

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**HOUSE BILL 102**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Daniel P. Silva

**AN ACT**

**RELATING TO TRANSPORTATION; ENACTING THE REGIONAL TRANSIT  
DISTRICT ACT; AUTHORIZING THE CREATION OF REGIONAL TRANSIT  
DISTRICTS; PROVIDING THE POWERS AND DUTIES OF REGIONAL  
TRANSIT DISTRICTS; PROVIDING FOR THE POWERS AND  
RESPONSIBILITIES OF THE BOARD OF DIRECTORS; AUTHORIZING  
ISSUANCE OF BONDS; PROVIDING PENALTIES; MAKING AN  
APPROPRIATION.**

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

**Section 1. SHORT TITLE. --This act may be cited as the  
"Regional Transit District Act".**

**Section 2. PURPOSE. --The purpose of the Regional Transit  
District Act is to:**

**A. serve the public by providing for the creation  
of regional networks of safe and efficient public transit**

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

underscored material = new  
[bracketed material] = delete

1 services;

2 B. allow multijurisdictional public transit systems  
3 to reduce the congestion of single-occupant motor vehicle  
4 traffic by providing transportation options for residents;

5 C. decrease automobile accidents by reducing  
6 traffic congestion on freeways and streets;

7 D. reduce noise and air pollution produced by motor  
8 vehicles;

9 E. prolong and extend the life of New Mexico's  
10 existing roadways by easing the traffic burden;

11 F. provide residents with a choice of  
12 transportation alternatives so that seniors, youth, low-income  
13 and mobility-impaired residents and others unable to drive or  
14 afford motor vehicles continue to have full access to the  
15 goods, services, jobs and activities of the community;

16 G. improve the New Mexico economy by increasing  
17 workforce and citizen access to education and higher paying  
18 jobs; and

19 H. prolong and extend petroleum resources.

20 Section 3. DEFINITIONS. -- As used in the Regional Transit  
21 District Act:

22 A. "board" means the board of directors of a  
23 district;

24 B. "bond" means a revenue bond;

25 C. "combination" means two or more governmental

. 142909. 1

underscored material = new  
[bracketed material] = delete

1 units that exercise joint authority;

2 D. "commission" means the state transportation  
3 commission;

4 E. "construct" or "construction" means the  
5 planning, designing, engineering, acquisition, installation,  
6 construction or reconstruction of a regional transit system;

7 F. "district" means a regional transit district  
8 that is a political subdivision of the state created pursuant  
9 to the Regional Transit District Act;

10 G. "governmental unit" means the state, a county or  
11 a municipality of the state or an Indian nation, tribe or  
12 pueblo located within the boundaries of the state;

13 H. "regional transit system" means a property,  
14 improvement or system designed to be compatible with  
15 established state and local transportation plans that  
16 transports or conveys passengers within a region by means of a  
17 high-occupancy vehicle, including an automobile, truck, bus,  
18 van or railcar; and

19 I. "revenues" means tolls, fees, rates, charges,  
20 assessments, grants, contributions or other income and revenues  
21 received by the district.

22 Section 4. CREATION OF DISTRICTS. --

23 A. A combination may create a district by contract.  
24 Upon the issuance by the commission of a certificate stating  
25 that the district has been duly organized according to the

. 142909. 1

underscored material = new  
[bracketed material] = deleted

1 provisions of the Regional Transit District Act, the district  
2 may exercise the functions conferred by the provisions of that  
3 Act. The commission shall issue the certificate within thirty  
4 days of the filing with the commission of a copy of a contract  
5 that fulfills all the requirements set forth in this section  
6 and a copy of the bylaws and operating procedures of the  
7 district. The commission shall cause the certificate to be  
8 recorded in each county having territory included in the  
9 boundaries of the district. Upon issuance of the certificate  
10 by the commission, the district shall constitute a separate  
11 political subdivision of the state and shall have all of the  
12 duties, privileges, immunities, rights, liabilities and  
13 disabilities of a political subdivision.

