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Date: January 1, 2009



New Mexico Urban Development Law

CHAPTER 5. MUNICIPALITIES & COUNTIES ARTICLE 15. TAX INCREMENT FOR DEVELOPMENT

5-15-1. Short title.

Sections 1 through 27 of this act may be cited as the "Tax Increment for Development Act".

5-15-2. Findings and purpose.

A. The purpose of the Tax Increment for Development Act [5-15-1 NMSA 1978] is to create a mechanism for providing gross receipts tax financing and property tax financing for public infrastructure for the purpose of supporting economic development and job creation.

B. The legislature finds and declares that the powers conferred by the Tax Increment for Development Act are for public uses and purposes for which public money may be expended and the public power exercised, and that it is necessary and in the public interest for the provisions enacted in the Tax Increment for Development Act to be declared as a matter of legislative determination.

5-15-3. Definitions.

As used in the Tax Increment for Development Act [5-15-1 NMSA 1978]:

A. "base gross receipts taxes" means:

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

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

B. "base property taxes" means:

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

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

C. "county option gross receipts taxes" means gross receipts taxes imposed by counties pursuant to the County Local Option Gross Receipts Taxes Act [7-20E-1 NMSA 1978] and designated by the governing body of the county to be available as part of the gross receipts tax increment;

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

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

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

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

H. "gross receipts tax increment" means the gross receipts taxes collected within a tax increment development district in excess of the base gross receipts taxes collected for the duration of the existence of a tax increment development district and distributed to the district in the same manner as distributions are made under the provisions of the Tax Administration Act [7-1-1 NMSA 1978];

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

- J. "local government" means a municipality or county;
- K. "municipal option gross receipts taxes" means those gross receipts taxes imposed by municipalities pursuant to the Municipal Local Option Gross Receipts Taxes Act [7-19D-1 NMSA 1978] and designated by the governing body of the municipality to be available as part of the gross receipts tax increment;
- L. "municipality" means an incorporated city, town or village;
- M. "owner" means a person owning real property within the boundaries of a district;
- N. "person" means an individual, corporation, association, partnership, limited liability company or other legal entity;
- O. "project" means a tax increment development project;
- P. "property tax increment" means all property tax collected on real property within the designated tax increment development area that is in excess of the base property tax until termination of the district and distributed to the district in the same manner as distributions are made under the provisions of the Tax Administration Act;
- Q. "property tax increment bonds" means bonds issued by a district in accordance with the Tax Increment for Development Act, the pledged revenue for which is a property tax increment;
- R. "public improvements" means on-site improvements and off-site improvements that directly or indirectly benefit a tax increment development district or facilitate development within a tax increment development area and that are dedicated to the governing body in which the district lies. "Public improvements" include:
- (1) sanitary sewage systems, including collection, transport, treatment, dispersal, effluent use and discharge;
 - (2) drainage and flood control systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;
 - (3) water systems for domestic, commercial, office, hotel or motel, industrial, irrigation, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;
 - (4) highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;
 - (5) trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, ingress, egress and parking;

- (6) pedestrian and transit facilities, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;
- (7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;
- (8) public buildings, public safety facilities and fire protection and police facilities;
- (9) electrical generation, transmission and distribution facilities;
- (10) natural gas distribution facilities;
- (11) lighting systems;
- (12) cable or other telecommunications lines and related equipment;
- (13) traffic control systems and devices, including signals, controls, markings and signage;
- (14) school sites and facilities with the consent of the governing board of the public school district for which the facility is to be acquired, constructed or renovated;
- (15) library and other public educational or cultural facilities;
- (16) equipment, vehicles, furnishings and other personal property related to the items listed in this subsection;
- (17) inspection, construction management, planning and program management and other professional services costs incidental to the project;
- (18) workforce housing; and
- (19) any other improvement that the governing body determines to be for the use or benefit of the public;

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

T. "state gross receipts tax" means the gross receipts tax imposed pursuant to the Gross Receipts and Compensating Tax Act [7-9-1 NMSA 1978], but does not include that portion distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47 NMSA 1978;

U. "sustainable development" means land development that achieves sustainable economic and social goals in ways that can be supported for the long term by conserving resources,

protecting the environment and ensuring human health and welfare using mixed-use, pedestrian-oriented, multimodal land use planning;

V. "tax increment development area" means the land included within the boundaries of a tax increment development district;

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

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

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

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

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

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

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

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

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

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

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

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

- (1) determination of mortgage amounts and payments are to be based on down payment rates and interest rates generally available to lower- and moderate-income households; and
- (2) a renter-occupied housing unit is affordable to a household if the unit's monthly housing costs, including rent and basic utility and energy costs, do not exceed thirty-three percent of the household's gross monthly income.

5-15-4. Resolution for formation of a district.

