,
10 improvement and use of real property within a district;

11 G. "district" means a public improvement district
12 formed pursuant to the Public Improvement District Act by a
13 municipality or by a county in an unincorporated area or in an
14 incorporated area with the municipality's consent;

15 H. "district board" means the board of directors of
16 [the] a district [~~which shall be composed of members of the~~
17 ~~governing body, ex officio, or, at the option of the governing~~
18 ~~body, five directors appointed by the governing body of the~~
19 ~~municipality or county in which the district is located, until~~
20 ~~replaced by elected directors, which shall occur not later than~~
21 ~~six years after the date on which the resolution establishing~~
22 ~~the district is enacted, as provided in Section 5-11-9 NMSA~~
23 ~~1978~~];

24 I. "election" means an election held in compliance
25 with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978 and

1 pursuant to the provisions of the Local Election Act;

2 J. "enhanced services" means public services
 3 provided by a municipality or county within the district at a
 4 higher level or to a greater degree than otherwise available to
 5 the land located in the district from the municipality or
 6 county, including such services as public safety, fire
 7 protection, street or sidewalk cleaning or landscape
 8 maintenance in public areas. "Enhanced services" does not
 9 include the basic operation and maintenance related to
 10 infrastructure improvements financed by the district pursuant
 11 to the Public Improvement District Act;

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

15 L. "governing body" means the body or board that by
 16 law is constituted as the governing body of the municipality or
 17 county [~~in which~~] ordering formation of the [public
 18 improvement] district [~~is located]~~;

19 M. "municipality" means an incorporated city, town
 20 or village, [or town] whether incorporated under general act,
 21 special act, special charter or territorial charter, but does
 22 not mean a combined city and county corporation, an
 23 incorporated county or a single urban government;

24 N. "owner" means:

25 (1) the person who is listed as the owner of

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1 real property in the district on the current property tax
2 assessment roll in effect at the time that the action,
3 proceeding, hearing or election has begun. For purposes of
4 voting in elections held pursuant to the Public Improvement
5 District Act, when the owner of record title is a married
6 person, only one spouse in whose name title is held may vote at
7 such election. Where record title is held in more than one
8 name, each owner may vote the number of fractions of acres
9 represented by the owner's legal interest or proportionate
10 share of and in the lands within the district;

11 (2) the administrator or executor of an estate
12 holding record title to land within the district;

13 (3) the guardian of a minor or incompetent
14 person holding record title to land within the district,
15 appointed and qualified under the laws of the state;

16 (4) an officer of a corporation holding record
17 title to land within the district, which officer has been
18 authorized by resolution of the corporation's board of
19 directors to act with respect to such land;

20 (5) the general partner of a partnership
21 holding record title to land within the district;

22 (6) the trustee of a trust holding record
23 title to land within the district; or

24 (7) the manager or member of a limited
25 liability company holding record title to land within the

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1 district who has been authorized to represent the company;

2 O. "person" means any individual, estate, trust,
3 receiver, cooperative association, club, corporation, company,
4 firm, partnership, limited liability company, joint venture,
5 syndicate or other association;

6 P. "public infrastructure improvements" means all
7 improvements listed in this subsection and includes both on-
8 site improvements and off-site improvements that directly or
9 indirectly benefit the district. Such improvements include
10 necessary or incidental work, whether newly constructed,
11 renovated or existing, and all necessary or desirable
12 appurtenances. "Public infrastructure improvements" includes:

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

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

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

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

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

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

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

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

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

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

15 (10) natural gas distribution facilities;

16 (11) lighting systems;

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

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

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

25 (15) library and other public educational or

1 cultural facilities;

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

5 (17) inspection, construction management and
6 program management costs;

7 Q. "public infrastructure purpose" means:

8 (1) planning, design, engineering,
9 construction, acquisition or installation of public
10 infrastructure, including the costs of applications, impact
11 fees and other fees, permits and approvals related to the
12 construction, acquisition or installation of such
13 infrastructure;

14 (2) acquiring, converting, renovating or
15 improving existing facilities for public infrastructure,
16 including facilities owned, leased or installed by an owner;

17 (3) acquiring interests in real property or
18 water rights for public infrastructure, including interests of
19 an owner;

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

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

25 (6) funding and paying from bond proceeds

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1 fiscal, financial and legal consultant fees, trustee fees,
2 discount fees, district formation and election costs and all
3 costs of issuance of bonds issued pursuant to the Public
4 Improvement District Act, including fees and costs for bond
5 counsel, financial advisors, consultants and underwriters,
6 costs of obtaining credit ratings, bond insurance premiums,
7 fees for letters of credit and other credit enhancement costs
8 and printing costs;

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

11 (8) refinancing any outstanding bonds with new
12 bonds, including through the formation of a new public
13 improvement district; and

14 (9) incurring expenses of the district
15 incident to and reasonably necessary to carry out the purposes
16 specified in this subsection;

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

20 S. "special levy" means a levy imposed against real
21 property within a district that may be apportioned according to
22 direct or indirect benefits conferred upon affected real
23 property, as well as acreage, front footage, the cost of
24 providing public infrastructure for affected real property, or
25 other reasonable method, as determined by the governing body

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1 ~~[or district board, as applicable]; and~~

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

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

7 "5-11-3. RESOLUTION DECLARING INTENTION TO FORM
8 DISTRICT.--

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

24 (1) the area or areas to be included in the
25 district;

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

3 (3) that a general plan for the district is on
4 file with the clerk that includes a map depicting the
5 boundaries of the district and the real property proposed to be
6 included in the district, a general description of anticipated
7 improvements and their locations, general cost estimates,
8 proposed financing methods and anticipated tax levies, special
9 levies or charges, and that may include possible alternatives,
10 modifications or substitutions concerning locations,
11 improvements, financing methods and other information provided
12 in the general plan;

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

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

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

21 (7) that formation of the district may result
22 in the levy of property taxes or the imposition of special
23 levies to pay the costs of public infrastructure constructed by
24 the district and for their operation and maintenance and may
25 result in the assessment of fees or charges to pay the cost of

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1 providing enhanced services;

2 (8) a reference to the Public Improvement
3 District Act; and

4 (9) whether the district board will be
5 ~~[governed by a district board comprised]~~ initially composed of
6 the members of the governing body ~~[ex officio]~~ or ~~[comprised~~
7 ~~of]~~ five directors ~~[initially]~~ appointed by the governing body.

8 B. The resolution shall direct that a hearing on
9 formation of the district be scheduled and that notice be
10 mailed and published as provided in Section 5-11-4 NMSA 1978.

11 C. Before adopting a resolution pursuant to this
12 section, a general plan for the district shall be filed with
13 the clerk."

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

16 "5-11-6. ORDER FORMING DISTRICT--~~[FORMATION~~
17 ~~DETERMINATION]~~ ELECTION PROCEDURES--FORMATION DETERMINATION.--

18 A. After the hearing, the governing body shall
19 determine whether the district should be formed based upon the
20 interests, convenience or necessity of the owners, residents of
21 the district and citizens of the municipality or county in
22 which the proposed district would be located. If the governing
23 body determines that the district should be formed, it shall
24 adopt a resolution ordering that the district be formed,
25 deleting any property determined not to be directly or

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1 indirectly benefited by the district or modifying the general
2 plan and then ordering that a formation determination be
3 conducted and an election be held on the question whether to
4 form the district. A resolution ordering a formation of the
5 district shall require the owners to authorize by determination
6 the issuance of general obligation bonds and that an election
7 be called to submit the question of imposing a property tax to
8 pay debt service on the bonds pursuant to Section 5-11-19 NMSA
9 1978 to the qualified electors or declare that a special levy
10 may be imposed in the district in compliance with Section
11 5-11-20 NMSA 1978 and set a maximum levy for each class of
12 property. A resolution ordering a formation of the district
13 shall state that the district will be governed by a district
14 board consisting of members of the governing body [~~ex officio,~~
15 ~~or, upon determination of the governing body]~~ or the five
16 directors appointed [by the governing body] pursuant to Section
17 5-11-9 NMSA 1978, and shall contain the names or titles of the
18 five initial directors [and the terms of office of each]. If
19 the governing body appoints a district board, it shall appoint
20 [a] the initial treasurer and a clerk from the appointed
21 [~~members]~~ directors.

