

1 SENATE BILL 178

2 55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO POLITICAL SUBDIVISIONS; AMENDING THE PUBLIC
12 IMPROVEMENT DISTRICT ACT; ALLOWING ONLY A GOVERNING BODY OF A
13 MUNICIPALITY OR COUNTY TO IMPOSE A PROPERTY TAX, SUBJECT TO AN
14 ELECTION, OR A SPECIAL LEVY FOR PURPOSES OF THAT ACT;
15 AUTHORIZING THE CREATION OF AN ADMINISTRATIVE COMMITTEE
16 PURSUANT TO THAT ACT; REMOVING THE OPTION TO IMPOSE A HIGHER
17 RATE OF PROPERTY TAX IF APPROVED BY VOTERS IN THE DISTRICT;
18 AMENDING THE TAX INCREMENT FOR DEVELOPMENT ACT; ALLOWING ONLY A
19 GOVERNING BODY TO IMPOSE A PROPERTY TAX FOR PURPOSES OF THAT
20 ACT; AUTHORIZING THE CREATION OF AN ADMINISTRATIVE COMMITTEE
21 PURSUANT TO THAT ACT; SUBJECTING CONTRACTS ENTERED INTO BY A
22 PUBLIC IMPROVEMENT DISTRICT BOARD OR A TAX INCREMENT
23 DEVELOPMENT DISTRICT BOARD TO THE PROCUREMENT CODE; AMENDING
24 THE AUDIT ACT TO ALLOW A GOVERNMENT COMPONENT UNIT TO BE
25 AUDITED SEPARATELY FROM ITS PRIMARY GOVERNMENT ENTITY AND TO

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1 REQUIRE THAT THE COMPONENT UNIT'S AUDIT BE INCLUDED IN THE
2 PRIMARY GOVERNMENT ENTITY'S AUDIT; MAKING CONFORMING AND
3 TECHNICAL CHANGES; DECLARING AN EMERGENCY.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

8 "5-11-2. DEFINITIONS.--As used in the Public Improvement
9 District Act:

10 A. "allowable base" means the sum of the appraised
11 value, not including the value of public infrastructure
12 improvements, of:

13 (1) taxable property in a district that is
14 owned by persons other than the applicant or the applicant's
15 related entities;

16 (2) commercial, industrial or retail property
17 in a district that is owned by the applicant or the applicant's
18 related entities for which a certificate of completion has been
19 issued; and

20 (3) all other taxable property in a district
21 not described in Paragraphs (1) and (2) of this subsection, to
22 the extent that its appraised value is less than or equal to
23 the appraised value of property described in Paragraph (1) of
24 this subsection;

25 B. "applicant" means a person that applies for the

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1 formation of a district pursuant to the Public Improvement
2 District Act;

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

6 D. "county" means the unincorporated area in a
7 county ~~[that forms a public improvement district pursuant to~~
8 ~~the Public Improvement District Act in an unincorporated area~~
9 ~~or in an incorporated area with the municipality's consent]~~ in
10 this state, a combined city and county corporation, an
11 incorporated county, an urban county or a single urban
12 government, including an incorporated area within the county
13 with the municipality's consent, and the entire county for
14 those counties with no unincorporated area;

15 E. "debt service" means the principal of, interest
16 on and premium, if any, on the bonds, when due, whether at
17 maturity or prior redemption; the fees and costs of registrars,
18 trustees, paying agents or other agents necessary to handle the
19 bonds; and the costs of credit enhancement or liquidity
20 support;

21 F. "development agreement" means an agreement
22 between a property owner or developer and the county,
23 municipality or district, concerning the improvement of
24 specific property within the district, which agreement may be
25 used to establish obligations of the owner or developer, the

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1 county or municipality or the district concerning the zoning,
2 subdivision, improvement, impact fees, financial
3 responsibilities and other matters relating to the development,
4 improvement and use of real property within a district;

5 G. "district" means a public improvement district
6 formed pursuant to the Public Improvement District Act by a
7 municipality or by a county in an unincorporated area or in an
8 incorporated area with the municipality's consent;

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

18 I. "election" means an election held in compliance
19 with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978 and
20 pursuant to the provisions of the Local Election Act;

21 J. "enhanced services" means public services
22 provided by a municipality or county within the district at a
23 higher level or to a greater degree than otherwise available to
24 the land located in the district from the municipality or
25 county, including such services as public safety, fire

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1 protection, street or sidewalk cleaning or landscape
2 maintenance in public areas. "Enhanced services" does not
3 include the basic operation and maintenance related to
4 infrastructure improvements financed by the district pursuant
5 to the Public Improvement District Act;

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

9 L. "governing body" means the body or board that by
10 law is constituted as the governing body of the municipality or
11 county ~~[in which]~~ ordering formation of the [public
12 improvement] district [is located];

13 M. "municipality" means an incorporated city, town
14 or village, [or town] whether incorporated under general act,
15 special act, special charter or territorial charter, but does
16 not mean a combined city and county corporation, an
17 incorporated county or a single urban government;

18 N. "owner" means

19 ~~[(1) the person who is listed as the owner of~~
20 ~~real property in the district on the current property tax~~
21 ~~assessment roll in effect at the time that the action,~~
22 ~~proceeding, hearing or election has begun. For purposes of~~
23 ~~voting in elections held pursuant to the Public Improvement~~
24 ~~District Act, when the owner of record title is a married~~
25 ~~person, only one spouse in whose name title is held may vote at~~

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1 ~~such election. Where record title is held in more than one~~
2 ~~name, each owner may vote the number of fractions of acres~~
3 ~~represented by the owner's legal interest or proportionate~~
4 ~~share of and in the lands within the district;~~

5 ~~(2) the administrator or executor of an estate~~
6 ~~holding record title to land within the district;~~

7 ~~(3) the guardian of a minor or incompetent~~
8 ~~person holding record title to land within the district,~~
9 ~~appointed and qualified under the laws of the state;~~

10 ~~(4) an officer of a corporation holding record~~
11 ~~title to land within the district, which officer has been~~
12 ~~authorized by resolution of the corporation's board of~~
13 ~~directors to act with respect to such land;~~

14 ~~(5) the general partner of a partnership~~
15 ~~holding record title to land within the district;~~

16 ~~(6) the trustee of a trust holding record~~
17 ~~title to land within the district; or~~