14 B. A contract establishing a district shall specify  
15 the:

16 (1) name and purpose of the district and the  
17 regional transit systems to be provided;

18 (2) establishment and organization of the  
19 board in which all legislative power of the district is vested;

20 (3) manner of the appointment, term of  
21 service, qualifications and compensation, if any, of the  
22 directors and the procedure for filling vacancies;

23 (4) officers of the district, the manner of  
24 their appointment and their duties;

25 (5) voting requirements for action by the

underscored material = new  
[bracketed material] = del ete

1 board;

2 (6) provisions for the distribution,  
3 disposition or division of the assets of the district;

4 (7) boundaries of the district, which shall  
5 not include territory:

6 (a) outside the boundaries of the  
7 members of the combination without the consent of the governing  
8 body of the governmental unit of the territory; or

9 (b) within the unincorporated boundaries  
10 of a county that is not a member of the combination as the  
11 unincorporated boundaries of the county exist on the date the  
12 district is created without the consent of the governing body  
13 of the county;

14 (8) term of the contract and the method by  
15 which it may be terminated or rescinded. The contract shall  
16 not be terminated or rescinded so long as the district has  
17 bonds outstanding;

18 (9) provisions for amendment of the contract;

19 (10) limitations on the powers granted by the  
20 Regional Transit District Act that may be exercised by the  
21 district; and

22 (11) conditions required when adding or  
23 deleting parties to the contract pursuant to Section 18 of the  
24 Regional Transit District Act.

25 C. A governmental unit shall not enter into a

underscored material = new  
[bracketed material] = delete

1 contract establishing a district without holding at least one  
2 public hearing in addition to other requirements imposed by law  
3 for public notice. The governmental unit shall give notice of  
4 the time, place and purpose of the public hearing by  
5 publication in a newspaper of general circulation in the  
6 governmental unit at least ten days prior to the date of the  
7 public hearing.

8 D. Upon the approval of the governor, the state may  
9 join in a contract creating a district. The number of  
10 directors of the board to which the state is entitled shall be  
11 established in the contract, but in no case shall the state be  
12 entitled to less than one director. The governor shall appoint  
13 the director or directors representing the state on the board,  
14 for a term as established by the contract that created the  
15 district.

16 Section 5. BOARD. --

17 A. All powers, privileges and duties vested in or  
18 imposed upon the district shall be exercised and performed by  
19 the board. The board may delegate its powers by resolution to  
20 an officer or agent of the board, with the exception of the  
21 following:

- 22 (1) adoption of board policies and procedures;
- 23 (2) ratification of acquisition of land by  
24 negotiated sale;
- 25 (3) institution of an eminent domain action;

underscored material = new  
[bracketed material] = delete

1 (4) initiation or continuation of legal  
2 action, not involving traffic or toll violations;

3 (5) establishment of policies regarding fees,  
4 tolls, rates or charges; and

5 (6) approval of significant route or schedule  
6 changes affecting more than twenty-five percent of a regional  
7 transit system.

8 B. The board shall promulgate and adhere to  
9 policies and procedures that govern its conduct and provide  
10 meaningful opportunities for public input. These policies  
11 shall include standards and procedures for calling emergency  
12 meetings.

13 C. The board shall be composed of at least one  
14 director from each governmental unit that is a member of the  
15 district. A director shall be an elected official or his  
16 designee. A governmental unit shall not have a majority of  
17 membership on the board, unless there are three or fewer  
18 participating governmental units in the district.

19 D. A director of the board shall not vote on an  
20 issue when the director has a conflict of interest. A director  
21 of the board, officer of the board or employee of the board  
22 shall not:

23 (1) acquire a financial interest in a new or  
24 existing business venture or business property of any kind when  
25 he believes or has reason to believe that the new financial

underscored material = new  
[bracketed material] = delete

1 interest will be directly affected by his official act;

2 (2) use confidential information acquired by  
3 virtue of his office or employment for his or another's private  
4 gain; or

5 (3) contract with the district without public  
6 notice and competitive bidding and full disclosure of his  
7 financial or other interest in the business that is party to  
8 the contract.

9 E. The attorney general shall investigate and  
10 prosecute, when appropriate, a complaint brought to his  
11 attention involving a violation of Subsection D of this  
12 section. Violation of the provisions of Subsection D of this  
13 section by a director of the board, officer of the board or  
14 employee of the board is grounds for removal or suspension of  
15 the director or officer and dismissal, demotion or suspension  
16 of the employee.