22 B. Before submitting the question of formation of
23 the district to the qualified electors of the proposed
24 district, a formation determination shall be conducted by the
25 governing body among the owners unless a petition is presented

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1 to the governing body pursuant to Subsection F of Section
2 5-11-7 NMSA 1978. [~~In the formation determination, each owner~~
3 ~~shall have the number of votes or portions of votes equal to~~
4 ~~the number of acres or portions of acres rounded upward to the~~
5 ~~nearest one-fifth of an acre owned by that owner in the~~
6 ~~submitted district.~~]

7 C. A formation or other determination shall not be
8 a local election for purposes of the Local Election Act or a
9 special election for purposes of the Special Election Act. The
10 governing body or the district board may establish local
11 procedures for noticing, conducting and canvassing
12 determinations, which may include determinations made by
13 unanimous written approval of the owners in affidavits executed
14 by the owners and confirmed in a review by the district board.
15 In a determination, each owner shall have one vote for each
16 one-fifth of an acre located within the district rounded upward
17 to the nearest one-fifth of an acre.

18 D. Should the formation determination by the owners
19 result in a three-fourths' majority vote in favor of formation,
20 the question shall also be submitted to a vote of the qualified
21 electors of the proposed district. The conduct of a formation
22 election by qualified electors shall meet the requirements of
23 Section 5-11-7 NMSA 1978.

24 E. The right of the qualified electors to vote on
25 the question of formation of the district shall not be assigned

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1 or delegated to the property owners, or related entities of the
2 property owners, signing a petition submitted to the governing
3 body for formation of a district."

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

6 "5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

7 A. ~~[Any]~~ Except as otherwise provided by this
8 section, an election by qualified electors pursuant to the
9 Public Improvement District Act shall be a nonpartisan election
10 called, conducted and canvassed pursuant to the provisions of
11 the ~~[Election Code]~~ Local Election Act.

12 B. In addition to those matters required for notice
13 as provided in the Local Election Act, the notice of election
14 shall state:

15 (1) if the election is a formation election,
16 the boundaries of the proposed district;

17 (2) if the election is a bond election, the
18 amount of bonds to be authorized for the district, the maximum
19 rate of interest to be paid on the bonds and the maximum term
20 of the bonds, not exceeding thirty years;

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

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1 (4) that a general plan is on file with the
 2 clerk;

3 (5) the purposes for which the property taxes
 4 or the special levies will be imposed, and the revenues raised
 5 will be used, including a description of the public
 6 improvements to be financed with tax revenues, special levies,
 7 district revenues or bond proceeds; and

8 (6) that the imposition of property taxes or
 9 special levies will result in a lien for the payment thereof on
 10 property within the district.

11 ~~[B. The district board, or in the case of a~~
 12 ~~formation election, the governing body, shall determine the~~
 13 ~~date of the election by passing a resolution to place the~~
 14 ~~ballot question on a regular local election or general election~~
 15 ~~ballot or by adopting a proclamation calling for a special~~
 16 ~~election.~~

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

19 C. The ballot material provided to each qualified
 20 elector shall include:

21 (1) for a formation election, an impartial
 22 description of the district improvements contemplated and a
 23 brief description of arguments for and against the formation of
 24 the district, if any;

25 (2) for an election concerning the imposition

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1 of property taxes, an impartial description of the taxes to be
2 imposed, the method of apportionment, collection and
3 enforcement and other details sufficient to enable each elector
4 to determine the amount of tax it will be obligated to pay; a
5 brief description of arguments for and against the imposition
6 of taxes that are the subject of the election, if any; and a
7 statement that the imposition of property taxes is for the
8 provision of certain but not necessarily all public
9 infrastructure improvements and services that may be needed or
10 desirable within the district, and that other taxes, levies or
11 assessments by other governmental entities may be presented for
12 approval by owners and qualified electors; and

13 (3) for a formation election, the ballot,
14 which shall pose the question to be voted upon as "district,
15 yes" and "district, no" and for a bond election, "bonds, yes"
16 and "bonds, no"; for a property tax election, if no tax is in
17 place, "property tax, yes" and "property tax, no"; and for an
18 election to change an existing maximum or eliminate an existing
19 tax, "tax change, yes" and "tax change, no", specifying the
20 type of tax to which the proposed change pertains.

21 D. At least a three-fourths' majority of the votes
22 cast by qualified electors at the election shall be required
23 for formation, issuing the bonds or imposing [the] a property
24 tax ~~[or special levy]~~ or changing the tax ~~[or special levy]~~.
25 Failure of a required majority to vote in favor of the matter

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1 submitted shall not prejudice the submission of the same or
 2 similar matters at a later election.

3 E. If a person listed on the assessment roll is no
 4 longer the owner of land in the district and the name of the
 5 successor owner becomes known to the governing body or the
 6 district board, as applicable, and is verified by recorded deed
 7 or other similar evidence of transfer of ownership, the
 8 successor owner is deemed to be the owner for the purposes of
 9 the Public Improvement District Act.

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

22 G. If no person is registered to vote within the
 23 district or proposed district areas within [~~seventy~~] sixty-
 24 three days immediately preceding any scheduled election date,
 25 the election required to be held pursuant to the Public

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1 Improvement District Act shall be canceled and the
2 determination made by the owners of land in the district or
3 proposed district areas shall prevail. Under such
4 circumstances, when the question is on the formation of the
5 district, the results of the formation determination of the
6 owners shall prevail, unless the formation determination was
7 waived by the governing body pursuant to Subsection F of this
8 section. To the extent allowable by the constitution of New
9 Mexico, when the question is on any other allowable action
10 otherwise requiring a vote of the qualified electors, the
11 owners or the owners of the proposed district areas shall make
12 a determination, the result of which shall prevail."

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

15 "5-11-7.1. POSTING OF NOTICES.--For any election
16 conducted pursuant to the Public Improvement District Act, in
17 addition to the notice requirements set forth in Section 5-11-7
18 NMSA 1978, the ~~[owners]~~ district board shall ensure that
19 notices shall be posted in three conspicuous public places
20 within the boundaries of the district not less than twenty days
21 before the first day for voting in the election."

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

24 "5-11-8. FORMATION--DEBT LIMITATION.--

25 A. If ~~[the formation of the]~~ a district is

1 ~~[approved by at least a three-fourths' majority of the votes~~
 2 ~~east at the election]~~ formed pursuant to Section 5-11-7 NMSA
 3 1978, the governing body shall cause a copy of the resolution
 4 ordering formation of the district to be delivered to the
 5 county assessor and the county treasurer and shall be recorded
 6 by the county clerk for the county in which the district is
 7 located and to the taxation and revenue department and the
 8 local government division of the department of finance and
 9 administration. A notice of the formation showing the number
 10 and date of the resolution and giving a description of the land
 11 included in the district shall be recorded with the county
 12 clerk.

13 B. Except as otherwise provided in this section, a
 14 district shall be a political subdivision of the state,
 15 separate and apart from the municipality or county. The amount
 16 of indebtedness evidenced by general obligation bonds issued
 17 pursuant to Section 5-11-19 NMSA 1978, special levy bonds
 18 issued pursuant to Section 5-11-20 NMSA 1978 and revenue bonds
 19 issued pursuant to Section 5-11-21 NMSA 1978 shall not exceed
 20 the estimated cost of the public infrastructure improvements
 21 plus all costs connected with the public infrastructure
 22 purposes and issuance and sale of bonds, including, without
 23 limitation, formation costs, credit enhancement and liquidity
 24 support fees and costs. The total aggregate outstanding amount
 25 of bonds and any other indebtedness for which the full faith

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1 and credit of the district are pledged shall not exceed sixty
2 percent of the market value of the real property and
3 improvements in the district after the public infrastructure
4 improvements of the district are completed plus the value of
5 the public infrastructure owned or to be acquired by the
6 district with the proceeds of the bonds and shall not affect
7 the general obligation bonding capacity of the municipality or
8 county in which the district is located.

9 C. Bonds issued by a district shall not be a
10 general obligation of the state, the county or the municipality
11 in which the district is located and shall not pledge the full
12 faith and credit of the state, the county or the municipality
13 in which the district is located [~~irrespective of whether the~~
14 ~~district board is governed by the governing body of the county~~
15 ~~or municipality in which the district is located~~].

16 D. Following formation of the district, the
17 district board shall administer in a reasonable manner the
18 implementation of the general plan for the public
19 infrastructure improvements of the district."