A. A tax increment development plan may be approved by the governing body of the municipality or county within which tax increment development projects are proposed. Upon filing with the clerk of the governing body of an approved tax increment development plan and upon receipt of a petition bearing the signatures of the owners of at least fifty percent of the real property located within a proposed tax increment development area, the governing body may adopt a resolution declaring its intent to form a tax increment development district. Prior to the formation of a district, the owner or developer of the real property located within an area proposed to be designated as a tax increment development area may enter into an agreement with the governing body concerning the improvement of specific property within the district, and that agreement may be used to establish obligations of the owner or developer and the governing body concerning the zoning, subdivision, improvement, impact fees, financial responsibilities and other matters relating to the development, improvement and use of real property within the district.

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

C. The resolution to form a district shall include:

- (1) the area or areas to be included within the boundaries of the district;
- (2) the purposes for which the district is to be formed;
- (3) a statement that a tax increment development plan is on file with the clerk of the governing body and that the plan includes a map depicting the boundaries of the tax increment development area and the real property proposed to be included in the area;
- (4) the rate of any proposed property tax levy;

- (5) identification of gross receipts tax increment and property tax increment financing mechanisms proposed;
- (6) identification of gross receipts tax increments and property tax increments proposed to secure proposed gross receipts tax increment bonds or property tax increment bonds;
- (7) requirement of a public hearing for the formation of the district and notice of the hearing;
- (8) a statement that formation of a district may result in the use of gross receipts tax increments or property tax increments to pay the costs of construction of public improvements made by the district; and
- (9) a reference to the Tax Increment for Development Act.

D. A resolution may direct that, prior to holding a hearing on formation of a district, petitioners for the formation of a district prepare a study of the feasibility, the financing and the estimated costs of improvements, services and benefits to result from the formation of the proposed district. The governing body may require those petitioners to deposit with the clerk or treasurer of the governing body an amount equal to the estimated costs of conducting the study and other estimated formation costs. The deposit shall be reimbursed if the district is formed and if gross receipts tax increment bonds or property tax increment bonds are issued by that district pursuant to the Tax Increment for Development Act.

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

5-15-5. Contents of tax increment development plan.

A tax increment development plan shall include:

- A. a map depicting the geographical boundaries of the area proposed for inclusion within the tax increment development area;
- B. the estimated time necessary to complete the tax increment development project;
- C. a description and the estimated cost of all public improvements proposed for the tax increment development project;
- D. whether it is proposed to use gross receipts tax increment bonds or property tax increment bonds or both to finance all or part of the public improvements;
- E. the estimated annual gross receipts tax increment to be generated by the tax increment development project and the portion of that gross receipts tax increment to be allocated during the time necessary to complete the payment of the tax increment development project;

- F. the estimated annual property tax increment to be generated by the tax increment development project and the portion of that property tax increment to be allocated during the time necessary to complete the payment of the tax increment development project;
- G. the general proposed land uses for the tax increment development project;
- H. the number and types of jobs expected to be created by the tax increment development project;
- I. the amount and characteristics of workforce housing expected to be created by the tax increment development project;
- J. the location and characteristics of public school facilities expected to be created, improved, rehabilitated or constructed by the tax increment development project;
- K. a description of innovative planning techniques, including mixed-use transit-oriented development, traditional neighborhood design or sustainable development techniques, that are deemed by the governing body to be beneficial and that will be incorporated into the tax increment development project; and
- L. the amount and type of private investment in each tax increment development project.

5-15-6. Notice of public hearing.

A. Upon adoption of a resolution indicating an intent to form a tax increment development district, a governing body shall set a date no sooner than thirty days and no later than sixty days after the adoption of the resolution for a public hearing regarding the formation of the district.

B. Notice of the hearing shall be provided by the governing body by:

- (1) publication once each week for two consecutive weeks in a newspaper of general circulation in the municipality or county in which the proposed district is located;
- (2) posting in a prominent location on property located within the proposed tax increment development area for fourteen days prior to the hearing; and
- (3) written notice via registered or certified United States mail, postage prepaid, to all owners of real property within the proposed tax increment development area no later than ten days prior to the hearing.

C. The notice of the hearing shall contain:

- (1) the date, time and place of the hearing;
- (2) information regarding alternative methods for submission of objects or comments;
- (3) a statement that the formation of a district is proposed;

- (4) a map showing the boundaries of the proposed district; and
- (5) a statement that a tax increment development plan is on file with the clerk of the governing body and may be reviewed upon request.

D. A summary of the resolution declaring the governing body's intent to form a tax increment development district shall be attached to a notice issued pursuant to this section. The clerk of the governing body shall mail a copy of the notice to each owner of real property within the proposed tax increment development area and to all other persons claiming an interest in the property who have filed a written request for a copy of the notice within the six months preceding or at any time following the adoption of the resolution. The clerk of the governing body shall publish a copy of the notice and resolution summary at least twice in a newspaper of general circulation in the municipality or county in which the proposed tax increment development district is located. The clerk of the governing body shall obtain an affidavit from that newspaper after each publication is made. The clerk of the governing body shall cause the affidavits to be placed in the official records of the municipality or county. The affidavits are conclusive evidence of the mailing and publishing of notice. Notice shall not be held invalid for failure of delivery to the addressee.