18 ~~(7) the manager or member of a limited~~
19 ~~liability company holding record title to land within the~~
20 ~~district who has been authorized to represent the company] a~~
21 person owning real property within the boundaries of a
22 district;

23 0. "person" means any individual, estate, trust,
24 receiver, cooperative association, club, corporation, company,
25 firm, partnership, limited liability company, joint venture,

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1 syndicate or other association;

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

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

12 (2) drainage and flood control systems,
13 including collection, transport, diversion, storage, detention,
14 retention, dispersal, use and discharge;

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

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

23 (5) trails and areas for pedestrian,
24 equestrian, bicycle or other nonmotor vehicle use for travel,
25 ingress, egress and parking;

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

4 (7) landscaping, including earthworks,
5 structures, lakes and other water features, plants, trees and
6 related water delivery systems;

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

9 (9) electrical generation, transmission and
10 distribution facilities;

11 (10) natural gas distribution facilities;

12 (11) lighting systems;

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

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

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

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

23 (16) equipment, vehicles, furnishings and
24 other personalty related to the items listed in this
25 subsection; and

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1 (17) inspection, construction management and
2 program management costs;

3 Q. "public infrastructure purpose" means:

4 (1) planning, design, engineering,
5 construction, acquisition or installation of public
6 infrastructure, including the costs of applications, impact
7 fees and other fees, permits and approvals related to the
8 construction, acquisition or installation of such
9 infrastructure;

10 (2) acquiring, converting, renovating or
11 improving existing facilities for public infrastructure,
12 including facilities owned, leased or installed by an owner;

13 (3) acquiring interests in real property or
14 water rights for public infrastructure, including interests of
15 an owner;

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

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

21 (6) funding and paying from bond proceeds
22 fiscal, financial and legal consultant fees, trustee fees,
23 discount fees, district formation and election costs and all
24 costs of issuance of bonds issued pursuant to the Public
25 Improvement District Act, including fees and costs for bond

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1 counsel, financial advisors, consultants and underwriters,
2 costs of obtaining credit ratings, bond insurance premiums,
3 fees for letters of credit and other credit enhancement costs
4 and printing costs;

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

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

10 (9) incurring expenses of the district
11 incident to and reasonably necessary to carry out the purposes
12 specified in this subsection;

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

16 S. "special levy" means a levy imposed against real
17 property within a district that may be apportioned according to
18 direct or indirect benefits conferred upon affected real
19 property, as well as acreage, front footage, the cost of
20 providing public infrastructure for affected real property, or
21 other reasonable method, as determined by the ~~[governing body~~
22 ~~or]~~ district board ~~[as applicable]~~; and

23 T. "treasurer" means the treasurer of the governing
24 body or the person appointed ~~[by the district board]~~ as the
25 district treasurer pursuant to Section 5-11-6 NMSA 1978."

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

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

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

20 (1) the area or areas to be included in the
21 district;

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

24 (3) that a general plan for the district is on
25 file with the clerk that includes a map depicting the

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1 boundaries of the district and the real property proposed to be
2 included in the district, a general description of anticipated
3 improvements and their locations, general cost estimates,
4 proposed financing methods and anticipated tax levies, special
5 levies or charges, and that may include possible alternatives,
6 modifications or substitutions concerning locations,
7 improvements, financing methods and other information provided
8 in the general plan;

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

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

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

17 (7) that formation of the district may result
18 in the levy of property taxes or the imposition of special
19 levies to pay the costs of public infrastructure constructed by
20 the district and for their operation and maintenance and may
21 result in the assessment of fees or charges to pay the cost of
22 providing enhanced services;

23 (8) a reference to the Public Improvement
24 District Act; and

25 (9) whether the district board will be

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1 ~~[governed by a district board comprised]~~ composed of the
2 members of the governing body ~~[ex-officio]~~ or ~~[comprised of~~
3 ~~five directors initially appointed by the governing body]~~ if an
4 administrative committee will be appointed.

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

8 C. Before adopting a resolution pursuant to this
9 section, a general plan for the district shall be filed with
10 the clerk."

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

13 "5-11-6. ORDER FORMING DISTRICT--~~[FORMATION~~
14 ~~DETERMINATION]~~ ELECTION PROCEDURES--FORMATION DETERMINATION.--

15 A. After the hearing, the governing body shall
16 determine whether the district should be formed based upon the
17 interests, convenience or necessity of the owners, residents of
18 the district and citizens of the municipality or county in
19 which the proposed district would be located. If the governing
20 body determines that the district should be formed, it shall
21 adopt a resolution ordering that the district be formed,
22 deleting any property determined not to be directly or
23 indirectly benefited by the district or modifying the general
24 plan and then ordering that a formation determination be
25 conducted and an election be held on the question whether to

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1 form the district. A resolution ordering a formation of the
2 district shall require the owners to authorize by determination
3 the issuance of general obligation bonds and that an election
4 be called to submit the question of imposing a property tax to
5 pay debt service on the bonds pursuant to Section 5-11-19 NMSA
6 1978 to the qualified electors or declare that a special levy
7 may be imposed in the district in compliance with Section
8 5-11-20 NMSA 1978 and set a maximum levy for each class of
9 property. A resolution ordering a formation of the district
10 shall state that the district will be governed by a district
11 board consisting of members of the governing body. [~~ex~~
12 ~~officio, or, upon determination of the governing body, five~~
13 ~~directors appointed by the governing body, and shall contain~~
14 ~~the names of the five initial directors and the terms of office~~
15 ~~of each. If the governing body appoints a district board, it~~
16 ~~shall appoint a treasurer and a clerk from the appointed~~
17 ~~members] The resolution may also provide for an administrative
18 committee to administer the day-to-day operation and oversight
19 of the district, composed of five members appointed pursuant to
20 Section 5-11-9 NMSA 1978; provided that if the members of the
21 administrative committee are to serve by virtue of the member's
22 title, the person who holds that title shall fill that position
23 on the committee. The resolution shall also assign the duties
24 of clerk and treasurer for the district.~~

25 B. Before submitting the question of formation of

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1 the district to the qualified electors of the proposed
2 district, a formation determination shall be conducted by the
3 governing body among the owners unless a petition is presented
4 to the governing body pursuant to Subsection F of Section
5 5-11-7 NMSA 1978. ~~[In the formation determination, each owner~~
6 ~~shall have the number of votes or portions of votes equal to~~
7 ~~the number of acres or portions of acres rounded upward to the~~
8 ~~nearest one-fifth of an acre owned by that owner in the~~
9 ~~submitted district.]~~

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

21 D. Should the formation determination by the owners
22 result in a three-fourths' majority vote in favor of formation,
23 the question shall also be submitted to a vote of the qualified
24 electors of the proposed district. The conduct of a formation
25 election by qualified electors shall meet the requirements of

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1 Section 5-11-7 NMSA 1978.