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

22 "5-11-9. APPOINTMENT OF DIRECTORS--[QUALIFICATIONS]
23 TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

24 A. The governing body, at its option, may
25 [~~authorize the appointment of a separate district board. In~~

1 ~~the case of an appointed district board, three of the appointed~~
 2 ~~directors shall serve an initial term to expire following a~~
 3 ~~regular local election and not to exceed six years. Two of the~~
 4 ~~appointed directors shall serve an initial term to expire~~
 5 ~~following a regular local election and not to exceed four~~
 6 ~~years. The resolution forming the district shall state which~~
 7 ~~directors shall serve the longer terms and which shall serve~~
 8 ~~the shorter terms] appoint itself as the district board or~~
 9 ~~appoint a separate district board consisting of five directors.~~
 10 ~~The appointed members of the district board shall serve five-~~
 11 ~~year terms.~~ If a vacancy occurs on the district board because
 12 of death, resignation or inability of [~~the~~] an appointed
 13 director to discharge the duties of director, the governing
 14 body shall appoint a director to fill the vacancy, who shall
 15 hold office for the remainder of the unexpired term [~~until a~~
 16 ~~successor is appointed or elected~~].

17 B. At the end of [~~the appointed directors' terms~~]
 18 each five-year term, the governing body shall [~~resume~~
 19 ~~governance of the district as its board either directly or~~
 20 ~~through the governing body's designees or, at the governing~~
 21 ~~body's option, shall hold an election of new directors by~~
 22 ~~majority vote of the qualified electors or if the election is~~
 23 ~~canceled pursuant to Subsection G of Section 5-11-7 NMSA 1978,~~
 24 ~~an owner's determination conducted by ballot shall decide the~~
 25 ~~new] appoint itself as the district board or shall appoint~~

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1 directors pursuant to Subsection A of this section."

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

4 "5-11-10. POWERS OF A PUBLIC IMPROVEMENT DISTRICT
5 BOARD.--

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

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

11 (2) enter into development agreements with
12 municipalities, counties or other local government entities in
13 connection with property located within the boundaries of the
14 district;

15 (3) enter into intergovernmental agreements as
16 provided in the Joint Powers Agreements Act for the planning,
17 design, inspection, ownership, control, maintenance, operation
18 or repair of public infrastructure or the provision of enhanced
19 services by the municipality or the county in the district and
20 any other purpose authorized by the Public Improvement District
21 Act;

22 (4) sell, lease or otherwise dispose of
23 district property if the sale, lease or conveyance is not a
24 violation of the terms of any contract or bond covenant of the
25 district;

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1 (5) reimburse the municipality or county in
2 which the district is located for providing enhanced services
3 in the district;

4 (6) operate, maintain and repair public
5 infrastructure;

6 [~~(7)~~] ~~establish, impose and collect special~~
7 ~~levies for the purposes of funding public infrastructure~~
8 ~~improvements or enhanced services;~~

9 ~~(8)]~~ (7) employ staff, counsel and
10 consultants;

11 [~~(9)]~~ (8) reimburse the municipality or county
12 in which the district is located for staff and consultant
13 services and support facilities supplied by the municipality or
14 county;

15 [~~(10)]~~ (9) accept gifts or grants and incur
16 and repay loans for any public infrastructure purpose;

17 [~~(11)]~~ (10) enter into agreements with owners
18 concerning the advance of money by owners for public
19 infrastructure purposes or the granting of real property by the
20 owner for public infrastructure purposes;

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

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1 [~~(13)~~] (12) pay the financial, legal and
2 administrative costs of the district;

3 [~~(14)~~] (13) enter into contracts, agreements
4 and trust indentures to obtain credit enhancement or liquidity
5 support for its bonds and process the issuance, registration,
6 transfer and payment of its bonds and the disbursement and
7 investment of proceeds of the bonds;

8 [~~(15)~~] (14) with the consent of the governing
9 body of the municipality or county that formed the district,
10 enter into agreements with persons outside of the district to
11 provide enhanced services to persons and property outside of
12 the district; [~~and~~

13 [~~(16)~~] (15) use public easements and rights of
14 way in or across public property, roadways, highways, streets
15 or other thoroughfares and other public easements and rights of
16 way, whether in or out of the geographical limits of the
17 district, the municipality or the county; and

18 (16) within sixty days of delivering written
19 notice to the governing body that formed the district, exercise
20 the power of eminent domain as provided by law and to carry out
21 the purposes of the Public Improvement District Act.

22 B. Public infrastructure improvements other than
23 personalty may be located only in or on lands, easements or
24 rights of way owned by the state, a county, a municipality or
25 the district, whether in or out of the district, the

1 municipality or the county.

2 C. An agreement pursuant to Paragraph [~~(11)~~] (10)
 3 of Subsection A of this section may include agreements to repay
 4 all or part of such advances, fees and charges from the
 5 proceeds of bonds if issued or from advances, fees and charges
 6 collected from other owners or users or those having a right to
 7 use any public infrastructure. A person does not have
 8 authority to compel the issuance or sale of the bonds of the
 9 district or the exercise of any taxing power of the district to
 10 make repayment under any agreement.

11 [~~D. Notwithstanding the provisions of the
 12 Procurement Code, or local procurement requirements that may
 13 otherwise be applicable to the municipality or county in which
 14 the district is located, the district board, whether appointed
 15 or composed of members of the governing body, ex officio, may
 16 enter into contracts to carry out any of the district's
 17 authorized powers, including the planning, design, engineering,
 18 financing, construction and acquisition of public improvements
 19 for the district, with a contractor, an owner or other person
 20 or entity, on such terms and with such persons as the district
 21 board determines to be appropriate.]"~~

22 SECTION 9. Section 5-11-19 NMSA 1978 (being Laws 2001,
 23 Chapter 305, Section 19, as amended) is repealed and a new
 24 Section 5-11-19 NMSA 1978 is enacted to read:

25 "5-11-19. [NEW MATERIAL] GENERAL OBLIGATION BONDS--

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1 PROPERTY TAX LEVY.--

2 A. A district board may determine that general
3 obligation bonds should be issued to provide money for public
4 infrastructure purposes consistent with the general plan. If
5 such determination is made, the district board shall request
6 the governing body to call a general obligation bond election
7 to submit the question to the qualified electors. The question
8 shall include authorization for a levy, including a limitation
9 on the levy, of a property tax to pay debt service on the
10 bonds. The election shall be held pursuant to the provisions
11 of the Local Election Act and may be held in conjunction with
12 the formation election.

13 B. Upon receipt of a request to call an election
14 pursuant to Subsection A of this section, the governing body
15 shall promptly hold a hearing to determine whether the election
16 should be called. If the governing body determines an election
17 should be called, the governing body shall hold an election on
18 the question of imposing a property tax on property in the
19 district pursuant to Section 5-11-7 NMSA 1978. If the required
20 majority votes in favor of the matter, the governing body
21 shall, subject to the limitation provided in Subsection C of
22 this section, levy and cause the property tax to be collected,
23 at the same time and in the same manner as other property taxes
24 are levied and collected on taxable property in the district,
25 together with any money from the sources described in Section

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underscoring material = new
~~[bracketed material] = delete~~

1 5-11-17 NMSA 1978 to pay debt service on the bonds when due.
2 Money derived from the levy of property taxes that are pledged
3 to pay the debt service on the bonds shall be kept separately
4 from other funds of the district. Property tax revenues not
5 pledged to pay debt service on bonds may be used to pay other
6 costs of the district, including costs of formation,
7 administration, operation and maintenance, services or enhanced
8 services. A levy of property taxes shall constitute a lien on
9 all taxable property within the district, including all leased
10 property or improvements to leased land, which shall be subject
11 to foreclosure in the same manner as other property tax liens
12 under the laws of this state. The lien shall include
13 delinquencies and interest thereon at a rate not to exceed ten
14 percent per year, the actual costs of foreclosure and any other
15 costs of the district resulting from the delinquency. The
16 proceeds of any foreclosure sale shall be deposited in the
17 special bond fund for payment of any obligations secured
18 thereby.

19 C. All property taxes for the operation and
20 maintenance expenses of the district shall not exceed an amount
21 equal to three dollars (\$3.00) per one thousand dollars
22 (\$1,000) of net taxable value for all real and personal
23 property in the district. The rate of a property tax shall
24 remain in effect until increased or decreased at a subsequent
25 election; provided that upon presentation of a petition signed

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1 by the owners of a majority of the property in the district,
2 the governing body shall adopt a resolution to reduce or
3 eliminate the portion of the property tax, beginning the next
4 fiscal year, required for one or more services or enhanced
5 services specified in the petition. Signatures on a petition
6 to reduce or eliminate a property tax shall be valid for a
7 period of sixty days.