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

5-15-7. Public hearing.

A. At a public hearing conducted pursuant to the Tax Increment for Development Act [5-15-1 NMSA 1978], the governing body shall hear all relevant evidence and testimony and make findings. A record of the hearing shall be kept and may consist of a transcription by a court reporter, an electronic recording or minutes taken by a designated person. The record shall be preserved in the official records of the governing body and shall be open to public inspection pursuant to the Inspection of Public Records Act [14-2-4 NMSA 1978].

B. Testimony at a hearing is not required to be given under oath.

C. At the conclusion of a hearing, the governing body shall determine whether the tax increment development district should be formed based upon the interests, convenience or necessity of the owners, the residents of the proposed tax increment development district and the residents of the municipality or county in which the proposed tax increment development district is to be located. The governing body shall make the following findings before adopting a resolution to approve the formation of a district:

(1) the tax increment development plan reasonably protects the interests of the governing body in meeting its goals to support:

(a) job creation;

- (b) workforce housing;
 - (c) public school facility creation and improvement, including the creation and improvement of facilities for charter schools; and
 - (d) underdeveloped area or historical area redevelopment;
- (2) the tax increment development plan demonstrates elements of innovative planning techniques, including mixed-use transit-oriented development, traditional neighborhood design or sustainable development techniques, that are deemed by the governing body to benefit community development;
 - (3) the tax increment development plan incorporates sustainable development considerations; and
 - (4) the tax increment development plan conforms to general or long-term planning of the governing body.

D. If the governing body determines that the district should be formed, it shall adopt a resolution ordering that the tax increment development district be formed and shall set the matter for an election or declare that an election is waived, as provided in the Tax Increment for Development Act.

5-15-8. Election.

A. The election procedures set forth in this section shall be used for:

- (1) formation of a new tax increment development district;
- (2) election of a district board member;
- (3) adoption of a property tax levy by a tax increment development district;
- (4) use of property tax increment financing by a tax increment development district; or
- (5) issuing of property tax increment bonds to be repaid by funds raised by property tax increments.

B. An election may be waived and a tax increment development district shall be formed upon the governing body's adoption of a resolution to form a tax increment development district if a petition is presented to a governing body in accordance with the Tax Increment for Development Act [5-15-1 NMSA 1978] and if the petition contains the signatures of all owners of the real property within the proposed tax increment development area and states that the owners waive the right to an election.

C. An election pursuant to the Tax Increment for Development Act shall be a nonpartisan election called by posting notices in three public places within the boundaries of the district not less than twenty days before the election. Notice shall also be published in a newspaper of general circulation once each week for two consecutive weeks before the election in the municipality or county in which the proposed district is located.

D. The notice shall state:

- (1) the place of holding the election and provisions for voting by mail, if any;
- (2) the hours during the day during which the polls will be open;
- (3) if the election is a formation election, the boundaries of the proposed tax increment development district;
- (4) if the election is a bond election, the purpose for which the bonds are to be issued and the amount of the issue;
- (5) if the election is a property tax levy election, the maximum tax rate per one thousand dollars (\$1,000) of assessed valuation to be imposed, the purposes for which the revenues raised will be used and the existing maximum tax rate, if any;
- (6) that an approved tax increment development plan is on file with the clerk of the governing body;
- (7) the purposes for which property taxes will be imposed and for which the revenues raised will be used, including a description of the public improvements to be financed with tax revenues, bond proceeds or other revenues of the tax increment development district; and
- (8) that the imposition of property taxes will result in a lien for the payment on property within the district.

E. The district board, or, in the case of a formation election, the governing body, shall determine the date of the election and the polling places for the election and may consolidate county precincts. The district board or the governing body may establish provisions for voting by mail.

F. Voter lists shall be used to determine the resident qualified electors. If a district or proposed district includes land lying partly in and partly out of any county election precinct, the voter lists may contain the names of all registered voters in the precinct, and the precinct boards at these precincts shall require that a prospective elector execute an affidavit stating that the elector is also a resident qualified elector.

G. For an election held pursuant to the Tax Increment for Development Act, a prospective elector who is not a resident qualified elector shall execute an affidavit stating that the elector is the owner of land in the proposed or existing district and stating the area of land in acres owned

by the prospective elector. If the prospective elector is not an individual, the affidavit shall provide that the individual casting the vote is the designated representative of the corporation, association, partnership, limited liability company or other legal entity entitled to vote in the election. Precinct board members may administer oaths or accept affirmations for those purposes.