2 E. The right of the qualified electors to vote on
3 the question of formation of the district shall not be assigned
4 or delegated to the property owners, or related entities of the
5 property owners, signing a petition submitted to the governing
6 body for formation of a district."

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

9 "5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

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

15 B. In addition to those matters required for notice
16 as provided in the Local Election Act, the notice of election
17 shall state:

18 (1) if the election is a formation election,
19 the boundaries of the proposed district;

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

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

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

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

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

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

20 ~~C. Except as otherwise provided by this section,~~
21 ~~the election shall comply with the Local Election Act.]~~

22 C. The ballot material provided to each qualified
23 elector shall include:

24 (1) for a formation election, an impartial
25 description of the district improvements contemplated and a

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1 brief description of arguments for and against the formation of
2 the district, if any;

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

16 (3) for a formation election, the ballot,
17 which shall pose the question to be voted upon as [~~"district,~~
18 ~~yes"~~] "for district" and [~~"district, no"~~] "against district";
19 for a bond election, [~~"bonds, yes"~~] "for bonds" and [~~"bonds,~~
20 ~~no"~~] "against bonds"; for a property tax election, if no tax is
21 in place, [~~"property tax, yes"~~] "for property tax" and
22 [~~"property tax, no"~~] "against property tax"; and for an
23 election to change an existing maximum or eliminate an existing
24 tax, [~~"tax change, yes"~~] "for tax change" and [~~"tax change,~~
25 ~~no"~~] "against tax change", specifying the type of tax to which

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1 the proposed change pertains.

2 D. At least a three-fourths' majority of the votes
3 cast by qualified electors at the election shall be required
4 for formation, issuing the bonds or imposing ~~[the]~~ a property
5 tax ~~[or special levy]~~ or changing the tax ~~[or special levy]~~.
6 Failure of a required majority to vote in favor of the matter
7 submitted shall not prejudice the submission of the same or
8 similar matters at a later election.

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

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

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1 Public Improvement District Act for posting, publication,
2 mailing, notice, hearing or owner determination.

3 G. If no person is registered to vote within the
4 district or proposed district areas within [~~seventy~~] sixty-
5 three days immediately preceding any scheduled election date,
6 the election required to be held pursuant to the Public
7 Improvement District Act shall be canceled and the
8 determination made by the owners of land in the district or
9 proposed district areas shall prevail. Under such
10 circumstances, when the question is on the formation of the
11 district, the results of the formation determination of the
12 owners shall prevail, unless the formation determination was
13 waived by the governing body pursuant to Subsection F of this
14 section. To the extent allowable by the constitution of New
15 Mexico, when the question is on any other allowable action
16 otherwise requiring a vote of the qualified electors, the
17 owners or the owners of the proposed district areas shall make
18 a determination, the result of which shall prevail."

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

21 "5-11-7.1. POSTING OF NOTICES.--For any election
22 conducted pursuant to the Public Improvement District Act, in
23 addition to the notice requirements set forth in Section 5-11-7
24 NMSA 1978, the [~~owners~~] district board shall ensure that
25 notices shall be posted in three conspicuous public places

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1 within the boundaries of the district not less than twenty days
2 before the first day for voting in the election."

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

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

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

19 B. Except as otherwise provided in this section, a
20 district shall be a political subdivision of the state,
21 separate and apart from the municipality or county. The amount
22 of indebtedness evidenced by general obligation bonds issued
23 pursuant to Section 5-11-19 NMSA 1978, special levy bonds
24 issued pursuant to Section 5-11-20 NMSA 1978 and revenue bonds
25 issued pursuant to Section 5-11-21 NMSA 1978 shall not exceed
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1 the estimated cost of the public infrastructure improvements
2 plus all costs connected with the public infrastructure
3 purposes and issuance and sale of bonds, including, without
4 limitation, formation costs, credit enhancement and liquidity
5 support fees and costs. The total aggregate outstanding amount
6 of bonds and any other indebtedness for which the full faith
7 and credit of the district are pledged shall not exceed sixty
8 percent of the market value of the real property and
9 improvements in the district after the public infrastructure
10 improvements of the district are completed plus the value of
11 the public infrastructure owned or to be acquired by the
12 district with the proceeds of the bonds and shall not affect
13 the general obligation bonding capacity of the municipality or
14 county in which the district is located.

15 C. Bonds issued by a district shall not be a
16 general obligation of the state, the county or the municipality
17 in which the 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 district is located [~~irrespective of whether the~~
20 ~~district board is governed by the governing body of the county~~
21 ~~or municipality in which the district is located~~].

22 D. Following formation of the district, the
23 district board shall annually approve the budget for the
24 district and meet as necessary to undertake other duties
25 assigned to the board, including the imposition of a special

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1 levy or property taxes, if any. The board or an administrative
2 committee, if an administrative committee has been appointed by
3 the board, shall administer in a reasonable manner the
4 implementation of the general plan for the public
5 infrastructure improvements of the district.

6 E. The district board may impose a property tax
7 levy upon real property within the boundaries of the district,
8 which may be imposed for operation, maintenance and capital
9 purposes. All property taxes for the operation and maintenance
10 expenses of the district shall not exceed an amount equal to
11 three dollars (\$3.00) per one thousand dollars (\$1,000) of net
12 taxable value for all real and personal property in the
13 district. The rate of a property tax shall remain in effect
14 until increased or decreased at a subsequent election; provided
15 that upon presentation of a petition signed by the owners of a
16 majority of the property in the district, the governing body
17 shall adopt a resolution to reduce or eliminate the portion of
18 the property tax, beginning the next calendar year, required
19 for one or more services or enhanced services specified in the
20 petition. Signatures on a petition to reduce or eliminate a
21 property tax shall be valid for a period of sixty days."