8 D. Once the governing body has levied a property
9 tax, the district board may issue and sell general obligation
10 bonds of the district; provided that the district board shall
11 have determined by resolution that the principal amount of all
12 district general obligation bonds currently outstanding and the
13 district general obligation bonds proposed for issuance and
14 sale shall not result in a total annual debt service that
15 exceeds five-tenths percent of the allowable base. After the
16 bonds are issued, the district board shall enter in its minutes
17 a record of the bonds sold and their numbers and dates.

18 E. Bonds may be sold in a public offering or in a
19 negotiated sale.

20 F. Subject to the determination and election
21 provisions of this section, a district may issue general
22 obligation bonds at such times and in such amounts as the
23 district deems appropriate to carry out a project or projects
24 in phases.

25 G. Pursuant to this section, the district may issue

1 and sell refunding bonds to refund general obligation bonds of
 2 the district authorized by the Public Improvement District Act.
 3 No determination or election is required in connection with the
 4 issuance and sale of refunding bonds. Refunding bonds issued
 5 pursuant to this section shall have a final maturity date no
 6 later than the final maturity date of the bonds being
 7 refunded."

8 **SECTION 10.** Section 5-11-20 NMSA 1978 (being Laws 2001,
 9 Chapter 305, Section 20, as amended) is repealed and a new
 10 Section 5-11-20 NMSA 1978 is enacted to read:

11 "5-11-20. [NEW MATERIAL] SPECIAL LEVY--BONDS--IMPOSITION
 12 OF SPECIAL LEVY.--

13 A. A district board may determine that special levy
 14 bonds should be issued to provide money for any public
 15 infrastructure purpose consistent with the general plan. If
 16 such determination is made, the district board shall request
 17 the governing body to impose a special levy. Included with the
 18 request, the district board shall specify conditions under
 19 which the obligation to pay special levies may be prepaid and
 20 permanently satisfied.

21 B. Upon receipt of a request to impose a special
 22 levy pursuant to Subsection A of this section, the governing
 23 body shall promptly hold a hearing to determine whether the
 24 special levy should be imposed. If the governing body
 25 determines the special levy should be imposed, the governing

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1 body shall, by resolution and subject to the limitations
2 provided in Subsection D of this section, set a maximum levy
3 for each class of property that may be imposed for debt service
4 on special levy bonds and impose and cause the special levy to
5 be collected, at the same time and in the same manner as
6 property taxes are levied and collected on all property within
7 the district that may be subject to the levy, including all
8 leased property or improvements to leased land, together with
9 any other money lawfully available to pay debt service on the
10 bonds when due, except to the extent that the district board
11 has provided for other imposition, collection and foreclosure
12 procedures in connection with special levies. Money derived
13 from the imposition of the special levy when collected that is
14 pledged to pay the debt service on the bonds shall be kept
15 separately from other funds of the district. Special levy
16 revenues not pledged to pay debt service on bonds may be used
17 to pay other costs of the district, including costs of
18 formation, administration, operation and maintenance, service
19 or enhanced services.

20 C. Once approved by resolution of the governing
21 body, the rate of a special levy shall remain in effect until
22 increased or decreased by resolution of the governing body at a
23 subsequent hearing. Upon presentation of a petition signed by
24 the owners of a majority of the property in the district, the
25 governing body shall adopt a resolution to reduce or eliminate

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1 the portion of the special levy, beginning the next fiscal
2 year, required for one or more services or enhanced services
3 specified in the petition. Signatures on a petition to reduce
4 or eliminate a special levy shall be valid for a period of
5 sixty days.

6 D. Special levies against privately owned
7 residential property shall be subject to the following
8 provisions:

9 (1) the amount of special levy that may be
10 imposed shall not be increased over time by an amount exceeding
11 two percent per year, except that the amount of special levy
12 actually imposed may be increased by up to ten percent as a
13 result of the delinquency or default by the owner of any other
14 parcel within the district, but in no case shall the amount of
15 the special levy imposed exceed the maximum special levy
16 provided in the rate and method of apportionment;

17 (2) the special levy shall be imposed for a
18 specified time period, after which no further special levy
19 shall be imposed and collected, except that special levies
20 imposed solely to finance the cost of ongoing district
21 services, maintenance or operations or enhanced services may be
22 levied while such services, maintenance or operations or
23 enhanced services are continuing; and

24 (3) nothing in this subsection shall preclude
25 the establishment of different categories of residential

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1 property or changing the amount of the special levies for a
2 parcel whose size or use is changed. A change in the amount of
3 a special levy imposed upon a parcel due to a change in its
4 size or use shall not require voter approval if the method for
5 changing the amount of special levy was approved in the
6 election approving the special levy in sufficient detail to
7 enable the owner of the affected parcel to determine how the
8 change in size or use of the parcel would affect the amount of
9 the special levy.

10 E. The imposition of a special levy shall
11 constitute a lien on the property within the district subject
12 to the special levy, including property acquired by the state
13 or its political subdivisions after imposition of the special
14 levy, which shall be effective during the period in which the
15 special levy is imposed and shall have priority co-equal to the
16 lien of property taxes. A special levy shall be subject to
17 foreclosure by the district at any time after six months
18 following written notice of delinquency to the owner of the
19 real property to which the delinquency applies. The lien shall
20 include delinquencies, penalties and interest thereon at a rate
21 not to exceed the maximum legal rate of interest per year and
22 penalties otherwise applicable for delinquent property taxes,
23 the district's actual costs of foreclosure and any other costs
24 of the district resulting from the delinquency. All rights of
25 redemption applicable to property sold in connection with

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1 property tax foreclosures pursuant to the laws of this state
2 shall apply to property sold following foreclosure of a special
3 levy lien. The portion of proceeds of any foreclosure sale
4 necessary to discharge the lien for the special levy shall be
5 deposited in the special bond fund for payment of any
6 obligations secured thereby.

7 F. If the governing body imposes a special levy,
8 the district board may issue special levy bonds pursuant to
9 this section. After the bonds are issued, the district board
10 shall enter in its minutes a record of the bonds sold and their
11 numbers and dates.

12 G. Unless a local government has enacted an
13 ordinance providing a greater limitation, no special levy bonds
14 may be issued if at the time of issuance of such bonds the
15 estimated total tax and assessment obligation for a class of
16 property, including projected ad valorem taxes and special
17 levies as provided in the feasibility study, exceeds one and
18 ninety-five hundredths percent of the anticipated, average
19 market value of each class of property at the time of issuance
20 of a certificate of occupancy as determined by a member
21 appraiser of the appraisal institute.

22 H. Special levy bonds may be sold in a public
23 offering or in a negotiated sale.

24 I. No holder of special levy bonds issued pursuant
25 to the Public Improvement District Act may compel any exercise

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1 of the taxing power of the district, municipality or county to
2 pay the bonds or the interest on the bonds. Special levy bonds
3 issued pursuant to that act are not a debt of the district,
4 municipality or county, nor is the payment of special levy
5 bonds enforceable out of any money other than the revenue
6 pledged to the payment of the bonds.

7 J. Subject to the requirements of this section, a
8 district may issue special levy bonds at such times and in such
9 amounts as the district deems appropriate to carry out a
10 project or projects in phases.

11 K. Pursuant to this section, the district may issue
12 and sell refunding bonds to refund any special levy bonds of
13 the district authorized by the Public Improvement District Act.
14 Refunding bonds issued pursuant to this section shall have a
15 final maturity date no later than the final maturity date of
16 the bonds being refunded."