H. Except as otherwise provided by this section, the election shall comply with the general election laws of the state. The ballot material provided to each voter shall include:

- (1) for a formation election, an impartial description of the tax increment development plan and a brief description of arguments for and against the formation of the tax increment development district, if any;
- (2) for an election concerning the imposition of property taxes, an impartial description of the taxes to be imposed, the method of apportionment, collection and enforcement and other details sufficient to enable each resident qualified elector to determine the amount of tax it will be obligated to pay; a brief description of arguments for and against the imposition of taxes that are the subject of the election, if any; and a statement that the imposition of property taxes is for the provision of certain, but not necessarily all, public improvements that may be needed or desirable within the tax increment development district, and that other taxes, levies or assessments by other governmental entities may be presented for approval by owners and resident qualified electors;
- (3) for an election concerning the use of property tax increment financing, an impartial description of the estimated increment to be generated over the life of the project and the nature and extent of the public improvements to be constructed and maintained using such financing;
- (4) for a formation election, the question to be voted upon as "district, yes" and "district, no";
- (5) for a property tax imposition election, the question to be voted upon as "property tax, yes" and "property tax, no";
- (6) for an election to change an existing maximum tax or eliminate an existing tax, the question to be voted upon as "tax change, yes" and "tax change, no" and shall specify the type of tax to which the proposed change pertains; and
- (7) for an election concerning the use of property tax increment bonds, the ballot shall pose the question to be voted upon as "bonds, yes" and "bonds, no".

I. The governing body or, if after district formation, the district board, may provide for the returns of the election to be made in person or by mail.

J. Within thirty days after an election, the governing body, or if after district formation, the district board, shall meet and canvass the returns, determining the number of votes properly cast by owners and resident qualified electors. A majority of the votes cast at the election shall be required. The canvass may be continued for an additional period not to exceed thirty days at the

election of the governing body or district board for the purpose of completing the canvass. Failure of a majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election; provided that an election on the same question shall not be held within one year of the failure of a majority to vote in favor of that question.

K. If a person transfers real property located in a district and the name of the successor owner becomes known and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner is deemed to be the owner of the real property for the purposes of the Tax Increment for Development Act.

L. If there are no persons registered to vote within a district or proposed district within fifty days immediately preceding a scheduled election date, an election required to be held pursuant to the Tax Increment for Development Act shall be held by vote of the owners of property within the district or proposed district. Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.

M. In an election held pursuant to the Tax Increment for Development Act, an owner who is also a resident qualified elector shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner and shall not be entitled to an additional vote as a result of residing within the district.

5-15-9. Formation of a district.

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

- (1) the county assessor and the clerk of the county in which the district is located;
- (2) the school district within which any portion of the property located within a tax increment development area lies;
- (3) any other taxing entities within which any portion of the property located within a tax increment development area lies;
- (4) the taxation and revenue department; and
- (5) the local government division of the department of finance and administration.

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

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

5-15-10. Governance of the district.

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

B. The district shall be governed by the governing body that adopted a resolution to form the district or by a five-member board composed of members appointed by that governing body.

C. Three of the appointed directors shall serve an initial term of six years. Two of the appointed directors shall serve an initial term of four years. The resolution forming the district shall state which directors shall serve four-year terms and which shall serve six-year terms. If a vacancy occurs on the district board because of the death, resignation or inability of the director to discharge the duties of the director, the governing body shall appoint a director to fill the vacancy, and the director shall hold office for the remainder of the unexpired term until a successor is appointed or elected.

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

E. In the case of an appointed board of directors that is not the governing body, at the end of the appointed directors' initial terms, the board shall hold an election of new directors by majority vote of owners and qualified resident electors in accordance with the Tax Increment for Development Act [5-15-1 NMSA 1978]. Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.

5-15-11. Records; open meetings.

A. A district shall keep the following records, which shall be open to the public:

- (1) minutes of all meetings of the district board;
- (2) all resolutions;
- (3) accounts showing all money received and disbursed;
- (4) the annual budget; and
- (5) all other records required to be maintained by law.

B. A district board shall appoint a clerk and treasurer for the district.

C. All meetings of a district shall be open meetings held in accordance with the Open Meetings Act [10-15-1.1 NMSA 1978].

