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October 15, 2025

Subject: Official Comments on Proposed Rule 2.61.2 NMAC

Members of the State Board of Finance:

On behalf of the Legislative Finance Committee's professional staff, I am pleased to submit the following comments in strong support of the proposed 2.61.2 NMAC, "Dedication of a Portion of the State's Gross Receipts Tax Increment for Metropolitan Redevelopment." These comments reflect the expertise and responsibilities of the committee's fiscal and economic staff in evaluating policies with potential impacts on the state's general fund and overall economic investments. They are offered in the spirit of shared technical and fiscal management expertise and do not represent the views or formal position of the Legislative Finance Committee as an elected body.

The proposed rule provides a sound and methodical framework for evaluating requests to dedicate a portion of the state's gross receipts tax increment to local metropolitan redevelopment projects. The rule's analytical rigor, reporting requirements, and procedural safeguards are consistent with prudent fiscal management and necessary to ensure that state participation in local redevelopment efforts advances public benefit while protecting state revenues.

In addition to expressing strong support for the proposed rule, this comment also seeks the addition or amendment of four areas. The following numerical list reflects a summary of the suggested changes with associated reasoning or justifications. Following this letter is an appendix detailing the suggested changes with in-text redline recommendations and commentary.

1. Strengthening Analytical Rigor in Economic and Financial Studies

Recommended additions to Section 2.61.2.7 (Definitions – Economic Analysis Study) and Section 2.61.2.7(F) (Financing Plan) include explicit requirements for downside

stress testing of revenues and establishment of baseline performance indicators for jobs, housing, and infrastructure against which annual reporting can be measured. These changes ensure the state can validate the reasonableness of revenue projections and assess fiscal risk before authorizing participation. Without these requirements, the board cannot reliably evaluate project sustainability or the sufficiency of state contributions.

2. Clarifying Effective Dates and Sunsets for Non-Bonded Projects

To ensure administrative consistency with the Taxation and Revenue Department's schedule for changes to GRT rates and distributions and to prevent indefinite reservation of state revenue capacity, the rule should specify dedications become effective on July 1 following board approval and a tax dedication lapse if no bonds are issued within four years unless renewed accordingly and with updated analysis.

3. Limiting and Documenting Waiver Authority

The waiver authority in Section 2.61.2.13 should be limited to procedural requirements, with any waiver accompanied by written findings confirming that the state's fiscal interests remain protected. This refinement enhances transparency and ensures analytical standards are applied consistently across projects with specific waivers related to burden and unique to each application.

4. Ensuring Equitable State and Local Participation

To maintain shared fiscal responsibility, the rule should include language stating that the state's dedication of a gross receipts tax increment shall not exceed the amount contributed by local governments. This ensures that local entities retain proportional financial commitment and aligns metropolitan redevelopment participation rules with established tax increment development district practices.

In closing, the proposed rule represents a prudent and comprehensive approach to governing state participation in metropolitan redevelopment financing. By adopting the rule with these enhancements, the State Board of Finance will maintain the state's fiscal discipline, promote evidence-based decision-making, and safeguard the state's general fund while supporting equitable and effective redevelopment outcomes across New Mexico.

Accordingly, these comments express strong support for the adoption of 2.61.2 NMAC and recommend modifications to Sections 2.61.2.7, 2.61.2.11, 2.61.2.13, and the addition of a local-matching requirement.

Respectfully submitted,

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Appendix: Proposed Redline and Commentary on 2.61.2 NMAC

This appendix accompanies the official comment letter submitted by LFC staff. Additions are underlined; deletions are struck through. Each section is followed by commentary explaining the rationale and fiscal or policy effect. These comments are offered by staff of the Legislative Finance Committee in their analytical and fiscal management capacity, not as a formal position of the committee itself.

Section 2.61.2.7 – Definitions: Economic Analysis Study

Insert at the end of the Economic Analysis Study definition:

“...and establish baseline performance indicators for jobs, housing, and infrastructure against which future reporting will be measured.”

Add within Subsection (F) ‘Financing Plan’:

“(8) The total revenues generated and ability to meet bond payments given downside stress-testing of revenues under at least two adverse scenarios that reflects specific land-use impacts of adverse general economic downturns or adverse development outcome scenarios.”

Commentary: These additions ensure projects include a rigorous fiscal assessment and explicit scenario analysis. They allow the board and DFA to understand how bond obligations perform under stress and establish baseline data for ongoing performance measurement.

Section 2.61.2.11 – Board Approval

Insert new Subsection C:

“C. Effective date: Any dedication of the state gross receipts tax increment shall become effective on July 1, in accordance with Taxation and Revenue rate change schedules per 3-60A-21.B immediately following the date of board approval.”

Insert new Subsection F:

“F. Sunset for non-bonded projects: If no bonds are issued within four years of board approval, the state dedication shall lapse unless renewed upon updated application and analysis consistent with 3-60A-23.B and 3-60A-23.C.”

Commentary: These insertions provide clear timing and expiration rules. They prevent indefinite reservation of state revenues and ensure projects advance within the defined statutory window, aligning MRA rules with relevant statute.

Section 2.61.2.13 – Waiver

Revise to read:

~~“The board, in its sole and absolute discretion, may waive any requirements set forth in these rules unless such waiver would be contrary to the Metropolitan Redevelopment Code or waiver would impair~~ The board, in its discretion, may waive requirements included in these rules when the application demonstrates why it is in the best interest of the state to do so provided that the requesting party can demonstrate the need for a waiver and that other documents that are provided are equivalent to or satisfy the rationale for submitting the information and that the state’s interest will continue to be sufficiently protected and only if such waiver does not impair the board’s ability to satisfy its obligations under Subsection C of Section 3-60A-23 NMSA 1978.”

Commentary: The modification limits waiver authority to those applicants in need of administrative burden relief and requires findings of protection of the state’s interest, in alignment with the requirements set forth in other Board of Finance rules (TIDD). This maintains flexibility while ensuring analytical and fiscal standards cannot be waived without justification.

New Provision – Local Match Requirement

Insert new language within the general approval or financing sections:

“The state’s gross receipts and property tax increment dedications shall not exceed the portion or amount of gross receipts tax increment or property tax increment dedicated by local governments.”

Commentary: This addition promotes equity between state and local contributions, ensuring local governments maintain meaningful fiscal responsibility and aligning MRA practices with TIDD precedents that have been of demonstrated legislative interest.