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

19 "5-11-23. [~~DISTRICT TAXES~~] ANNUAL FINANCIAL
20 ESTIMATE--ANNUAL FINANCIAL ESTIMATE AND BUDGET--CERTIFICATION
21 TO LOCAL GOVERNMENT DIVISION AND GOVERNING BODY.--

22 A. [~~All property taxes for the operation and~~
23 ~~maintenance expenses of the district shall not exceed an amount~~
24 ~~equal to three dollars (\$3.00) per one thousand dollars~~
25 ~~(\$1,000) of net taxable value for all real and personal~~

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1 ~~property in the district, unless a higher rate is approved by a~~
2 ~~vote of the qualified electors voting at an election conducted~~
3 ~~pursuant to the provisions of the Local Election Act not less~~
4 ~~than three years after the date of the formation of the~~
5 ~~district.~~

6 ~~B. Once approved at an election or, in the case of~~
7 ~~a special levy, by resolution of the district board, the~~
8 ~~maximum rate of a property tax shall remain in effect until~~
9 ~~increased or decreased at a subsequent election, and the~~
10 ~~maximum rate of a special levy shall remain in effect until~~
11 ~~increased or decreased by resolution of the district board at a~~
12 ~~subsequent hearing.~~

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

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1 D. ~~If a maximum special levy is in effect, the~~
2 ~~district board, on petition of twenty-five percent of the~~
3 ~~qualified electors, or by the owners of twenty-five percent of~~
4 ~~the land area of the district, shall hold a hearing to~~
5 ~~determine whether to reduce the maximum special levy but not~~
6 ~~below the lesser of that rate determined by the district board~~
7 ~~to be necessary to maintain the district's facilities and~~
8 ~~improvements, where the special levy was authorized for~~
9 ~~operation and maintenance, or the actual rate then in effect,~~
10 ~~but in no event shall the rate be reduced below the rate~~
11 ~~necessary to satisfy the district's obligations in connection~~
12 ~~with any outstanding bonds issued pursuant to the Public~~
13 ~~Improvement District Act.~~

14 E. ~~Upon presentation to the district board of a~~
15 ~~petition signed by the owners of a majority of the property in~~
16 ~~the district, the district board shall adopt a resolution to~~
17 ~~reduce or eliminate the portion of the tax or special levy,~~
18 ~~beginning the next fiscal year, required for one or more~~
19 ~~services or enhanced services specified in the petition.~~
20 ~~Signatures on a petition to reduce or eliminate a tax or~~
21 ~~special levy shall be valid for a period of sixty days.~~

22 F. ~~When levying property tax or imposing a special~~
23 ~~levy] The district board shall make annual statements and~~
24 estimates of:

- 25 (1) the operation and maintenance expenses of

1 the district;

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

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

8 (4) the amount to be raised to pay general
 9 obligation bonds of the district or special levy bonds. [~~all~~
 10 ~~of which shall be provided for by the levy and collection of~~
 11 ~~property taxes on the net taxable value of the real property in~~
 12 ~~the district or by the imposition and collection of special~~
 13 ~~levies.~~]

14 B. The district board shall file the annual
 15 statements and estimates with the clerk. The district board
 16 shall publish a notice of the filing of the estimate, shall
 17 hold [~~hearings~~] a hearing on the portions of the estimate not
 18 relating to debt service on general obligation bonds or special
 19 levy bonds and shall adopt a budget. [~~The district board, on~~
 20 ~~or before the date set by law for certifying the annual budget~~
 21 ~~of the municipality or county, shall fix, levy and assess the~~
 22 ~~amounts to be raised by property taxes or special levies of the~~
 23 ~~district and~~]

24 C. After the hearing, the district board shall
 25 cause certified copies of the [~~order~~] the adopted budget to be

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underscored material = new
 [bracketed material] = delete

1 delivered to the local government division of the department of
2 finance and administration [~~All statutes relating to the levy~~
3 ~~and collection of property taxes, including the collection of~~
4 ~~delinquent taxes and sale of property for nonpayment of taxes,~~
5 ~~apply to district property taxes and to special levies, except~~
6 ~~to the extent that the district board has provided for other~~
7 ~~imposition, collection and foreclosure procedures in connection~~
8 ~~with special levies.] and to the governing body."~~

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

13 "5-15-3. DEFINITIONS.--As used in the Tax Increment for
14 Development Act:

15 A. "base gross receipts taxes" means:

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

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1 available as part of the gross receipts tax increment; and

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

6 B. "base property taxes" means:

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

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

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 [bracketed material] = delete

1 year;

2 C. "county" means a county in this state, a
3 combined city and county corporation, an incorporated county,
4 an urban county or a single urban government;

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

10 [~~D.~~] E. "district" means a tax increment
11 development district formed for the purposes of carrying out
12 tax increment development projects;

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

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

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1 to the Tax Increment for Development Act;

2 [G.] H. "governing body" means the city council or
 3 city commission of a [~~city, the board of trustees or council of~~
 4 ~~a town or village~~] municipality or the board of county
 5 commissioners of a county;

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

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

14 [J.] K. "local government" means a municipality or
 15 county;

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

22 [L.] M. "municipality" means an incorporated city,
 23 town or village, whether incorporated under general act,
 24 special act, special charter or territorial charter, but does
 25 not mean a combined city and county corporation, an

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1 incorporated county or a single urban government;

2 [M-] N. "new full-time economic base job" means a
3 job:

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

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

8 (3) that is:

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

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

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

25 [N-] O. "owner" means a person owning real property

1 within the boundaries of a district;

2 [P.] P. "person" means an individual, corporation,
 3 association, partnership, limited liability company or other
 4 legal entity;

5 [P.] Q. "project" means a tax increment development
 6 project;

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

13 [R.] S. "property tax increment bonds" means bonds
 14 issued by a district in accordance with the Tax Increment for
 15 Development Act, the pledged revenue for which is a property
 16 tax increment;

17 [S.] T. "public improvements" means on-site
 18 improvements and off-site improvements that directly or
 19 indirectly benefit a [~~tax increment development~~] district or
 20 facilitate development within a tax increment development area
 21 and that are dedicated to the [~~governing body in which the~~
 22 ~~district lies~~] state or a local government or other political
 23 subdivision. "Public improvements" includes:

24 (1) sanitary sewage systems, including
 25 collection, transport, treatment, dispersal, effluent use and

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1 discharge;

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

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

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

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

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

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

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

24 (9) electrical generation, transmission and
25 distribution facilities;

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1 (10) natural gas distribution facilities;
2 (11) lighting systems;
3 (12) cable or other telecommunications lines
4 and related equipment;

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

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

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

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

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

19 (18) workforce housing; and

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

22 [~~F.~~] U. "state gross receipts tax" means the gross
23 receipts tax imposed pursuant to the Gross Receipts and
24 Compensating Tax Act, but does not include that portion
25 distributed to municipalities pursuant to Sections 7-1-6.4 and

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1 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47
2 NMSA 1978;

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

9 ~~[V.]~~ W. "tax increment development area" means the
10 land included within the boundaries of a ~~[tax increment~~
11 ~~development]~~ district;

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

15 X. "tax increment development plan" means a plan
16 for the undertaking of a tax increment development project;

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 "5-15-8. FORMATION DETERMINATION--ELECTION.--

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

4 (1) formation of a new [~~tax increment~~
5 ~~development~~] district;

6 (2) [~~selection of a district board member~~]
7 modification of the boundaries of a tax increment development
8 area;

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

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

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

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

25 C. A formation or other determination shall not be

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1 a local election for purposes of the Local Election Act or a
2 special election for purposes of the Special Election Act. The
3 governing body or district board may establish local procedures
4 for noticing, conducting and canvassing determinations, which
5 may include determinations by unanimous written approval of the
6 owners in affidavits executed by the owners and confirmed in a
7 review by the district board.

8 D. Except as otherwise provided by this section, an
9 election by the qualified electors pursuant to the Tax
10 Increment for Development Act shall be a nonpartisan election
11 called, conducted and canvassed pursuant to the provisions of
12 the [~~Election Code~~] Local Election Act.

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

15 (1) if the election is a formation election,
16 the boundaries of the proposed [~~tax increment development~~]
17 district;

18 (2) if the election is a bond election, the
19 purpose for which the bonds are to be issued and the amount of
20 the issue;

21 (3) if the election is a property tax levy
22 election, the maximum tax rate per one thousand dollars
23 (\$1,000) of assessed valuation to be imposed, the purposes for
24 which the revenues raised will be used and the existing maximum
25 tax rate, if any;

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

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

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

11 F. ~~[The district board, or, in the case of a~~
 12 ~~formation election, the governing body, shall determine the~~
 13 ~~date of the election, which shall comply with the provisions of~~
 14 ~~the Local Election Act.]~~ The ballot material provided to each
 15 qualified ~~[electors]~~ elector shall include:

16 (1) for a formation election, an impartial
 17 description of the tax increment development plan and a brief
 18 description of arguments for and against the formation of the
 19 ~~[tax increment development]~~ district, if any;

20 (2) for an election concerning the imposition
 21 of property taxes, an impartial description of the taxes to be
 22 imposed, the method of apportionment, collection and
 23 enforcement and other details sufficient to enable each
 24 qualified elector to determine the amount of tax it will be
 25 obligated to pay; a brief description of arguments for and

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1 against the imposition of taxes that are the subject of the
2 election, if any; and a statement that the imposition of
3 property taxes is for the provision of certain, but not
4 necessarily all, public improvements that may be needed or
5 desirable within the [~~tax increment development~~] district, and
6 that other taxes, levies or assessments by other governmental
7 entities may be presented for approval by owners and qualified
8 electors;

9 (3) for an election concerning the use of
10 property tax increment [~~financing~~] bonds, an impartial
11 description of the estimated increment to be generated over the
12 life of the project and the nature and extent of the public
13 improvements to be constructed [~~and maintained~~] using such
14 financing;

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

17 (5) for a property tax imposition election,
18 the question to be voted upon as "property tax, yes" and
19 "property tax, no";

20 (6) for an election to change an existing
21 maximum tax or eliminate an existing tax, the question to be
22 voted upon as "tax change, yes" and "tax change, no" and shall
23 specify the type of tax to which the proposed change pertains;
24 and

25 (7) for an election concerning the use of

1 property tax increment bonds, the ballot shall pose the
2 question to be voted upon as "bonds, yes" and "bonds, no".