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 property located within the district;
- (3) enter into an intergovernmental agreement in accordance with the Joint Powers Agreements Act [11-1-1 NMSA 1978] for the planning, design, inspection, ownership, control, maintenance, operation or repair of public infrastructure or the provision of enhanced services by the municipality or county in which the district lies or for any other purpose authorized by the Tax Increment for Development Act [5-15-1 NMSA 1978];
- (4) sell, lease or otherwise dispose of district property if the sale, lease or conveyance is not a violation of the terms of any contract or bond covenant of the district;
- (5) reimburse a municipality or county in which the tax increment development district is located for providing services within the tax increment development area;
- (6) operate, maintain and repair public infrastructure until dedicated to the governing body;
- (7) employ staff, counsel, advisors and consultants;
- (8) reimburse a municipality or county in which the district is located for staff and consultant services and support facilities supplied by the municipality or county;
- (9) accept gifts or grants and incur and repay loans for a public purpose;
- (10) enter into an agreement with an owner concerning the advance of money by an owner for a public purpose or the granting of real property by the owner for a public purpose;
- (11) levy property taxes in accordance with election requirements of the Tax Increment for Development Act for a public purpose on real property located in the district;
- (12) pay the financial, legal and administrative costs of the district;
- (13) enter into contracts, agreements and trust indentures to obtain credit enhancement or liquidity support for its bonds and process the issuance, registration, transfer and payment of its bonds and the disbursement and investment of proceeds of the bonds in accordance with the provisions for investment of funds by municipal treasurers;

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

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

B. Notwithstanding the provisions of the Procurement Code [13-1-28 NMSA 1978] or local procurement requirements that may otherwise be applicable to the municipality or county in which the district is located, the district board may enter into contracts to carry out any of the tax increment development district's authorized powers, including the planning, design, engineering, financing, construction and acquisition of public improvements for the district, with a contractor, an owner or other person or entity, on such terms and with such persons as the district board determines to be appropriate.

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

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

5-15-13. Authority to impose property tax levy.

A district has the power to establish a property tax levy upon real property located within the tax increment development area, with the following limitations:

A. the maximum property tax levy a district may impose is five dollars (\$5.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code [7-35-1 NMSA 1978], which may be used for operation, maintenance and capital improvements, in furtherance of the purposes of the Tax Increment for Development Act [5-15-1 NMSA 1978];

B. a district may impose a property tax levy only after authorization by a majority of votes cast by the owners of real property and qualified resident electors of a district in an election held in accordance with the Tax Increment for Development Act; and

C. a property tax levy imposed by a district shall not be effective for more than four years.

5-15-14. Property tax levy rescission election.

A. A property tax levy imposed by a district may be rescinded within the four-year period during which a property tax levy imposed by a district is effective if:

- (1) thirty-three and one-third percent of the number of persons who voted in the election for the imposition of that property tax levy sign a petition to rescind the property tax levy; and
- (2) each person who signs the petition is a resident qualified elector of the district or an owner of real property within the tax increment development area.

B. The petition shall be filed with the district board for verification of the signatures, as to both number and qualifications of the persons signing. If the district board verifies that the petition contains the requisite number of signatures by persons qualified to sign the petition pursuant to Subsection A of this section, the question of rescission of the property tax levy imposed by the district shall be placed on the ballot for:

- (1) a special election held in accordance with the special election procedures of the Election Code [1-1-1 NMSA 1978] that is called and held within ninety days; or
- (2) the next occurring general election if that election is to be held within less than ninety days.

C. A petition for rescission of a property tax levy imposed by a district may be submitted only once each year during the four-year period during which a property tax levy by a district is effective.

5-15-15. Tax increment financing; gross receipts tax increment.

A. Notwithstanding any law to the contrary, but in accordance with the provisions of the Tax Increment for Development Act [5-15-1 NMSA 1978], a tax increment development plan, as originally approved or as later modified, may contain a provision that a portion of certain gross receipts tax increments collected within the tax increment development area after the effective date of approval of the tax increment development plan may be dedicated for the purpose of securing gross receipts tax increment bonds pursuant to the Tax Increment for Development Act.

B. As to a district formed by a municipality, a portion of any of the following gross receipts tax increments may be paid by the state directly into a special fund of the district to pay the principal of, the interest on and any premium due in connection with the bonds of, loans or advances to, or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the authority for financing or refinancing, in whole or in part, a tax increment development project within the tax increment development area:

- (1) municipal gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act [7-19D-1 NMSA 1978];
- (2) municipal environmental services gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act;
- (3) municipal infrastructure gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act;

- (4) municipal capital outlay gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act;
- (5) municipal regional transit gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act;
- (6) an amount distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978; and
- (7) the state gross receipts tax.

C. As to a district formed by a county, all or a portion of any of the following gross receipts tax increments may be paid by the state directly into a special fund of the district to pay the principal of, the interest on and any premium due in connection with the bonds of, loans or advances to or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the district for financing or refinancing, in whole or in part, a tax increment development project within the tax increment development area:

- (1) county gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act [7-20E-1 NMSA 1978];
- (2) county environmental services gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act;
- (3) county infrastructure gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act;
- (4) county capital outlay gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act;
- (5) county regional transit gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act; and
- (6) the state gross receipts tax.