17 F. In addition to all other powers conferred by the  
18 Regional Transit District Act, the board may:

19 (1) adopt bylaws;

20 (2) fix the time and place of meetings and the  
21 method of providing notice of the meetings;

22 (3) make and pass orders and resolutions  
23 necessary for the government and management of the affairs of  
24 the district and the execution of the powers vested in the  
25 district;



underscored material = new  
[bracketed material] = del ete

1 (4) adopt and use a seal;  
2 (5) maintain offices at a place as the board  
3 may designate;

4 (6) appoint, hire and retain employees,  
5 agents, engineers, attorneys, accountants, financial advisors,  
6 investment bankers and other consultants;

7 (7) prescribe, in accordance with the  
8 Procurement Code, methods for auditing and allowing or  
9 rejecting claims and demands for:

10 (a) the awarding of contracts for the  
11 construction of improvements, works or structures;

12 (b) the acquisition of equipment; or

13 (c) the performance or furnishing of  
14 labor, materials or supplies as may be required for carrying  
15 out the purposes of the Regional Transit District Act; and

16 (8) appoint advisory committees and define the  
17 duties of the committees.

18 Section 6. POWERS OF THE DISTRICT. --

19 A. A district is a body politic and corporate. In  
20 addition to other powers granted to the district pursuant to  
21 the Regional Transit District Act, the district may:

22 (1) have perpetual existence, except as  
23 otherwise provided in the contract;

24 (2) sue and be sued;

25 (3) enter into contracts and agreements

underscored material = new  
[bracketed material] = del ete

1 affecting the affairs of the district;

2 (4) establish, collect and increase or  
3 decrease fees, tolls, rates or charges for the use of property  
4 of a regional transit system financed, constructed, operated or  
5 maintained by the district; except that fees, tolls, rates or  
6 charges imposed for the use of a regional transit system shall  
7 be fixed and adjusted to pay for bonds issued by the district;

8 (5) pledge all or a portion of the revenues to  
9 the payment of bonds of the district;

10 (6) finance, construct, operate or maintain  
11 regional transit systems within the boundaries of the district;

12 (7) purchase, trade, exchange, acquire, buy,  
13 sell, lease, lease with an option to purchase, dispose of and  
14 encumber real or personal property and interest therein,  
15 including easements and rights of way;

16 (8) accept real or personal property for the  
17 use of the district and accept gifts and conveyances upon the  
18 terms and conditions as the board may approve;

19 (9) use the streets, highways and other public  
20 ways and, with permission of the owner, to relocate or alter  
21 the construction of streets, highways, other public ways,  
22 electric and telephone lines and properties, pipelines,  
23 conduits and other properties, whether publicly or privately  
24 owned, if deemed necessary by the district in the construction,  
25 reconstruction, repair, maintenance and operation of the

underscored material = new  
[bracketed material] = delete

1 system. Any damage that may occur to the property shall be  
2 borne by the district; and

3 (10) provide transportation services outside  
4 the boundaries of the district.

5 B. After the creation of a district, the board may  
6 include property within or exclude property from the boundaries  
7 of the district in the manner provided in this section.

8 Property shall not be included within the boundaries of the  
9 district unless it is within the boundaries of the members of  
10 the combination at the time of the inclusion. Property located  
11 within the boundaries of a governmental unit that is not a  
12 member of the combination as the boundaries of the governmental  
13 unit exist on the date the property is included shall not be  
14 included without the consent of the governing body of the  
15 governmental unit. Prior to inclusion of property in or  
16 exclusion of property from the boundaries of the district, the  
17 board shall cause notice of the proposed inclusion or exclusion  
18 to be published in a newspaper of general circulation within  
19 the boundaries of the district and cause the notice to be  
20 mailed to the commission. The notice shall:

21 (1) describe the property to be included in or  
22 excluded from the boundaries of the district;

23 (2) specify the date, time and place at which  
24 the board shall hold a public hearing on the proposed inclusion  
25 or exclusion; provided that the date of the public hearing

. 142909. 1

underscored material = new  
[bracketed material] = delete

1 contained in the notice shall be not less than twenty days  
2 after publication of the notice; and

3 (3) state that persons having objections to  
4 the inclusion or exclusion may appear at the public hearing to  
5 object to the proposed inclusion or exclusion.