3 G. Failure of a majority to vote in favor of the
4 matter submitted shall not prejudice the submission of the same
5 or similar matters at a later election; provided that an
6 election on the same question shall not be held within one year
7 of the failure of a majority to vote in favor of that question.

8 H. If a person transfers real property located in a
9 district and the name of the successor owner becomes known to
10 the ~~[governing body or the]~~ district board ~~[as applicable]~~ and
11 is verified by recorded deed or other similar evidence of
12 transfer of ownership, the successor owner is deemed to be the
13 owner of the real property for the purposes of the Tax
14 Increment for Development Act.

15 I. If there are no persons registered to vote
16 within a district or proposed district areas within ~~[seventy]~~
17 sixty-three days immediately preceding a scheduled election
18 date, an election required to be held pursuant to the Tax
19 Increment for Development Act shall be canceled and the
20 determination made by the owners of property within the
21 district or proposed district areas shall prevail, unless an
22 election is otherwise required by the constitution of New
23 Mexico or the determination was waived by the governing body
24 pursuant to Subsection B of this section. In a determination,
25 each owner shall have ~~[the number of votes or portion of votes~~

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1 ~~equal to the number of acres or portion of acres~~ one vote for
2 each one-fifth of an acre located in the district, rounded
3 upward to the nearest one-fifth of an acre ~~[owned in the~~
4 ~~district by that owner]."~~

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

7 "5-15-9. FORMATION OF A DISTRICT.--

8 A. If the formation of the [~~tax increment~~
9 ~~development~~] district is approved in accordance with the
10 provisions of Section 5-15-8 NMSA 1978, the governing body
11 shall deliver a copy of the resolution ordering formation of
12 the [~~tax increment development~~] district to each of the
13 following persons or entities:

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

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

19 [~~(3) any other taxing entities within which~~
20 ~~any portion of the property located within a tax increment~~
21 ~~development area lies;~~

22 [~~(4)~~] (3) the taxation and revenue department;

23 [~~(5)~~] (4) the local government division of the
24 department of finance and administration; and

25 [~~(6)~~] (5) the director of the legislative

1 finance committee.

2 B. A notice of the formation showing the number and
 3 date of the resolution and giving a description of the land
 4 included in the district shall be recorded with the clerk of
 5 the county in which the district is located.

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

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

11 "5-15-10. GOVERNANCE OF THE DISTRICT.--

12 A. Following formation of a [~~tax increment~~
 13 ~~development~~] district, a district board shall administer in a
 14 reasonable manner the implementation of the tax increment
 15 development plan as approved by the governing body.

16 B. The district shall be governed by the governing
 17 body that adopted a resolution to form the district or by a
 18 five-member board composed of four members appointed by that
 19 governing body; provided, however, that the fifth member of the
 20 five-member board is the secretary of finance and
 21 administration or the secretary's designee with full voting
 22 privileges.

23 C. [~~Two of the appointed directors shall serve an~~
 24 ~~initial term to expire following a regular local election and~~
 25 ~~not to exceed six years. Two of the appointed directors shall~~

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1 ~~serve an initial term to expire following a regular local~~
2 ~~election and not to exceed four years. The resolution forming~~
3 ~~the district shall state which directors shall serve the longer~~
4 ~~terms and which shall serve the shorter terms]~~ The members of
5 the district board shall serve five-year terms. At the end of
6 each five-year term, the governing body shall appoint itself as
7 the district board or appoint five directors as provided in
8 Subsection B of this section.

9 D. If a vacancy occurs on the district board
10 because of the death, resignation or inability of the director
11 to discharge the duties of the director, the governing body
12 shall appoint a director to fill the vacancy, and the director
13 shall hold office for the remainder of the unexpired term until
14 a successor is appointed [~~or elected~~].

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

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

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1 "5-15-12. DISTRICT POWERS--LIMITATIONS.--

2 A. In addition to other express or implied
3 authority granted by law, a district board shall have the power
4 to:

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

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

10 (3) enter into an intergovernmental agreement
11 in accordance with the Joint Powers Agreements Act for the
12 planning, design, inspection, ownership, control, maintenance,
13 operation or repair of public infrastructure or the provision
14 of enhanced services by the municipality or county in which the
15 district lies or for any other purpose authorized by the Tax
16 Increment for Development Act;

17 (4) sell, lease or otherwise dispose of
18 district property if the sale, lease or conveyance is not a
19 violation of the terms of any contract or bond covenant of the
20 district;

21 (5) reimburse a municipality or county in
22 which the [~~tax increment development~~] district is located for
23 providing services within the tax increment development area;

24 (6) operate, maintain and repair public
25 infrastructure [~~until dedicated to the governing body~~];

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1 (7) employ staff, counsel, advisors and
2 consultants;

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

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

8 (10) enter into an agreement with an owner
9 concerning the advance of money by an owner for a public
10 purpose or the granting of real property by the owner for a
11 public purpose;

12 [~~(11)~~] ~~levy property taxes in accordance with~~
13 ~~election requirements of the Tax Increment for Development Act~~
14 ~~for a public purpose on real property located in the district;~~

15 ~~(12)~~] (11) pay the financial, legal and
16 administrative costs of the district;

17 [~~(13)~~] (12) enter into contracts, agreements
18 and trust indentures to obtain credit enhancement or liquidity
19 support for its bonds and process the issuance, registration,
20 transfer and payment of its bonds and the disbursement and
21 investment of proceeds of the bonds in accordance with the
22 provisions for investment of funds by municipal treasurers;

23 [~~(14)~~] (13) borrow money within the limits of
24 the Tax Increment for Development Act to fund the construction,
25 operation and maintenance of public improvements; [~~until~~

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1 ~~dedicated to the governing body or for any other lawful public~~
 2 ~~purposes related to the purposes of the Tax Increment for~~
 3 ~~Development Act; and~~

4 ~~(15)]~~ (14) use public easements and rights of
 5 way in or across public property, roadways, highways, streets
 6 or other thoroughfares and other public easements and rights of
 7 way of the district, municipality or county; and

8 (15) within sixty days of delivering written
 9 notice to the governing body ordering formation of the
 10 district, exercise the power of eminent domain as provided by
 11 law and to carry out the purposes of the Tax Increment for
 12 Development Act.

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

23 ~~C. A district shall not have the power of eminent~~
 24 ~~domain for any purpose.~~

25 ~~D.]~~ B. A casino shall not be located in a district,

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1 and a district shall not use the proceeds of property tax
2 increment bonds or gross receipts tax increment bonds to
3 finance public improvements for a casino."

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

6 "5-15-13. [~~AUTHORITY TO IMPOSE~~] PROPERTY TAX LEVY--
7 LIMITATIONS--A [~~district has the power to establish a~~]
8 property tax levy upon real property located within the tax
9 increment development area may be imposed by a governing body
10 with the following limitations:

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

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

25 C. a property tax levy [~~imposed by a district~~]

1 shall not be effective for more than four years."

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

6 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX
7 INCREMENT TO SECURE BONDS.--

8 A. A tax increment development plan, as originally
9 approved or as later modified, may contain a provision that
10 gross receipts tax increments collected within the tax
11 increment development area after the effective date of approval
12 of the tax increment development plan may be dedicated for the
13 purpose of securing gross receipts tax increment bonds pursuant
14 to the Tax Increment for Development Act.