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

E. An imposition of a gross receipts tax increment attributable to the imposition of a gross receipts tax by a taxing entity may be dedicated for the purpose of securing gross receipts tax increment bonds with the agreement of the taxing entity, evidenced by a resolution adopted by a

majority vote of that taxing entity. A taxing entity shall not agree to dedicate for the purposes of securing gross receipts tax increment bonds more than seventy-five percent of its gross receipts tax increment attributable to the imposition of gross receipts taxes by the taxing entity. A resolution of the taxing entity to dedicate a gross receipts tax increment or to increase the dedication of a gross receipts tax increment shall become effective only on January 1 or July 1 of the calendar year.

F. An imposition of a gross receipts tax increment attributable to the imposition of the state gross receipts tax within a district may be dedicated for the purpose of securing gross receipts tax increment bonds with the agreement of the state board of finance, evidenced by a resolution adopted by a majority vote of the state board of finance. The state board of finance shall not agree to dedicate more than seventy-five percent of the gross receipts tax increment attributable to the imposition of the state gross receipts tax within the district. The resolution of the state board of finance shall become effective only on January 1 or July 1 of the calendar year and shall find that:

- (1) the state board of finance has reviewed the request for the use of the state gross receipts tax;
- (2) based upon review by the state board of finance of the applicable tax increment development plan, the dedication by the state board of finance of a portion of the gross receipts tax increment attributable to the imposition of the state gross receipts tax within the district for use in meeting the required goals of the tax increment plan is reasonable and in the best interest of the state; and
- (3) the use of the state gross receipts tax is likely to stimulate the creation of jobs, economic opportunities and general revenue for the state through the addition of new businesses to the state and the expansion of existing businesses within the state.

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

- (1) a tax increment development plan has been approved that contains a provision for the allocation of a gross receipts tax increment;
- (2) any outstanding bonds of the district have been paid off; and
- (3) the purposes of the district have otherwise been achieved.

5-15-16. Bonding authority; gross receipts tax increment.

A. A district may issue gross receipts tax increment revenue bonds, the pledged revenue for which is a gross receipts tax increment, for any one or more of the purposes authorized by the Tax Increment for Development Act [5-15-1 NMSA 1978].

B. A district may pledge irrevocably any or all of a gross receipts tax increment received by the district to the payment of the interest on and principal of the gross receipts tax increment bonds for any of the purposes authorized in the Tax Increment for Development Act. A law that imposes or authorizes the imposition of a municipal or county gross receipts tax or that affects the municipal or county gross receipts tax shall not be repealed, amended or otherwise directly or indirectly modified in any manner to adversely impair any outstanding gross receipts increment bonds that may be secured by a pledge of any municipal or county gross receipts tax increment, unless those outstanding bonds have been discharged in full or provision has been fully made for those bonds.

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

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

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

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

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

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

(5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act [6-14-1 NMSA 1978] and the [Public Securities] Short-Term Interest Rate Act [6-18-1 NMSA 1978]; and

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

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

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

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

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

5-15-17. Property tax increment bonds.

A. Notwithstanding any law to the contrary, but in accordance with the Tax Increment for Development Act [5-15-1 NMSA 1978], a tax increment development plan, as originally approved or as later modified, may contain a provision that a portion of property taxes levied after the effective date of the approval of the tax increment development plan upon taxable property within a tax increment development area each year, by or for the benefit of any public body, may be dedicated for securing property tax increment bonds pursuant to the Tax Increment for Development Act, according to the following procedures:

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

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

(3) when the bonds, loans, advances and indebtedness, if any, including interest thereon and any premiums due in connection with the bonds, loans, advances and indebtedness have been paid, all taxes upon taxable property in a tax increment development area shall be paid into the funds of the respective public bodies.

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

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

D. A tax increment development plan, as originally approved or as later modified, may contain a provision that the taxes levied upon taxable property within the tax increment development area may continue to be allocated after the effective date of the adoption of the property tax increment provision if the existing bonds are in default or about to go into default; except that those taxes shall not be allocated after all bonds of the district issued pursuant to the plan,

including loans, advances and indebtedness, if any, and interest thereon, and any premiums due in connection with the loans, advances and indebtedness have been paid.

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

F. The municipality in which a tax increment development district has been established shall timely notify the assessor of the county in which the district has been established when:

- (1) a tax increment development plan has been approved;
- (2) any outstanding obligation incurred by the district has been paid off; and
- (3) the purposes of the district have otherwise been achieved.

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

H. The increment attributable to a levy by a taxing entity shall not be dedicated for the purpose of securing property tax increment bonds without the agreement of the taxing entity. The agreement shall be evidenced by a resolution adopted by a majority vote of that taxing entity. A taxing entity shall not agree to dedicate for the purpose of securing property tax increment bonds more than seventy-five percent of the property tax increment attributable to a property tax levy by that taxing entity.

5-15-18. Bonding authority; property tax increment.