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

24 "5-11-9. APPOINTMENT OF [~~DIRECTORS--QUALIFICATIONS~~]
25 ADMINISTRATIVE COMMITTEE--TERMS--RESUMPTION OF GOVERNANCE BY

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1 ~~[GOVERNING BODY]~~ DISTRICT BOARD.--

2 A. The ~~[governing body]~~ district board, at its
3 option, may ~~[authorize the appointment of a separate district~~
4 ~~board. In the case of an appointed district board, three of~~
5 ~~the appointed directors shall serve an initial term to expire~~
6 ~~following a regular local election and not to exceed six years.~~
7 ~~Two of the appointed directors shall serve an initial term to~~
8 ~~expire following a regular local election and not to exceed~~
9 ~~four years. The resolution forming the district shall state~~
10 ~~which directors shall serve the longer terms and which shall~~
11 ~~serve the shorter terms]~~ appoint a separate administrative
12 committee consisting of five members to administer the day-to-
13 day operation and oversight of the district. The members of
14 the administrative committee shall serve five-year terms. If a
15 vacancy occurs on the ~~[district board]~~ administrative committee
16 because of death, resignation or inability of ~~[the director]~~ a
17 committee member to discharge the member's duties ~~[of~~
18 ~~director]~~, the ~~[governing body]~~ district board shall appoint a
19 ~~[director]~~ member to fill the vacancy, who shall hold office
20 for the remainder of the unexpired term ~~[until a successor is~~
21 ~~appointed or elected]~~. If the district board appoints an
22 administrative committee, two of the members shall be appointed
23 based solely on nominations by the non-governmental persons who
24 are parties to the development agreement, or their successors,
25 and if there is a vacancy in one of these positions before the

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1 end of a term, the non-governmental persons who are parties to
2 the development agreement, or their successors in interest,
3 shall nominate a person to fill that vacancy.

4 B. At the end of [~~the appointed directors' terms~~]
5 each five-year term, the [~~governing body~~] district board shall
6 [~~resume governance of the district as its board either directly~~
7 ~~or through the governing body's designees or, at the governing~~
8 ~~body's option, shall hold an election of new directors by~~
9 ~~majority vote of the qualified electors or if the election is~~
10 ~~anceled pursuant to Subsection G of Section 5-11-7 NMSA 1978,~~
11 ~~an owner's determination conducted by ballot shall decide the~~
12 ~~new directors~~] appoint members to the administrative committee
13 pursuant to Subsection A of this section or assume the
14 responsibilities of the administrative committee, unless the
15 development agreement clearly contemplates use of an
16 administrative committee or a board separate from the governing
17 body."

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

20 "5-11-10. POWERS OF A PUBLIC IMPROVEMENT DISTRICT
21 BOARD.--

22 A. In addition to the powers otherwise granted to a
23 district pursuant to the Public Improvement District Act, the
24 district board or the administrative committee on the board's
25 behalf, in implementing the general plan, may:

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

3 (2) enter into development agreements with
4 municipalities, counties or other local government entities in
5 connection with property located within the boundaries of the
6 district;

7 (3) enter into intergovernmental agreements as
8 provided in the Joint Powers Agreements Act for the planning,
9 design, inspection, ownership, control, maintenance, operation
10 or repair of public infrastructure or the provision of enhanced
11 services by the municipality or the county in the district and
12 any other purpose authorized by the Public Improvement District
13 Act;

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

18 (5) reimburse the municipality or county in
19 which the district is located for providing enhanced services
20 in the district;

21 (6) operate, maintain and repair public
22 infrastructure;

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

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1 ~~(8)~~ (7) employ staff, counsel and
2 consultants;

3 ~~(9)~~ (8) reimburse the municipality or county
4 in which the district is located for staff and consultant
5 services and support facilities supplied by the municipality or
6 county;

7 ~~(10)~~ (9) accept gifts or grants and incur
8 and repay loans for any public infrastructure purpose;

9 ~~(11)~~ (10) enter into agreements with owners
10 concerning the advance of money by owners for public
11 infrastructure purposes or the granting of real property by the
12 owner for public infrastructure purposes;

13 ~~(12) levy property taxes~~ (11) impose
14 [~~special levies or~~] fees and charges for any public
15 infrastructure purpose on any real property located in the
16 district and, in conjunction with the [~~levy~~] imposition of such
17 [~~taxes~~] fees and charges, set and collect administrative fees;

18 ~~(13)~~ (12) pay the financial, legal and
19 administrative costs of the district;

20 ~~(14)~~ (13) enter into contracts, agreements
21 and trust indentures to obtain credit enhancement or liquidity
22 support for its bonds and process the issuance, registration,
23 transfer and payment of its bonds and the disbursement and
24 investment of proceeds of the bonds;

25 ~~(15)~~ (14) with the consent of the governing

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1 body of the municipality or county that formed the district,
2 enter into agreements with persons outside of the district to
3 provide enhanced services to persons and property outside of
4 the district; and

5 ~~[(16)]~~ (15) use public easements and rights of
6 way in or across public property, roadways, highways, streets
7 or other thoroughfares and other public easements and rights of
8 way, whether in or out of the geographical limits of the
9 district, the municipality or the county.

10 B. Public infrastructure improvements other than
11 personalty may be located only in or on lands, easements or
12 rights of way owned by the state, a county, a municipality or
13 the district, whether in or out of the district, the
14 municipality or the county.

15 C. An agreement pursuant to Paragraph ~~[(11)]~~ (10)
16 of Subsection A of this section may include agreements to repay
17 all or part of such advances, fees and charges from the
18 proceeds of bonds if issued or from advances, fees and charges
19 collected from other owners or users or those having a right to
20 use any public infrastructure. A person does not have
21 authority to compel the issuance or sale of the bonds of the
22 district or the exercise of any taxing power of the district to
23 make repayment under any agreement.