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

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

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

3 C. A county may dedicate a portion of [~~a gross~~
4 ~~receipts tax increment from~~] any of the following [~~taxes~~] to
5 pay the principal of, the interest on and any premium due in
6 connection with the bonds of, loans or advances to or any
7 indebtedness incurred by, whether funded, refunded, assumed or
8 otherwise, the district for financing or refinancing, in whole
9 or in part, a tax increment development project within the tax
10 increment development area:

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

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

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

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

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1 (a) the increment from municipal option
 2 gross receipts taxes dedicated by resolution by the
 3 municipality, if the district is located in a municipality; and

4 (b) the increment from county option
 5 gross receipts taxes dedicated by resolution by the county;

6 (2) the state board of finance has adopted a
 7 resolution dedicating an increment attributable to the state
 8 gross receipts tax for the purpose of securing gross receipts
 9 tax increment bonds pursuant to Subsection G of this section;
 10 and

11 (3) the dedication shall be conditioned on the
 12 gross receipts tax increment bonds being issued no later than
 13 four years after the state board of finance has adopted the
 14 resolution dedicating the increment.

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

24 F. An imposition of a gross receipts tax increment
 25 attributable to a gross receipts tax by a [~~taxing entity~~]

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

14 G. The state board of finance shall condition a
15 dedication of a gross receipts tax increment attributable to
16 the state gross receipts tax on the approval required pursuant
17 to Section 5-15-21 NMSA 1978 and that the initial gross
18 receipts tax increment bonds issuance secured by a portion of
19 the gross receipts tax increment attributable to the state
20 gross receipts tax shall be issued no later than four years
21 after the state board of finance has adopted the resolution
22 making the dedication. Subject to the limitations provided in
23 Subsection D of this section, the state board of finance shall
24 not agree to dedicate more than seventy-five percent of the
25 gross receipts tax increment attributable to the state gross

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1 receipts tax within the district. The resolution of the state
2 board of finance shall become effective on January 1 or July 1
3 of the calendar year following the notification period pursuant
4 to Section 5-15-27 NMSA 1978 and shall find that:

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

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

13 (3) based upon the review by the state board
14 of finance, the use of the state gross receipts tax is likely
15 to stimulate the creation of jobs, economic opportunities and
16 general revenue for the state through the addition of new
17 businesses to the state and the expansion of existing
18 businesses within the state; provided that, when reviewing the
19 applicable tax increment development plan to create jobs and
20 economic opportunities, the state board of finance shall
21 prioritize in its consideration net, new full-time economic
22 base jobs that would not have occurred on a similar scale and
23 time line but for the use of the state gross receipts tax
24 increment. The benefit to be evaluated is the marginal benefit
25 of the speed-up in time or the incremental change in job

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1 creation above expected normal growth and shall exclude retail
2 jobs, call center jobs and service jobs where the customer is
3 typically on site.

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

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

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

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

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

19 "5-15-17. PROPERTY TAX INCREMENT BONDS.--

20 A. Notwithstanding any law to the contrary, but in
21 accordance with the Tax Increment for Development Act, a tax
22 increment development plan, as originally approved or as later
23 modified, may contain a provision that a portion of property
24 taxes levied after the effective date of the approval of the
25 tax increment development plan upon taxable property within a

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1 tax increment development area each year, by or for the benefit
 2 of any public body, may be dedicated for securing property tax
 3 increment bonds pursuant to the Tax Increment for Development
 4 Act, according to the following procedures:

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

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

23 (3) when the bonds, loans, advances and
 24 indebtedness, if any, including interest thereon and any
 25 premiums due in connection with the bonds, loans, advances and

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underscoring material = new
~~[bracketed material] = delete~~

1 indebtedness have been paid, all taxes upon taxable property in
2 a tax increment development area shall be paid into the funds
3 of the respective public bodies.

4 B. The portion of property taxes in excess of the
5 amount of base property taxes may be irrevocably pledged by the
6 district for the payment of the principal of, the interest on
7 and any premiums due in connection with the bonds, loans,
8 advances and indebtedness.

9 C. Upon general reassessment of taxable property
10 valuations in a county, including all or part of a tax
11 increment development area in which a property tax increment
12 has been pledged for property tax increment bonds, the portions
13 of valuations for assessment shall be proportionately adjusted
14 in accordance with that reassessment or change.

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

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1 E. The property tax increment generated by the
2 imposition of property taxes may nonetheless be dedicated for
3 the purposes of the Tax Increment for Development Act if intent
4 to do so is set forth in the tax increment development plan
5 approved by the governing body and if the property tax was not
6 approved in an election.

7 F. The municipality in which a [~~tax increment~~
8 ~~development~~] district has been established shall timely notify
9 the assessor of the county in which the district has been
10 established when:

11 (1) a tax increment development plan has been
12 approved;

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

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

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

20 H. [~~The increment attributable to a levy by a~~
21 ~~taxing entity shall not be dedicated for the purpose of~~
22 ~~securing property tax increment bonds without the agreement of~~
23 ~~the taxing entity. The agreement shall be evidenced by a~~
24 ~~resolution adopted by a majority vote of that taxing entity.] A
25 [~~taxing entity~~] governing body shall not [~~agree to~~] dedicate~~

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1 for the purpose of securing property tax increment bonds more
2 than seventy-five percent of the property tax increment
3 attributable to a property tax levy [~~by that taxing entity~~]."

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

6 "5-15-20. GENERAL BONDING AUTHORITY OF A [~~TAX INCREMENT~~
7 ~~DEVELOPMENT~~] DISTRICT--OTHER LIMITATIONS.--

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

10 (1) the state gross receipts tax without:

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

16 (b) the approval required by Section
17 5-15-21 NMSA 1978; and

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

22 B. Except as otherwise provided in this section, a
23 district board shall not issue bonds against either gross
24 receipts tax increments or property tax increments without the
25 express written authorization of the department of finance and

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1 administration, as evidenced by a letter signed by the
2 secretary of finance and administration. A district formed and
3 approved by a class A county or by a municipality within a
4 class A county if the municipality has a population of more
5 than sixty-five thousand persons, according to the most recent
6 federal decennial census, is not required to obtain express
7 written authorization of the department of finance and
8 administration for the issuance of gross receipts tax increment
9 bonds or property tax increment bonds.

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

21 D. The amount of indebtedness evidenced by the
22 gross receipts tax increment bonds or property tax increment
23 bonds issued pursuant to the Tax Increment for Development Act
24 shall not exceed the estimated cost of the public improvements
25 plus all costs connected with the public infrastructure

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1 purposes and the issuance and sale of bonds, including, without
2 limitation, formation costs, credit enhancement and liquidity
3 support fees and costs.

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

9 F. The indebtedness evidenced by the gross receipts
10 tax increment bonds or property tax increment bonds shall be
11 payable only from the special funds into which are deposited
12 the gross receipts tax increments and property tax increments
13 as set forth in the Tax Increment for Development Act.

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

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

22 "5-15-25. MODIFICATION OF TAX INCREMENT DEVELOPMENT AREA
23 BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--

24 A. Following formation of a district, an area may
25 be eliminated from the tax increment development area only

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1 following a hearing conducted upon notice given to the owners
2 of land in the tax increment development area in the manner
3 prescribed for the formation hearing, adoption of a resolution
4 of intention to do so by the district board, a determination by
5 the owners of real property within the district to eliminate
6 the area and voter approval by the qualified electors as
7 provided in the Local Election Act and the Tax Increment for
8 Development Act. Real property within the tax increment
9 development area that is subject to the lien of property taxes
10 [~~special levies~~] or other charges or taxes imposed and
11 dedicated to the district pursuant to the Tax Increment for
12 Development Act shall not be eliminated from the district while
13 there are bonds or other obligations outstanding that are
14 payable by [~~those~~] the revenues generated from the dedicated
15 amounts of taxes [~~special levies~~] or charges, except in
16 circumstances where such revenues continue to be impressed with
17 the obligation to repay the outstanding bonds or obligations.

18 B. Following formation of a district, an area may
19 be added to the district upon a determination by the owners of
20 real property in the proposed additional area and the approval
21 of the qualified electors residing therein, as well as a
22 determination by the owners of real property in the district
23 and approval of the qualified electors, as provided in the
24 Local Election Act and the Tax Increment for Development Act.

25 C. The district board, following a hearing

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

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

14 "5-15-25.3. BASE YEAR REVISION--EFFECT.--

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

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

23 (2) update the district tax increment
24 development plan to reflect the revision; and

25 (3) file with the clerk of the governing body

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1 that formed the district the revised tax increment development
2 plan.

