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SENATE BILL 243

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Stephen H. Fischmann

AN ACT

RELATING TO TAX INCREMENT DEVELOPMENT DISTRICTS; INCREASING THE  
MINIMUM INITIAL INVESTMENT BY PROPERTY OWNERS WITHIN A  
DISTRICT; ADDING REQUIREMENTS FOR PROJECTS RECEIVING STATE  
GROSS RECEIPTS TAX FUNDING.

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

**SECTION 1.** Section 5-15-12 NMSA 1978 (being Laws 2006,  
Chapter 75, Section 12) is amended to read:

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

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

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

(2) enter into agreements with a municipality,  
county or other local government entity in connection with real

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1 property located within the district;

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

9 (4) sell, lease or otherwise dispose of  
10 district property if the sale, lease or conveyance is not a  
11 violation of the terms of any contract or bond covenant of the  
12 district;

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

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

18 (7) employ staff, counsel, advisors and  
19 consultants;

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

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

25 (10) enter into an agreement with an owner

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1 concerning the advance of money by an owner for a public  
2 purpose or the granting of real property by the owner for a  
3 public purpose;

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

7 (12) pay the financial, legal and  
8 administrative costs of the district;

9 (13) enter into contracts, agreements and  
10 trust indentures to obtain credit enhancement or liquidity  
11 support for its bonds and process the issuance, registration,  
12 transfer and payment of its bonds and the disbursement and  
13 investment of proceeds of the bonds in accordance with the  
14 provisions for investment of funds by municipal treasurers;

15 (14) borrow money within the limits of the Tax  
16 Increment for Development Act to fund the construction,  
17 operation and maintenance of public improvements until  
18 dedicated to the governing body or for any other lawful public  
19 purposes related to the purposes of the Tax Increment for  
20 Development Act; and

21 (15) use public easements and rights of way in  
22 or across public property, roadways, highways, streets or other  
23 thoroughfares and other public easements and rights of way of  
24 the district, municipality or county.

25 B. Notwithstanding the provisions of the

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1 Procurement Code or local procurement requirements that may  
2 otherwise be applicable to the municipality or county in which  
3 the district is located, the district board may enter into  
4 contracts to carry out any of the tax increment development  
5 district's authorized powers, including the planning, design,  
6 engineering, financing, construction and acquisition of public  
7 improvements for the district, with a contractor, an owner or  
8 other person or entity, on such terms and with such persons as  
9 the district board determines to be appropriate.

10 C. A district shall not have the power of eminent  
11 domain for any purpose.

12 D. A casino shall not be located in a district, and  
13 a district shall not use the proceeds of property tax increment  
14 bonds or gross receipts tax increment bonds to finance public  
15 improvements for a casino.

16 E. Tax increment development projects funded in  
17 whole or in part by a gross receipts tax increment attributable  
18 to the imposition of the state gross receipts tax within a  
19 district shall:

20 (1) be permitted only in a district containing  
21 at least twenty private property owners having no corporate,  
22 family or other direct business affiliation, other than an  
23 interest in improving the district, and in which each property  
24 owner has an equal vote. State gross receipts tax increments  
25 shall be terminated whenever the number of unaffiliated

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1 property owners drops below twenty;

2 (2) be limited to redevelopment of public  
3 improvements and improvement of existing infrastructure for the  
4 purpose of urban renewal;

5 (3) fund only those improvements that will  
6 remain in the ownership of a local government or the state;

7 (4) be approved by the state board of finance;

8 and

9 (5) be specifically authorized by law."

10 SECTION 2. Section 5-15-20 NMSA 1978 (being Laws 2006,  
11 Chapter 75, Section 20) is amended to read:

12 "5-15-20. GENERAL BONDING AUTHORITY OF A TAX INCREMENT  
13 DEVELOPMENT DISTRICT--OTHER LIMITATIONS.--

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

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1 bonds or property tax increment bonds.

2 B. Prior to the issuance of indebtedness evidenced  
3 by the gross receipts tax increment bonds or property tax  
4 increment bonds issued by a district pursuant to the Tax  
5 Increment for Development Act, the property owners within the  
6 district shall contribute a minimum of [~~twenty~~] forty percent  
7 of the initial public infrastructure costs, which may be  
8 reimbursed with proceeds of gross receipts tax increment or  
9 property tax increment bonds; unless the project to be financed  
10 with gross receipts tax increment bonds or property tax  
11 increment bonds is a metropolitan redevelopment project  
12 pursuant to the Metropolitan Redevelopment Code.

13 C. The amount of indebtedness evidenced by the  
14 gross receipts tax increment bonds or property tax increment  
15 bonds issued pursuant to the Tax Increment for Development Act  
16 shall not exceed the estimated cost of the public improvements  
17 plus all costs connected with the public infrastructure  
18 purposes and the issuance and sale of bonds, including, without  
19 limitation, formation costs, credit enhancement and liquidity  
20 support fees and costs.

21 D. The indebtedness evidenced by the gross receipts  
22 tax increment bonds or property tax increment bonds shall not  
23 affect the general obligation bonding capacity of the  
24 municipality or county in which the tax increment development  
25 district is located.

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1           E. The indebtedness evidenced by the gross receipts  
2 tax increment bonds or property tax increment bonds shall be  
3 payable only from the special funds into which are deposited  
4 the gross receipts tax increments and property tax increments  
5 as set forth in the Tax Increment for Development Act.

6           F. Bonds issued by a tax increment development  
7 district shall not be a general obligation of the state, the  
8 county or the municipality in which the tax increment  
9 development district is located and shall not pledge the full  
10 faith and credit of the state, the county or the municipality  
11 in which the tax increment development district is located."

12           **SECTION 3. TEMPORARY PROVISION--APPLICABILITY.--**The  
13 provisions of this act do not apply to expenditure of bond  
14 proceeds from bonds issued prior to July 1, 2011.

15           **SECTION 4. EFFECTIVE DATE.--**The effective date of the  
16 provisions of this act is July 1, 2011.