24 D. ~~[Notwithstanding the provisions of the~~
25 ~~Procurement Code, or local procurement requirements that may~~

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1 ~~otherwise be applicable to the municipality or county in which~~
2 ~~the district is located, the district board, whether appointed~~
3 ~~or composed of members of the governing body, ex officio, may~~
4 ~~enter into contracts to carry out any of the district's~~
5 ~~authorized powers, including the planning, design, engineering,~~
6 ~~financing, construction and acquisition of public improvements~~
7 ~~for the district, with a contractor, an owner or other person~~
8 ~~or entity, on such terms and with such persons as the district~~
9 ~~board determines to be appropriate]~~ The district is subject to
10 the Procurement Code, or a local procurement code adopted by
11 the governing body, as applicable, for public procurement but
12 not for:

13 (1) entering into or supplementing a
14 development agreement;

15 (2) expending money pursuant to a development
16 agreement for the purpose of purchasing or otherwise acquiring
17 public infrastructure improvements that were constructed,
18 acquired or installed through initial funding by an owner or
19 developer; or

20 (3) purchases of goods and services made by
21 the district related to public infrastructure improvements or
22 for a public infrastructure purpose."

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

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1 "5-11-19. [NEW MATERIAL] GENERAL OBLIGATION BONDS--
2 PROPERTY TAX LEVY.--

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

13 B. The district board shall promptly hold a hearing
14 to determine whether the election should be called. If the
15 district board determines an election should be called, the
16 district board shall hold an election on the question of
17 imposing a property tax on property in the district pursuant to
18 Section 5-11-7 NMSA 1978. If the required majority votes in
19 favor of the matter, the district board shall, subject to the
20 limitation provided in Section 5-11-8 NMSA 1978, levy and cause
21 the property tax to be collected, at the same time and in the
22 same manner as other property taxes are levied and collected on
23 taxable property in the district, together with any money from
24 the sources described in Section 5-11-17 NMSA 1978 to pay debt
25 service on the bonds when due. Money derived from the levy of

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

18 C. Once the district board has levied a property
19 tax, the district board may issue and sell general obligation
20 bonds of the district; provided that the district board shall
21 have determined by resolution that the principal amount of all
22 district general obligation bonds currently outstanding and the
23 district general obligation bonds proposed for issuance and
24 sale shall not result in a total annual debt service that
25 exceeds five-tenths percent of the allowable base. After the

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1 bonds are issued, the district board shall enter in its minutes
2 a record of the bonds sold and their numbers and dates.

3 D. Bonds may be sold in a public offering or in a
4 negotiated sale.

5 E. Subject to the determination and election
6 provisions of this section, a district may issue general
7 obligation bonds at such times and in such amounts as the
8 district deems appropriate to carry out a project or projects
9 in phases.

10 F. Pursuant to this section, the district may issue
11 and sell refunding bonds to refund general obligation bonds of
12 the district authorized by the Public Improvement District Act.
13 No determination or election is required in connection with the
14 issuance and sale of refunding bonds. Refunding bonds issued
15 pursuant to this section shall have a final maturity date no
16 later than the final maturity date of the bonds being
17 refunded."

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

21 "5-11-20. [NEW MATERIAL] SPECIAL LEVY--BONDS--IMPOSITION
22 OF SPECIAL LEVY.--

23 A. The special levy may be imposed and special levy
24 bonds may be issued to provide money for any public
25 infrastructure purpose consistent with the general plan of a

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1 district.

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

25 C. Once approved by resolution of the district

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1 board, the rate of a special levy shall remain in effect until
2 increased or decreased by resolution of the district board at a
3 subsequent hearing. Upon presentation of a petition signed by
4 the owners of a majority of the property in the district, the
5 district board shall adopt a resolution to reduce or eliminate
6 the portion of the special levy, beginning the next fiscal
7 year, required for one or more services or enhanced services
8 specified in the petition. Signatures on a petition to reduce
9 or eliminate a special levy shall be valid for a period of
10 sixty days.

11 D. Special levies against privately owned
12 residential property shall be subject to the following
13 provisions:

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

22 (2) the special levy shall be imposed for a
23 specified time period, after which no further special levy
24 shall be imposed and collected, except that special levies
25 imposed solely to finance the cost of ongoing district

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1 services, maintenance or operations or enhanced services may be
2 levied while such services, maintenance or operations or
3 enhanced services are continuing; and

4 (3) nothing in this subsection shall preclude
5 the establishment of different categories of residential
6 property or changing the amount of the special levies for a
7 parcel whose size or use is changed. A change in the amount of
8 a special levy imposed upon a parcel due to a change in its
9 size or use shall not require voter approval if the method for
10 changing the amount of special levy was approved in the
11 election approving the special levy in sufficient detail to
12 enable the owner of the affected parcel to determine how the
13 change in size or use of the parcel would affect the amount of
14 the special levy.

15 E. The imposition of a special levy shall
16 constitute a lien on the property within the district subject
17 to the special levy, including property acquired by the state
18 or its political subdivisions after imposition of the special
19 levy, which shall be effective during the period in which the
20 special levy is imposed and shall have priority co-equal to the
21 lien of property taxes. A special levy shall be subject to
22 foreclosure by the district at any time after six months
23 following written notice of delinquency to the owner of the
24 real property to which the delinquency applies. The lien shall
25 include delinquencies, penalties and interest thereon at a rate
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1 not to exceed the maximum legal rate of interest per year and
2 penalties otherwise applicable for delinquent property taxes,
3 the district's actual costs of foreclosure and any other costs
4 of the district resulting from the delinquency. All rights of
5 redemption applicable to property sold in connection with
6 property tax foreclosures pursuant to the laws of this state
7 shall apply to property sold following foreclosure of a special
8 levy lien. The portion of proceeds of any foreclosure sale
9 necessary to discharge the lien for the special levy shall be
10 deposited in the special bond fund for payment of any
11 obligations secured thereby.

12 F. If the district board imposes a special levy,
13 the district board may issue special levy bonds pursuant to
14 this section. After the bonds are issued, the district board
15 shall enter in its minutes a record of the bonds sold and their
16 numbers and dates.

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

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1 appraiser of the appraisal institute.

2 H. Special levy bonds may be sold in a public
3 offering or in a negotiated sale.

4 I. No holder of special levy bonds issued pursuant
5 to the Public Improvement District Act may compel any exercise
6 of the taxing power of the district, municipality or county to
7 pay the bonds or the interest on the bonds. Special levy bonds
8 issued pursuant to that act are not a debt of the district,
9 municipality or county, nor is the payment of special levy
10 bonds enforceable out of any money other than the revenue
11 pledged to the payment of the bonds.