A. Subject to the limitations and in accordance with Article 9 of the constitution of New Mexico and Sections 6-15-1 and 6-15-2 NMSA 1978, a district board may issue and dispose of property tax increment bonds for the purpose of securing funds for undertaking tax increment development projects within the purposes of the Tax Increment for Development Act [5-15-1 NMSA 1978].

B. Before property tax increment bonds are issued, the district board shall submit to a vote of the registered qualified electors within the tax increment development area and the nonresident electors owning property within the tax increment development area the question of issuing the property tax increment bonds.

C. The district board shall give notice of the time and place of holding the election and the purpose for which the property tax increment bonds are to be issued. Notice of a property tax increment bond election shall be given as required by the Tax Increment for Development Act.

D. The question shall state the purpose for which the property tax increment bonds are to be issued and the amount of the issue. If property tax increment bonds are to be issued for more

than one purpose, a separate question shall be submitted to the voters for each purpose to be voted upon. The ballots shall contain words indicating the purpose of the bond issued and a place for a vote in favor of or in opposition to each property tax increment bond issue. The ballots shall be deposited in a separate ballot box, unless voting machines are used.

E. Except as otherwise provided in the Tax Increment for Development Act, property tax increment bonds:

- (1) may have interest, principal value or any part thereof payable at intervals or at maturity, as determined by the governing body;
- (2) may be subject to a prior redemption at the district's option at a time or upon terms and conditions with or without payment of premium or premiums, as determined by the district board;
- (3) may mature at any time not exceeding twenty-five years after the date of issuance;
- (4) may be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in another form, as determined by the district board;
- (5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act [6-14-1 NMSA 1978] and the [Public Securities] Short-Term Interest Rate Act [6-18-1 NMSA 1978]; and
- (6) may be sold at public or negotiated sale.

F. Except as otherwise provided by law, the district board shall determine the denominations, places of payment, terms and conditions and the form of property tax increment bonds.

G. The secretary and treasurer of the district board shall sign property tax increment bonds.

H. The property tax increment bonds may be executed in the manner provided by the Uniform Facsimile Signature of Public Officials Act [6-9-6 NMSA 1978].

5-15-19. Refunding bonds.

A. A district board that has issued bonds in accordance with the Tax Increment for Development Act [5-15-1 NMSA 1978] may issue refunding bonds for the purpose of refinancing, paying and discharging all or any part of outstanding bonds for the:

- (1) acceleration, deceleration or other modification of the payment of the outstanding bonds, including, without limitation, any capitalization of any interest thereon in arrears or about to become due for any period not exceeding two years from the date of the refunding bonds;
- (2) purpose of reducing interest costs or effecting other economies; or

(3) purpose of modifying or eliminating restrictive contractual limitations:

(a) pertaining to the issuance of additional bonds; or

(b) concerning the outstanding bonds or facilities relating to the outstanding bonds.

B. A district board may pledge irrevocably for the payment of interest, principal and premium, if any, on refunding bonds the appropriate pledged revenues, which may be pledged to an original issue of bonds.

C. Refunding bonds may be issued separately or in combination in one series or more.

D. Refunding bonds shall be authorized by resolution. Bonds that are refunded shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds or otherwise appertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

E. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds and may also be less than or the same as the principal amount of the bonds being refunded if provision is duly and sufficiently made for the payment of the refunded bonds.

F. The proceeds of refunding bonds, including accrued interest and premiums appertaining to the sale of refunding bonds, shall be immediately applied to the retirement of the bonds being refunded or placed in escrow in a commercial bank or trust company that possesses and exercises trust powers and that is a member of the federal deposit insurance corporation. The proceeds shall be applied to the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that the refunding bond proceeds, including accrued interest and premiums appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest on those bonds and the principal of those bonds, or both interest and principal as the district board determines. This section does not require the establishment of an escrow if the refunded bonds and the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other money available for its purpose. Proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States or in certificates of deposit of banks that are members of the federal deposit insurance corporation; provided that the par value of the certificates of deposit is collateralized by a pledge of obligations or by a pledge of payment that is unconditionally guaranteed by the United States; and further provided that the par value of those obligations is at least seventy-five percent of the par value of the certificates of deposit. Such proceeds and investments in escrow, together with any interest or other income to be derived from any such

investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or at any designated prior redemption date or dates in connection with which the municipality shall exercise a prior redemption option. A purchaser of a refunding bond issued is not responsible for the application of the proceeds by the district or any of its officers, agents or employees.

G. Refunding bonds may bear additional terms and provisions as determined by the district subject to the limitations in this section relating to original bond issues. Refunding bonds are not subject to the provisions of any other statute.

H. District refunding bonds:

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

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

(3) may be serial in form and maturity or may consist of a single bond payable in one or more installments or may be in another form, as determined by the district board; and

(4) shall be exchanged for the bonds and any matured unpaid interest being refunded at not less than par or sold at public or negotiated sale at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act [6-14-1 NMSA 1978].