6 C. The board shall hear all objections to the  
7 proposed inclusion or exclusion at the time and place  
8 designated in the notice. The board, upon the affirmative vote  
9 of two-thirds of the directors, may adopt a resolution  
10 including or excluding all or a portion of the property  
11 described in the notice. Upon the adoption of the resolution,  
12 the property shall be included within or excluded from the  
13 boundaries of the district as set forth in the resolution. The  
14 board may adopt the resolution without amending the district's  
15 enabling contract. The board shall file the resolution with  
16 the commission, who shall cause the resolution to be recorded  
17 in the real estate records of each county having territory  
18 included in the boundaries of the district.

19 Section 7. TOLL COLLECTION. --

20 A. A district may promulgate rules regarding  
21 collection of fees, tolls, rates or charges. State and local  
22 law enforcement authorities may enter into traffic and toll  
23 enforcement agreements with a district.

24 B. A person who fails to pay a fee, toll, rate or  
25 charge required for the privilege of traveling on or using

underscored material = new  
[bracketed material] = delete

1 property included in a regional transit system may be assigned  
2 a fine of not more than one hundred fifty dollars (\$150) or not  
3 less than fifty dollars (\$50.00). The magistrate or  
4 metropolitan court where the offense took place shall have  
5 jurisdiction over actions brought pursuant to this subsection.

6 Section 8. BONDS. --

7 A. A district may issue bonds solely for the  
8 purpose of financing the purchase, construction, renovation,  
9 equipping or furnishing of a regional transit system project.  
10 The district shall issue the bonds pursuant to resolution of  
11 the board, and the bonds shall be payable solely out of all or  
12 a specified portion of the revenues as designated by the board.  
13 Proceeds of the bonds may be used to pay expenses incurred in  
14 the preparation, issuance and sale of the lands.

15 B. As provided in the resolution of the board under  
16 which the bonds are authorized to be issued, the bonds shall:

17 (1) be executed and delivered by the district;

18 (2) be in a form and denomination and include  
19 terms and maturities;

20 (3) be subject to optional or mandatory  
21 redemption prior to maturity with or without a premium;

22 (4) be in fully registered form or bearer form  
23 registrable as to principal or interest or both;

24 (5) bear conversion privileges;

25 (6) be payable in installments and at a time

underscored material = new  
[bracketed material] = delete

1 not exceeding forty years from the date of issuance;

2 (7) be payable within or outside the state;

3 (8) have the principal paid in yearly amounts  
4 beginning not later than two years from the date of issuance of  
5 the bonds;

6 (9) be subject to purchase at the option of  
7 the holder or the district;

8 (10) be executed by the officers of the  
9 district, including the use of one or more facsimile signatures  
10 so long as at least one manual signature appears on the bonds,  
11 which signatures may be either of an officer of the district or  
12 of an agent authenticating the same;

13 (11) be in the form of coupon bonds that have  
14 attached interest coupons bearing a manual or facsimile  
15 signature of an officer of the district; and

16 (12) be sold at a net effective interest rate  
17 not exceeding the maximum net effective interest rate permitted  
18 by the Public Securities Act.

19 C. Bonds may be sold at public or private sale at a  
20 price, in a manner and at a time determined by the board, and  
21 the board may pay all fees, expenses and commissions that it  
22 deems necessary or advantageous in connection with the sale of  
23 the bonds. The power to fix the date of sale of the bonds,  
24 receive bids or proposals, award and sell bonds, fix interest  
25 rates and take all other action necessary to sell and deliver

. 142909. 1

underscored material = new  
[bracketed material] = delete

1 the bonds may be delegated to an officer or agent of the  
2 district. Outstanding bonds may be refunded by the district as  
3 provided in the Public Securities Act.

4 D. A resolution authorizing the issuance of bonds  
5 may pledge all or a portion of the revenues of the district,  
6 may contain a provision for protecting and enforcing the rights  
7 and remedies of holders of the bonds as the district deems  
8 appropriate, may set forth the rights and remedies of the  
9 holders of the bonds and may contain provisions that the  
10 district deems appropriate for the security of the holders of  
11 the bonds.