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

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

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

24 "5-11-23. [~~DISTRICT TAXES~~] ANNUAL FINANCIAL ESTIMATE--
25 ANNUAL FINANCIAL ESTIMATE AND BUDGET--CERTIFICATION TO LOCAL
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1 GOVERNMENT DIVISION.--

2 A. ~~[All property taxes for the operation and~~
3 ~~maintenance expenses of the district shall not exceed an amount~~
4 ~~equal to three dollars (\$3.00) per one thousand dollars~~
5 ~~(\$1,000) of net taxable value for all real and personal~~
6 ~~property in the district, unless a higher rate is approved by a~~
7 ~~vote of the qualified electors voting at an election conducted~~
8 ~~pursuant to the provisions of the Local Election Act not less~~
9 ~~than three years after the date of the formation of the~~
10 ~~district.~~

11 B. ~~Once approved at an election or, in the case of~~
12 ~~a special levy, by resolution of the district board, the~~
13 ~~maximum rate of a property tax shall remain in effect until~~
14 ~~increased or decreased at a subsequent election, and the~~
15 ~~maximum rate of a special levy shall remain in effect until~~
16 ~~increased or decreased by resolution of the district board at a~~
17 ~~subsequent hearing.~~

18 C. ~~If a maximum property tax rate is in effect, the~~
19 ~~district board, on petition of twenty-five percent of the~~
20 ~~qualified electors, or by the owners of twenty-five percent of~~
21 ~~the land area of the district, shall call an election pursuant~~
22 ~~to the provisions of the Local Election Act to reduce the~~
23 ~~maximum tax rate but not below the lesser of that rate~~
24 ~~determined by the district board to be necessary to maintain~~
25 ~~the district's facilities and improvements where the tax was~~

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1 ~~authorized for operation and maintenance, or the actual rate~~
2 ~~then in effect, but in no event shall the rate be reduced below~~
3 ~~the rate necessary to satisfy the district's obligations in~~
4 ~~connection with any outstanding bonds issued pursuant to the~~
5 ~~Public Improvement District Act.~~

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

19 ~~E. Upon presentation to the district board of a~~
20 ~~petition signed by the owners of a majority of the property in~~
21 ~~the district, the district board shall adopt a resolution to~~
22 ~~reduce or eliminate the portion of the tax or special levy,~~
23 ~~beginning the next fiscal year, required for one or more~~
24 ~~services or enhanced services specified in the petition.~~
25 ~~Signatures on a petition to reduce or eliminate a tax or~~

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1 ~~special levy shall be valid for a period of sixty days.~~

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

5 (1) the operation and maintenance expenses of
6 the district;

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

9 (3) the amount of all other expenditures for
10 public infrastructure [~~improvements~~] and enhanced services
11 [~~proposed to be paid from the taxes or special levy and of~~];
12 and

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

19 B. The district board shall file the annual
20 statements and estimates with the clerk. The district board
21 shall publish a notice of the filing of the estimate, shall
22 hold [~~hearings~~] a hearing on the portions of the estimate not
23 relating to debt service on general obligation bonds or special
24 levy bonds and shall adopt a budget, which shall fix, levy and
25 assess the amounts to be raised by property taxes or special

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1 levies of the district, if any. [~~The district board, on or~~
2 ~~before the date set by law for certifying the annual budget of~~
3 ~~the municipality or county, shall fix, levy and assess the~~
4 ~~amounts to be raised by property taxes or special levies of the~~
5 ~~district and]~~

6 C. After the hearing, the district board shall
7 cause certified copies of the [order] the adopted budget to be
8 delivered to the local government division of the department of
9 finance and administration in advance of any deadline required
10 by the local government division. [~~All statutes relating to~~
11 ~~the levy and collection of property taxes, including the~~
12 ~~collection of delinquent taxes and sale of property for~~
13 ~~nonpayment of taxes, apply to district property taxes and to~~
14 ~~special levies, except to the extent that the district board~~
15 ~~has provided for other imposition, collection and foreclosure~~
16 ~~procedures in connection with special levies.]"~~

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

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

23 A. "base gross receipts taxes" means:

24 (1) the total amount of gross receipts taxes
25 collected within a [~~tax increment development~~] district, as

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

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

14 B. "base property taxes" means:

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

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1 upon the assessed value of taxable property within the tax
2 increment development area on the date of the modification of
3 the tax increment development plan and designated by the
4 governing body to be available as part of the property tax
5 increment; and

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

10 C. "county" means the unincorporated area in a
11 county in this state, a combined city and county corporation,
12 an incorporated county, an urban county or a single urban
13 government, including an incorporated area within the county
14 with the municipality's consent, and the entire county for
15 those counties with no unincorporated area;

16 [~~G.~~] D. "county option gross receipts taxes" means
17 gross receipts taxes imposed by counties pursuant to the County
18 Local Option Gross Receipts and Compensating Taxes Act and
19 designated by the governing body of the county to be available
20 as part of the gross receipts tax increment;

21 E. "development agreement" means an agreement
22 between a property owner or developer and the county,
23 municipality or district concerning the improvement of specific
24 property within a district, which agreement may be used to
25 establish obligations of the owner or developer, the county or

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1 municipality or the district concerning the zoning,
2 subdivision, improvement, impact fees, financial
3 responsibilities and other matters relating to the development,
4 improvement and use of real property within the district;

5 [D.] F. "district" means a tax increment
6 development district formed for the purposes of carrying out
7 tax increment development projects;

8 [E.] G. "district board" means [a] the board
9 ~~[formed in accordance with the provisions of the Tax Increment~~
10 ~~for Development Act to govern a tax increment development]~~ that
11 governs a district pursuant to the provisions of the Tax
12 Increment for Development Act;

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

23 [G.] I. "governing body" means the city council or
24 city commission of a ~~[city, the board of trustees or council of~~
25 ~~a town or village]~~ municipality or the board of county

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1 commissioners of a county;

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

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

10 [J.] L. "local government" means a municipality or
11 county;

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

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

23 [M.] O. "new full-time economic base job" means a
24 job:

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

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

4 (3) that is:

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

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

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

21 ~~[N.]~~ P. "owner" means a person owning real property
22 within the boundaries of a district;

23 ~~[O.]~~ Q. "person" means an individual, corporation,
24 association, partnership, limited liability company or other
25 legal entity;

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1 [P-] R. "project" means a tax increment development
2 project;

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

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

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

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

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

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

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

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

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

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

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

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

22 (10) natural gas distribution facilities;

23 (11) lighting systems;

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

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

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

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

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

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

15 (18) workforce housing; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 tax increment development project; and

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

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

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

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

23 "5-15-8. FORMATION DETERMINATION--ELECTION.--

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

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- 1 (1) formation of a new ~~[tax increment~~
2 ~~development]~~ district;
- 3 (2) ~~[selection of a district board member]~~
4 modification of the boundaries of a tax increment development
5 area;
- 6 (3) ~~[adoption]~~ the levy of a property tax
7 ~~[levy by a tax increment development district]~~ on property in
8 the district;
- 9 (4) use of property tax increment financing by
10 a ~~[tax increment development]~~ district; or
- 11 (5) issuing of property tax increment bonds to
12 be repaid by funds raised by property tax increments.