3 B. Upon receipt of the revenue identified in
4 Paragraph (1) of Subsection A of this section, the taxation and
5 revenue department shall remit to the [~~taxing entities that~~
6 ~~have dedicated a gross receipts tax increment to the district~~
7 ~~an] appropriate governing body the amount of [~~that~~] revenue
8 dedicated from a gross receipts tax increment in proportion to
9 the amount of gross receipts tax increment attributable to
10 [~~their~~] the dedication."~~

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

13 "5-15-27. DEDICATION OF GROSS RECEIPTS TAX INCREMENT--
14 NOTICE TO TAXATION AND REVENUE DEPARTMENT.--

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

25 B. In regard to a dedication of a gross receipts

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1 tax increment attributable to the state gross receipts tax, if
2 the approval required pursuant to Section 5-15-21 NMSA 1978 has
3 not occurred when the notice pursuant to Subsection A of this
4 section is made, the state board of finance shall include in
5 the notice that legislative approval is needed prior to a
6 distribution pursuant to Section 7-1-6.54 NMSA 1978
7 attributable to the state gross receipts tax can be made. Upon
8 approval pursuant to Section 5-15-21 NMSA 1978, the state board
9 of finance shall notify the department of the approval."

10 SECTION 24. Section 12-6-3 NMSA 1978 (being Laws 1969,
11 Chapter 68, Section 3, as amended) is amended to read:

12 "12-6-3. ANNUAL AND SPECIAL AUDITS--FINANCIAL
13 EXAMINATIONS.--

14 A. Except as otherwise provided in Subsection B of
15 this section, the financial affairs of every agency shall be
16 thoroughly examined and audited each year by the state auditor,
17 personnel of the state auditor's office designated by the state
18 auditor or independent auditors approved by the state auditor.
19 The comprehensive annual financial report for the state shall
20 be thoroughly examined and audited each year by the state
21 auditor, personnel of the state auditor's office designated by
22 the state auditor or independent auditors approved by the state
23 auditor. The audits shall be conducted in accordance with
24 generally accepted auditing standards and rules issued by the
25 state auditor.

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1 B. The examination of the financial affairs of a
2 local public body shall be determined according to its annual
3 revenue each year. All examinations and compliance with
4 agreed-upon procedures shall be conducted in accordance with
5 generally accepted auditing standards and rules issued by the
6 state auditor. If a local public body has an annual revenue,
7 calculated on a cash basis of accounting, exclusive of capital
8 outlay funds, federal or private grants or capital outlay funds
9 disbursed directly by an administrating agency, of:

10 (1) less than ten thousand dollars (\$10,000)
11 and does not directly expend at least fifty percent of, or the
12 remainder of, a single capital outlay award, it is exempt from
13 submitting and filing quarterly reports and final budgets for
14 approval to the local government division of the department of
15 finance and administration and from any financial reporting to
16 the state auditor;

17 (2) at least ten thousand dollars (\$10,000)
18 but less than fifty thousand dollars (\$50,000), it shall comply
19 only with the applicable provisions of Section 6-6-3 NMSA 1978;

20 (3) less than fifty thousand dollars (\$50,000)
21 and directly expends at least fifty percent of, or the
22 remainder of, a single capital outlay award, it shall submit to
23 the state auditor a financial report consistent with agreed-
24 upon procedures for financial reporting that are:

25 (a) focused solely on the capital outlay

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1 funds directly expended;

2 (b) economically feasible for the
3 affected local public body; and

4 (c) determined by the state auditor
5 after consultation with the affected local public body;

6 (4) at least fifty thousand dollars (\$50,000)
7 but not more than two hundred fifty thousand dollars
8 (\$250,000), it shall submit to the state auditor, at a minimum,
9 a financial report that includes a schedule of cash basis
10 comparison and that is consistent with agreed-upon procedures
11 for financial reporting that are:

12 (a) narrowly tailored to the affected
13 local public body;

14 (b) economically feasible for the
15 affected local public body; and

16 (c) determined by the state auditor
17 after consultation with the affected local public body;

18 (5) at least fifty thousand dollars (\$50,000)
19 but not more than two hundred fifty thousand dollars (\$250,000)
20 and expends any capital outlay funds, it shall submit to the
21 state auditor, at a minimum, a financial report that includes a
22 schedule of cash basis comparison and a test sample of expended
23 capital outlay funds and that is consistent with agreed-upon
24 procedures for financial reporting that are:

25 (a) narrowly tailored to the affected

1 local public body;

2 (b) economically feasible for the
3 affected local public body; and

4 (c) determined by the state auditor
5 after consultation with the affected local public body;

6 (6) at least two hundred fifty thousand
7 dollars (\$250,000) but not more than five hundred thousand
8 dollars (\$500,000), it shall submit to the state auditor, at a
9 minimum, a compilation of financial statements and a financial
10 report consistent with agreed-upon procedures for financial
11 reporting that are:

12 (a) economically feasible for the
13 affected local public body; and

14 (b) determined by the state auditor
15 after consultation with the affected local public body; or

16 (7) five hundred thousand dollars (\$500,000)
17 or more, it shall be thoroughly examined and audited as
18 required by Subsection A of this section.

19 C. In addition to the annual audit, the state
20 auditor may cause the financial affairs and transactions of an
21 agency to be audited in whole or in part.

22 D. Annual financial and compliance audits of
23 agencies under the oversight of the financial control division
24 of the department of finance and administration shall be
25 completed and submitted by an agency and independent auditor to

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underscoring material = new
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1 the state auditor no later than sixty days after the state
2 auditor receives notification from the financial control
3 division to the effect that an agency's books and records are
4 ready and available for audit. The local government division
5 of the department of finance and administration shall inform
6 the state auditor of the compliance or failure to comply by a
7 local public body with the provisions of Section 6-6-3 NMSA
8 1978.

9 E. In order to comply with United States department
10 of housing and urban development requirements, the financial
11 affairs of a public housing authority that is determined to be
12 a component unit in accordance with generally accepted
13 accounting principles, other than a housing department of a
14 local government or a regional housing authority, at the public
15 housing authority's discretion, may be audited separately from
16 the audit of its local primary government entity. If a
17 separate audit is made, the public housing authority audit
18 shall be included in the local primary government entity audit
19 and need not be conducted by the same auditor who audits the
20 financial affairs of the local primary government entity.

21 F. The financial affairs of a political subdivision
22 of the state that is determined to be a component unit of a
23 primary government entity in accordance with generally accepted
24 accounting principles may be audited separately from the audit
25 of the component unit's primary government entity. If the

1 primary government entity or the component unit chooses to have
 2 a separate audit conducted, the component unit audit shall be
 3 included in the primary government entity's audit but need not
 4 be conducted by the same auditor that audits the financial
 5 affairs of the primary government entity. The auditor for the
 6 primary government entity shall accept the audit performed by
 7 the auditor selected by the component unit.

8 ~~[F.]~~ G. The state auditor shall notify the
 9 legislative finance committee and the public education
 10 department if:

11 (1) a school district, charter school or
 12 regional education cooperative has failed to submit a required
 13 audit report within ninety days of the due date specified by
 14 the state auditor; and

15 (2) the state auditor has investigated the
 16 matter and attempted to negotiate with the school district,
 17 charter school or regional education cooperative but the school
 18 district, charter school or regional education cooperative has
 19 not made satisfactory progress toward compliance with the Audit
 20 Act.

21 ~~[G.]~~ H. The state auditor shall notify the
 22 legislative finance committee and the secretary of finance and
 23 administration if:

24 (1) a state agency, state institution,
 25 municipality or county has failed to submit a required audit

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1 report within ninety days of the due date specified by the
2 state auditor; and

3 (2) the state auditor has investigated the
4 matter and attempted to negotiate with the state agency, state
5 institution, municipality or county but the state agency, state
6 institution, municipality or county has not made satisfactory
7 progress toward compliance with the Audit Act."

8 SECTION 25. TEMPORARY PROVISION--TERMS OF MEMBERS PRIOR
9 TO EFFECTIVE DATE OF THIS ACT.--The term of a district board
10 member appointed or elected prior to the effective date of this
11 act pursuant to the Public Improvement District Act or the Tax
12 Increment for Development Act shall continue and expire on
13 December 31, 2021, and the term of that member's successor
14 shall begin on January 1, 2022.

15 SECTION 26. APPLICABILITY.--The provisions of Sections 8
16 and 16 of this act relating to the applicability of the
17 Procurement Code apply to public procurement initiated on or
18 after January 1, 2021.

19 SECTION 27. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is January 1, 2021.