12 E. A pledge of revenues or property made by a  
13 district or by a person or governmental unit with which a  
14 district contracts shall be valid and binding from the time the  
15 pledge is made. The revenues or property so pledged shall  
16 immediately be subject to the lien of the pledge without a  
17 physical delivery or further act, and the lien of the pledge  
18 shall be valid and binding against all parties having claims in  
19 tort or contract or otherwise against the pledging party,  
20 irrespective of whether the claiming party has notice of the  
21 lien.

22 F. Neither the directors of the board, employees of  
23 the district or a person executing the bonds shall be liable  
24 personally on the bonds or subject to personal liability or  
25 accountability by reason of the issuance of the bonds.

underscored material = new  
[bracketed material] = delete

1           G. A district may purchase its bonds out of  
2 available funds and may hold, pledge, cancel or resell the  
3 bonds subject to and in accordance with agreements with the  
4 holders.

5           H. Bonds shall be payable solely from pledgeable  
6 revenue and shall not constitute an indebtedness or general  
7 obligation of the district, the state or other political  
8 subdivisions of the state.

9           I. The form and terms of bonds shall be approved by  
10 the state board of finance before issuance of the bonds.

11           Section 9. AGREEMENT OF THE STATE NOT TO LIMIT OR ALTER  
12 RIGHTS OF OBLIGEEES. --The state pledges and agrees with the  
13 holders of bonds issued under the Regional Transit District Act  
14 and with those parties who enter into contracts with a district  
15 or a member of a combination pursuant to the Regional Transit  
16 District Act that the state will not impair the rights vested  
17 in the district or the rights or obligations of a person with  
18 which the district contracts to fulfill the terms of an  
19 agreement made pursuant to the Regional Transit District Act.  
20 The state further agrees that it will not impair the rights or  
21 remedies of the holders of the bonds of a district until the  
22 bonds have been paid or until adequate provision for payment  
23 has been made. A district may include this provision and  
24 undertaking for the state in bonds.

25           Section 10. INVESTMENTS. --A board may invest or deposit



underscored material = new  
[bracketed material] = delete

1 funds in accordance with the prudent investor rule set forth in  
2 the Uniform Prudent Investor Act. The board may employ  
3 investment management services to invest the funds and may pay  
4 reasonable compensation for investment management services from  
5 the assets of the applicable funds, subject to budgeting and  
6 appropriation by the legislature. The board shall keep  
7 accurate and complete records and accounts concerning the  
8 investment portfolio.

9 Section 11. EXEMPTION FROM TAXATION.--The income or other  
10 revenues of a district, all properties at any time owned by a  
11 district, all bonds issued by a district and the income from  
12 the bonds issued by a district are exempt from taxation in the  
13 state.

14 Section 12. COOPERATIVE POWERS.--A district may cooperate  
15 with a person to:

16 A. accept legitimate contributions or liens  
17 securing obligations of the district from the person with  
18 respect to the financing, construction, operation or  
19 maintenance of a regional transit system and, in connection  
20 with a loan or advance, enter into contracts establishing the  
21 repayment terms;

22 B. enter into contracts regarding the financing,  
23 construction, operation or maintenance of a specified regional  
24 transit system;

25 C. enter into joint operating contracts concerning

underscored material = new  
[bracketed material] = delete

1 a regional transit system;

2 D. acquire easements or rights of way for a  
3 regional transit system; and

4 E. designate a regional transit system as part of  
5 the state highway system, a county highway system or a  
6 municipal highway system if the person with jurisdiction over  
7 the applicable highway system consents to the designation.

8 Section 13. POWERS OF GOVERNMENTAL UNITS. -- A governmental  
9 unit, for the purpose of aiding the financing, construction,  
10 operation or maintenance of a regional transit system, may:

11 A. sell, lease, loan, donate, grant, convey,  
12 assign, transfer and otherwise dispose to the district real or  
13 personal property or interests therein;

14 B. enter into agreements with a person for the  
15 joint financing, construction, operation or maintenance of a  
16 regional transit system. Upon compliance with applicable  
17 constitutional or charter limitations, the governmental unit  
18 may agree to make payments, without limitation as to amount  
19 except as set forth in the agreement, from revenues received  
20 from one or more fiscal years, to the district or a person to  
21 defray the costs of the financing, construction, operation or  
22 maintenance of a regional transit system; and

23 C. transfer to the district a contract that may  
24 have been awarded by the governmental unit for construction,  
25 operation or maintenance of a regional transit system.