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

22 ~~[C. A formation or other determination shall not be~~
23 ~~a local election for purposes of the Local Election Act. The~~
24 ~~governing body or district board may establish local procedures~~
25 ~~for noticing, conducting and canvassing determinations, which~~

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1 ~~may include determinations by unanimous written approval of the~~
2 ~~owners in affidavits executed by the owners and confirmed in a~~
3 ~~review by the district board.~~

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

9 ~~[E.]~~ D. In addition to the notice requirements in
10 the Local Election Act, the notice of election shall state:

11 (1) if the election is a formation election,
12 the boundaries of the proposed ~~[tax increment development]~~
13 district;

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

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

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

24 (5) the purposes for which property taxes will
25 be imposed and for which the revenues raised will be used,

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1 including a description of the public improvements to be
2 financed with tax revenues, bond proceeds or other revenues of
3 the ~~[tax increment development]~~ district; and

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

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

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

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

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

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

11 (4) for a formation election, the question to
12 be voted upon as [~~district, yes~~] "for district" and
13 [~~district, no~~] "against district";

14 (5) for a property tax imposition election,
15 the question to be voted upon as [~~property tax, yes~~] "for
16 property tax" and [~~property tax, no~~] "against property tax";

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

22 (7) for an election concerning the use of
23 property tax increment bonds, the ballot shall pose the
24 question to be voted upon as [~~bonds, yes~~] "for tax bonds" and
25 [~~bonds, no~~] "against tax bonds".

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

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

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

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1 upward to the nearest one-fifth of an acre [~~owned in the~~
2 ~~district by that owner~~]."

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

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

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

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

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

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

20 ~~(4)]~~ (3) the taxation and revenue department;

21 [~~(5)]~~ (4) the local government division of the
22 department of finance and administration; and

23 [~~(6)]~~ (5) the director of the legislative
24 finance committee.

25 B. A notice of the formation showing the number and

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1 date of the resolution and giving a description of the land
2 included in the district shall be recorded with the clerk of
3 the county in which the district is located.

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

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

9 "5-15-10. GOVERNANCE OF THE DISTRICT.--

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

14 B. The district shall be governed by the [~~governing~~
15 ~~body that adopted a resolution to form the district or by a~~
16 ~~five-member board composed of four members appointed by that~~
17 ~~governing body; provided, however, that the fifth member of the~~
18 ~~five-member board is the secretary of finance and~~
19 ~~administration or the secretary's designee with full voting~~
20 ~~privileges] district board, composed of the members of the
21 governing body that adopted a resolution to form the district.
22 An administrative committee shall administer the day-to-day
23 operation and oversight of the district, composed of four
24 members appointed pursuant to the resolution adopted ordering
25 that the tax increment development district be formed and a~~

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1 fifth member shall be the secretary of finance and
2 administration or the secretary's designee with full voting
3 privileges; provided that if the members of the administrative
4 committee are to serve by virtue of the member's title, the
5 person who holds that title shall fill that position on the
6 committee. The resolution shall also assign the duties of
7 clerk and treasurer for the district. Two of the members of
8 the administrative committee shall be appointed based solely on
9 nominations by non-governmental persons who are parties to the
10 development agreement, or their successors in interest, and if
11 there is a vacancy in one of these positions before the end of
12 a term, the non-governmental persons who are parties to the
13 development agreement, or their successors in interest, shall
14 nominate a person to fill that vacancy.

15 C. ~~[Two of the appointed directors shall serve an~~
16 ~~initial term to expire following a regular local election and~~
17 ~~not to exceed six years. Two of the appointed directors shall~~
18 ~~serve an initial term to expire following a regular local~~
19 ~~election and not to exceed four years. The resolution forming~~
20 ~~the district shall state which directors shall serve the longer~~
21 ~~terms and which shall serve the shorter terms]~~ The members of
22 the administrative committee shall serve five-year terms. At
23 the end of each five-year term, the district board shall
24 appoint the administrative committee for a new five-year term
25 or assume the responsibilities of the administrative committee,

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1 unless the development agreement clearly contemplates use of an
2 administrative committee or a board separate from the governing
3 body.

4 D. Except as otherwise provided in Subsection B of
5 this section, if a vacancy occurs on the [~~district board~~]
6 administrative committee because of the death, resignation or
7 inability of the [~~director~~] member to discharge the duties of
8 the [~~director~~] member, the [~~governing body~~] district board
9 shall appoint a [~~director~~] member to fill the vacancy, and the
10 [~~director~~] member shall hold office for the remainder of the
11 unexpired term until a successor is appointed [~~or elected~~].

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

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

23 "5-15-12. DISTRICT POWERS--LIMITATIONS.--

24 A. In addition to other express or implied
25 authority granted by law, a district, through the district

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1 board or the administrative committee on behalf of the district
2 board, shall have the power to:

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

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

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

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

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

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

24 (7) employ staff, counsel, advisors and
25 consultants;

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

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

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

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

13 ~~(12)~~] (11) pay the financial, legal and
14 administrative costs of the district;

15 [~~(13)~~] (12) enter into contracts, agreements
16 and trust indentures to obtain credit enhancement or liquidity
17 support for its bonds and process the issuance, registration,
18 transfer and payment of its bonds and the disbursement and
19 investment of proceeds of the bonds in accordance with the
20 provisions for investment of funds by municipal treasurers;

21 [~~(14)~~] (13) borrow money within the limits of
22 the Tax Increment for Development Act to fund the construction,
23 operation and maintenance of public improvements; [~~until~~
24 ~~dedicated to the governing body or for any other lawful public~~
25 ~~purposes related to the purposes of the Tax Increment for~~

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1 ~~Development Act]~~ and

2 [~~(15)~~] (14) use public easements and rights of
3 way in or across public property, roadways, highways, streets
4 or other thoroughfares and other public easements and rights of
5 way of the district, municipality or county.