I. At a regular or special meeting, a district board may adopt a resolution by majority vote to authorize the issuance of the refunding bonds.

5-15-20. General bonding authority of a tax increment development district; other limitations.

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

B. Prior to the issuance of indebtedness evidenced by the gross receipts tax increment bonds or property tax increment bonds issued by a district pursuant to the Tax Increment for Development Act [5-15-1 NMSA 1978], the property owners within the district shall contribute a minimum of

twenty percent of the initial public infrastructure costs, which may be reimbursed with proceeds of gross receipts tax increment or property tax increment bonds; unless the project to be financed with gross receipts tax increment bonds or property tax increment bonds is a metropolitan redevelopment project pursuant to the Metropolitan Redevelopment Code [3-60A-1 NMSA 1978].

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

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

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

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

5-15-21. Approval required for issuance of bonds against state gross receipts tax increments.

In addition to all other requirements of the Tax Increment for Development Act [5-15-1 NMSA 1978], prior to a district board issuing bonds against a gross receipts tax increment attributable to the imposition of the state gross receipts tax within a district:

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

B. the issuance of the bonds shall be specifically authorized by law.

5-15-22. Exemption from taxation.

The bonds authorized by the Tax Increment for Development Act [5-15-1 NMSA 1978] and the income from the bonds or any other instrument executed as security for the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

5-15-23. Protection from impairment.

If the provisions set forth in the Tax Increment for Development Act [5-15-1 NMSA 1978] impair the ability of a municipality, county or other public body to meet its principal or interest payment obligations for revenue bonds or general obligation bonds outstanding prior to the effective date of the Tax Increment for Development Act that are secured by the pledge of all or part of the municipality, county or other public body's revenue gross receipts tax or property tax, then the amount otherwise payable to the district pursuant to the Tax Increment for Development Act shall be paid instead to the municipality, county or public body in an amount sufficient to meet any required payment.

5-15-24. Tax increment accounting procedures.

A district board shall separately account for all revenues and indebtedness based on gross receipts tax increments and property tax increments. The district board shall individually account for all gross receipts tax increments.

5-15-25. Modification of tax increment development area boundaries or tax increment development plan.

A. After an election to form a district, an area may be eliminated from the tax increment development area only following a hearing conducted upon notice given to the owners of land in the tax increment development area in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the district board and voter approval by the owners and resident qualified electors as provided in the Tax Increment for Development Act [5-15-1 NMSA 1978]. Real property within the tax increment development area that is subject to the lien of property taxes, special levies or other charges imposed pursuant to the Tax Increment for Development Act shall not be eliminated from the district while there are bonds outstanding that are payable by those taxes, special levies or charges.

B. At any time after adoption of a resolution creating a district, an area may be added to the district upon the approval of the owners of real property in the proposed additional area and the resident qualified electors residing therein, as well as the owners of real property in the district and resident qualified electors, in the same manner as required for the formation of a district.

C. The district board, following a hearing conducted upon notice given to the owners of real property located in the district in the manner prescribed for the formation hearing, may, subject to the approval of the governing body that approved the district's tax increment development plan, amend the tax increment development plan in any manner that it determines will not substantially reduce the benefits to be received by any land in the district from the public infrastructure on completion of the work to be performed under the general plan. An election shall not be required solely for the purposes of this subsection.

5-15-26. Termination of tax increment development district.

A. A district shall be terminated by a resolution of the district board that all of the following conditions exist:

- (1) all improvements owned by the district have been, or provision has been made for all improvements to be, conveyed to the municipality or county in which the district is located;
- (2) either the district does not have any outstanding bond obligations or the municipality or county has assumed all of the outstanding bond obligations of the district; and
- (3) all obligations of the district pursuant to any agreement with the municipality or county have been satisfied.

B. Property in the district that is subject to the lien of district taxes shall remain subject to the lien for the payment of bonds, notwithstanding termination of the district. The district shall not be terminated if any bonds of the district remain outstanding unless an amount of money sufficient, together with investment income thereon, to make all payments due on the bonds either at maturity or prior redemption has been deposited with a trustee or escrow agent and pledged to the payment and redemption of the bonds. The district may continue to operate after termination only as needed to collect money and make payments on any outstanding bonds.

5-15-27. Dedication of gross receipts tax increment; notice to taxation and revenue department.

If the state board of finance or a taxing entity approves a dedication or increase in the dedication of a portion of a gross receipts tax increment to a district, the state board of finance or the taxing entity shall notify the taxation and revenue department of that approval at least one hundred twenty days before the effective date of the dedication or increase in the dedication.

5-15-28. Bond term expiration.

The terms of bonds issued pursuant to the Tax Increment for Development Act [5-15-1 NMSA 1978] for a district, including refunding bonds, shall expire not more than twenty-five years after the date that the first bonds are issued for that district.