. 142909. 1

1           Section 14. NOTICE-- OPPORTUNITY FOR COMMENT. --

2           A. At least forty-five days prior to a meeting at  
3 which the board shall consider or take action on a proposal to  
4 request, establish, increase or decrease a rate, toll, fee or  
5 charge, the board shall deliver written notice of the meeting  
6 and proposal to a governmental unit where the proposed rate,  
7 toll, fee or charge will be imposed. The affected governmental  
8 unit shall be afforded a reasonable opportunity for comment,  
9 either at a regular meeting of the board or at a special  
10 meeting convened to receive comment.

11           B. At least seven business days prior to a  
12 regularly scheduled meeting, the board shall make available to  
13 the public written or electronic notice of the time and agenda  
14 of the meeting. The board shall designate during each meeting  
15 a public comment period and shall offer the public an  
16 opportunity to comment.

17           Section 15. NOTICE-- COORDINATION OF INFORMATION. --

18           A. At least forty-five days prior to the imposition  
19 of or an increase in a rate, toll, fee or charge or prior to  
20 the issuance of bonds as authorized in the Regional Transit  
21 District Act, a notice specifying the amount of the fee, toll,  
22 rate or charge and its proposed duration or the value and  
23 number of bonds to be issued shall be sent to the commission  
24 and to the taxation and revenue department.

25           B. The commission shall file an annual report with

underscored material = new  
[bracketed material] = delete

1 the state auditor concerning the activities of all active  
2 districts. The report shall detail how many districts have  
3 been created, describe their boundaries and specify the  
4 regional transit systems that are being provided and how they  
5 are being financed.

6 Section 16. POWER OF EMINENT DOMAIN. --A district may  
7 exercise the power of eminent domain in the manner provided by  
8 law for the condemnation of private property for a purpose  
9 necessary to carry out the Regional Transit District Act.

10 Section 17. TAXATION. --A district has no direct taxation  
11 authority.

12 Section 18. ADDITION OR WITHDRAWAL OF TERRITORY BY A  
13 DISTRICT. --

14 A. After the creation of a district, a governmental  
15 unit adjacent to but not part of that district may join the  
16 district and determine the territorial area to become a part of  
17 that district. A two-thirds' affirmative vote by the board  
18 shall be required before the governmental unit may join the  
19 district.

20 B. A governmental unit that is a member of a  
21 district may withdraw from the district by adopting a  
22 resolution to withdraw. The governmental unit shall withdraw  
23 its representative from the board. Real property owned by the  
24 district within the boundaries of the withdrawing governmental  
25 unit shall remain the property of the district. The provisions

underscored material = new  
[bracketed material] = delete

1 of withdrawal shall be negotiated and agreed to by the board,  
2 the governmental unit and the commission.

3 Section 19. MATCHING FUNDS. --The local government members  
4 of a combination shall match at least one dollar (\$1.00) for  
5 every four dollars (\$4.00) provided by the state. Before a  
6 district is able to receive state matching funds, it must be  
7 certified by the commission pursuant to Section 4 of the  
8 Regional Transit District Act.

9 Section 20. APPROPRIATION. --One million nine hundred  
10 thousand dollars (\$1,900,000) is appropriated from the general  
11 fund to the state highway and transportation department to be  
12 used as matching funds for the costs of forming a regional  
13 transit district and the costs of developing a transportation  
14 service plan by a regional transit district in fiscal years  
15 2004 and 2005. No more than two hundred thousand dollars  
16 (\$200,000) may be expended in creating one regional transit  
17 district. The state highway and transportation department may  
18 use up to seventy-five thousand dollars (\$75,000) of this  
19 appropriation to cover the costs of administrating this  
20 appropriation. Any unexpended or unencumbered balance  
21 remaining at the end of fiscal year 2005 shall revert to the  
22 general fund.