6 B. [~~Notwithstanding the provisions of the~~
7 ~~Procurement Code or local procurement requirements that may~~
8 ~~otherwise be applicable to the municipality or county in which~~
9 ~~the district is located, the district board may enter into~~
10 ~~contracts to carry out any of the tax increment development~~
11 ~~district's authorized powers, including the planning, design,~~
12 ~~engineering, financing, construction and acquisition of public~~
13 ~~improvements for the district, with a contractor, an owner or~~
14 ~~other person or entity, on such terms and with such persons as~~
15 ~~the district board determines to be appropriate.] The district
16 board is subject to the Procurement Code, or a local
17 procurement code adopted by the governing body, as applicable,
18 for public procurement but not for:~~

19 (1) entering into or supplementing a
20 development agreement;

21 (2) expending money pursuant to a development
22 agreement for the purpose of purchasing or otherwise acquiring
23 public improvements that were constructed, acquired or
24 installed through initial funding by an owner or developer; or

25 (3) purchases of goods and services made by

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1 the district related to public improvements.

2 C. A district shall not have the power of eminent
3 domain for any purpose.

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

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

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

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

21 B. [~~a district may impose~~] a property tax levy may
22 be imposed only after authorization through a determination
23 made by the owners of real property in the district and by a
24 majority of votes cast by the qualified resident electors of a
25 district in an election held [~~in accordance with the Local~~

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1 ~~Election Act and the Tax Increment for Development Act]~~

2 pursuant to Section 5-15-8 NMSA 1978; and

3 C. a property tax levy ~~[imposed by a district]~~
4 shall not be effective for more than four years."

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

9 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX
10 INCREMENT TO SECURE BONDS.--

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

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

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

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

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

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

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

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

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1 development area; provided that:

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

4 (a) the increment from municipal option
5 gross receipts taxes dedicated by resolution by the
6 municipality, if the district is located in a municipality; and

7 (b) the increment from county option
8 gross receipts taxes dedicated by resolution by the county;

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

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

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

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1 authorizing the municipal or county option gross receipts tax.

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

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

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

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

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

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

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1 of the speed-up in time or the incremental change in job
2 creation above expected normal growth and shall exclude retail
3 jobs, call center jobs and service jobs where the customer is
4 typically on site.

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

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

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

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

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

20 "5-15-17. PROPERTY TAX INCREMENT BONDS.--

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

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

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

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

24 (3) when the bonds, loans, advances and
25 indebtedness, if any, including interest thereon and any

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1 premiums due in connection with the bonds, loans, advances and
2 indebtedness have been paid, all taxes upon taxable property in
3 a tax increment development area shall be paid into the funds
4 of the respective public bodies.

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

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

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

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1 loans, advances and indebtedness have been paid.

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

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

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

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

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

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

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

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1 taxing entity shall not [~~agree to~~] dedicate for the purpose of
2 securing property tax increment bonds more than seventy-five
3 percent of the property tax increment attributable to a
4 property tax levy by that taxing entity."

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

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

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

11 (1) the state gross receipts tax without:

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

17 (b) the approval required by Section
18 5-15-21 NMSA 1978; and

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

23 B. Except as otherwise provided in this section, a
24 district board shall not issue bonds against either gross
25 receipts tax increments or property tax increments without the

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

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

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

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1 plus all costs connected with the public infrastructure
2 purposes and the issuance and sale of bonds, including, without
3 limitation, formation costs, credit enhancement and liquidity
4 support fees and costs.

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

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

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

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

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

25 A. Following formation of a district, an area may

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

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

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

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

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

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

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

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

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1 (3) file with the clerk of the governing body
2 that formed the district the revised tax increment development
3 plan.

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

11 SECTION 23. Section 12-6-3 NMSA 1978 (being Laws 1969,
12 Chapter 68, Section 3, as amended) is amended to read:

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

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

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1 state auditor.

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

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

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

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

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1 (a) focused solely on the capital outlay
2 funds directly expended;

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

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

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

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

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

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

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

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1 (a) narrowly tailored to the affected
2 local public body;

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

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

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

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

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

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

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

23 D. Annual financial and compliance audits of
24 agencies under the oversight of the financial control division
25 of the department of finance and administration shall be

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1 completed and submitted by an agency and independent auditor to
2 the state auditor no later than sixty days after the state
3 auditor receives notification from the financial control
4 division to the effect that an agency's books and records are
5 ready and available for audit. The local government division
6 of the department of finance and administration shall inform
7 the state auditor of the compliance or failure to comply by a
8 local public body with the provisions of Section 6-6-3 NMSA
9 1978.

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

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

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

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

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

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

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

25 (1) a state agency, state institution,

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1 municipality or county has failed to submit a required audit
2 report within ninety days of the due date specified by the
3 state auditor; and

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

9 SECTION 24. TEMPORARY PROVISION--TERMS OF MEMBERS AND
10 DIRECTORS PRIOR TO EFFECTIVE DATE OF THIS ACT.--

11 A. The term of a district board member appointed or
12 elected prior to the effective date of this act pursuant to the
13 Public Improvement District Act or the Tax Increment for
14 Development Act shall continue and expire on December 31, 2023,
15 and the term of that member's successor shall begin on January
16 1, 2024.

17 B. Pursuant to Article 20, Section 3 of the
18 constitution of New Mexico, the legislature finds that the term
19 adjustments provided for in this 2022 act are necessary to
20 align the elections with the Local Election Act, passed and
21 signed into law in 2018, to ensure the efficient administration
22 of elections and to increase clarity for voters.

23 SECTION 25. APPLICABILITY.--The provisions of Sections 8
24 and 16 of this act relating to the applicability of the
25 Procurement Code apply to public procurement initiated on or

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1 after July 1, 2022.

2 SECTION 26. EMERGENCY.--It is necessary for the public
3 peace, health and safety that this act take effect immediately.

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